MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON WAYS AND MEANS

Seventy-Eighth Session
June 1, 2015

The Committee on Ways and Means was called to order by Chair Paul Anderson at 11:01 a.m. on Monday, June 1, 2015, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at 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 Paul Anderson, Chair
Assemblyman John Hambrick, Vice Chair
Assemblyman Derek Armstrong
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Irene Bustamante Adams
Assemblywoman Maggie Carlton
Assemblywoman Jill Dickman
Assemblyman Chris Edwards
Assemblyman Pat Hickey
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Randy Kirner
Assemblyman James Oscarson
Assemblyman Michael C. Sprinkle
Assemblywoman Heidi Swank
Assemblywoman Robin L. Titus

GUEST LEGISLATORS PRESENT:

Assemblyman David M. Gardner, Assembly District No. 9
Senator Aaron D. Ford, Senate District No. 11
Senator Scott T. Hammond, Senate District No. 18
Assemblywoman Ellen B. Spiegel, Assembly District No. 20
Assemblyman Erven T. Nelson, Assembly District No. 5
Senator Becky Harris, Senate District No. 9
Assemblyman Glenn E. Trowbridge, Assembly District No. 37

STAFF MEMBERS PRESENT:

Cindy Jones, Assembly Fiscal Analyst
Stephanie Day, Principal Deputy Fiscal Analyst
Alex Haartz, Principal Deputy Fiscal Analyst
Carol Thomsen, Committee Secretary
Cynthia Wyett, Committee Assistant

After call of the roll, Chair Anderson opened public comment, and there was no public comment to come before the Committee. The Chair adjourned the meeting of May 31, 2015, and opened the hearing on Senate Bill 213 (1st Reprint).

Senate Bill 213 (1st Reprint): Revises provisions relating to federal assistance received by agencies of the Executive Department of State Government. (BDR 31-838)

Miles Dickson, representing the Nevada Community Foundation, indicated that Senate Bill (S.B.) 213 (1st Reprint) was a companion to Senate Bill (S.B.) 214 (1st Reprint). Mr. Dickson referred to Exhibit C entitled, "SB 213, Increasing Tracking and Reporting of Federal Grant Funds in Nevada," which was available on the Nevada Electronic Legislative Information System (NELIS). The exhibit was a comprehensive presentation and provided a summary of the issues, highlighted Nevada's history regarding federal grants, explained the legislation, and addressed past amendments based on input from the Office of Grant Procurement, Coordination and Management; Department of Administration, (Nevada State Grant Office).

Mr. Dickson stated that for nearly four decades, Nevada had been "dead last" or very near last in the per-capita amount of federal grant funding received. Fortunately, said Mr. Dickson, through creation of the Nevada State Grant Office in 2011, and with leadership from the Governor and others, Nevada had made progress.

Mr. Dickson said the two bills heard today would build and accelerate that progress by first improving reporting and tracking in S.B. 213 (R1) and increasing coordination, solution finding, and alignment between state agencies, local governments, and nonprofit organizations in S.B. 214 (R1). The bills received unanimous support in the Senate and had been broadly supported by local governments, philanthropic interests, existing nonprofits, and the statewide business community.

Mr. Dickson asked others present in support of S.B. 213 (R1) and S.B. 214 (R1) to submit their written remarks to the Committee. He respectfully urged the Committee to support both bills.

Chair Anderson asked Mr. Dickson to review the changes to the fiscal note attached to S.B. 213 (R1).

Mr. Dickson explained that the fiscal notes for S.B. 213 (R1) and S.B. 214 (R1) had been combined into one fiscal note that would provide funding for one full-time program officer with total personnel costs of approximately $74,000, plus $15,000 per year for other operating costs, including travel and per diem reimbursement for associated volunteers. The total had been greatly reduced from the original fiscal note of $1.1 million.

Chair Anderson asked for additional information regarding the combination of bills that addressed grant funding.

Mr. Dickson said his interest in federal grant funding began several years ago when he worked for a food bank in Las Vegas. On many occasions, he saw how the low rates of federal grant funding could cripple programs and services, as well as reduce the value and the effect of taxpayer dollars. Mr. Dickson said while attending law school he had extensively researched the flow of federal funds and the ability of the federal government to condition state's actions. The federal government distributed hundreds of billions of dollars each year through federal grant programs. Mr. Dickson said in fiscal year (FY) 2011, which was one of the most recent data sets available, the federal government distributed $514.6 billion in grants through 26 different agencies, using approximately 1,700 different programs.

Mr. Dickson stated that for decades Nevada had been lagging behind the other 49 states and the territories in receiving its fair share of federal grant dollars returned to the state. Therefore, the Nevada Community Foundation, which was one of the state's largest philanthropic grant-making organizations, as well as partners throughout the business community, put forward a package of bills that aimed to move the state's grant infrastructure and processes significantly

forward. The Foundation and the business community was most interested in putting some "scaffolding" into the process so that everyone understood what needed to be solved.

For example, said Mr. Dickson, S.B. 213 (R1) would increase reporting and tracking in the form of a biannual statement. That would increase accountability and transparency, but more importantly, it would become clear what needed to be solved. The report would contain every grant the state applied for, received, and used from the federal grant programs every year. That information would be instructive and tremendously valuable as the state continued to look at how to make progress in securing grant funding.

Mr. Dickson stated that S.B. 214 (R1) would create a permanent advisory council, the Nevada Advisory Council on Federal Assistance that would assist and advise the state in grant procurement and management. The idea was to provide a permanent leadership voice for grant funding. Mr. Dickson said another important consideration was that the way the federal government distributed dollars had shifted significantly in the past 10 to 15 years, and it became more important that local governments and grant-making philanthropy organizations coordinated efforts. The proposed advisory council would include appointments from local governments, the private business community, and from nonprofits.

Mr. Dickson said he would like to incorporate the following written testimony into the record:

- Exhibit D: Testimony in support of S.B. 213 (R1) and S.B. 214 (R1) from Maureen Schafer, Executive Director, Council for a Better Nevada; and Board Chairperson, Nevada Community Foundation.

- Exhibit E: Legislative testimony regarding S.B. 213 (R1) dated June 1, 2015, prepared by the Kenny C. Guinn Center for Policy Priorities.

- Exhibit F: Legislative testimony regarding S.B. 214 (R1) dated June 1, 2015, prepared by the Kenny C. Guinn Center for Policy Priorities.

Chair Anderson asked whether there was testimony to come before the Committee in support of, in opposition to, or neutral regarding S.B. 213 (R1), and there being no further testimony, the Chair closed the hearing. The Chair opened the hearing on Senate Bill (S.B.) 214 (1st Reprint).

Senate Bill 214 (1st Reprint): Creates the Nevada Advisory Council on Federal Assistance. (BDR 31-837)

Miles Dickson, representing the Nevada Community Foundation, indicated that Senate Bill (S.B.) 214 (1st Reprint) was a companion to Senate Bill 213 (R1) as previously discussed. A packet of material entitled, "SB 214, Creating the Nevada Advisory Council on Federal Assistance," (Exhibit G), was available on the Nevada Electronic Legislative Information System (NELIS). He indicated that S.B. 214 (R1) would create the Nevada Advisory Council on Federal Assistance, which the Nevada Community Foundation believed would be instrumental in assisting with coordination and alignment of resources and in adding resources that were aided through philanthropy.

Chair Anderson said it appeared the two bills would work together to determine the grant funding needs of state agencies; he asked about coordination of state agencies and administrative tasks that might be required.

Mr. Dickson indicated that S.B. 214 (R1) called for a seven-member council, with one member being the Director of the Office of Grant Procurement, Coordination and Management; Department of Administration (Nevada State Grant Office). The other members included the Chief of the Budget Division, Department of Administration, two appointees from the Legislature (one from each house), and three appointees selected by the Governor. The council would meet at the call of the chair, and members would be asked to identify barriers and challenges within the state system. Mr. Dickson noted there had never been a comprehensive study regarding those barriers.

Mr. Dickson said following the identification of the barriers, it would become important for the council to identify solutions for those barriers through nonprofit organizations, local governments, and philanthropy. Ideally, the council would not only give advice and assistance, but would become a network through which the state could begin accessing more partnerships and increase resources through such mechanisms as matching funds.

Chair Anderson asked whether there would be additional reporting requirements for state agencies.

Mr. Dickson said the additional reporting requirements were covered under S.B. 213 (R1). The initial legislation recommended a large committee, representative of many different agencies, but that concept had been streamlined because of process and budget issues. It was hoped that the Chief of the Budget Division and the Director of the Nevada State Grant Office could speak on behalf of their colleagues.

Chair Anderson asked how the bills would align with the duties of the Nevada State Grant Office.

Mr. Dickson explained that the Nevada State Grant Office was created by the 2011 Legislature and had been quite successful to date. The Nevada State Grant Office was reporting approximately $60 million in grant funds secured for the current year, which was a return of almost $75 for every $1 invested in salaries for that office. Mr. Dickson said the proposed advisory council and the Nevada State Grant Office would work together because the grant infrastructure of the state was much larger than just that one department. The most successful states had begun consolidating their grant activities, which commenced in Nevada in 2011. One member of the advisory council, the Director of the Nevada State Grant Office, would coordinate the activities.

Chair Anderson asked whether there was testimony to come before the Committee in support of, in opposition to, or neutral regarding S.B. 214 (R1), and there being no further testimony, the Chair closed the hearing. The Chair opened the hearing on Senate Bill 502 (2nd Reprint).

Senate Bill 502 (2nd Reprint): Temporarily authorizes the Department of Motor Vehicles to collect a technology fee. (BDR 43-1177)

Terri L. Albertson, Administrator, Division of Management Services and Programs, Department of Motor Vehicles, stated that Senate Bill (S.B.) 502 (2nd Reprint) was a budget bill for the Department of Motor Vehicles (DMV) system modification effort. Ms. Albertson indicated that the bill was quite simple, and as amended in section 3, would give DMV the authority to collect a $1 technology fee for any transaction currently performed by DMV for which a fee was charged. Ms. Albertson said section 7 of the bill would sunset the technology fee on June 30, 2020, which was expected to coincide with the system's completion.

Assemblyman Armstrong indicated that the budget for DMV included significant funding for information technology, and he wondered how the $1 fee would interact with the budgeted funding.

Amy McKinney, Administrator, Administrative Services Division, Department of Motor Vehicles, stated that when the system modernization budget was compiled, the new revenue from the technology fee had been included. Because of that new revenue, the State Highway Fund appropriation had been decreased.

Chair Anderson asked whether there was testimony to come before the Committee in support of, in opposition to, or neutral regarding S.B. 502 (R2), and there being no further testimony, the Chair closed the hearing on S.B. 502 (R2). The Chair opened the hearing on Senate Bill 515.

Senate Bill 515: Ensures sufficient funding for K-12 public education for the 2015-2017 biennium. (BDR 34-1284)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained that Senate Bill (S.B.) 515 was one of the five major budget bills. The bill was introduced and passed by the Senate and was then moved to the Assembly for review and approval. Ms. Jones said S.B. 515 assured the funding for K-12 education for the upcoming biennium. The bill apportioned the State Distributive School Account (DSA) in the State General Fund for the 2015-2017 biennium, authorizing certain expenditures and making appropriations for purposes relating to basic support, class-size reduction, and other educational purposes.

Ms. Jones said the bill also made appropriations for certain educational programs and services contingent upon passage of certain bills. The DSA was used for funding the operating costs and other expenditures of school districts. The bill included the per-pupil support to the various school districts; included local revenue that was also part of the guaranteed support; and contained the allocation of special education units. In the second year of the biennium, an additional $25 million was appropriated to the education system to transition from an education unit structure for special education to a weighted student funding mechanism.

Ms. Jones indicated that throughout S.B. 515 were costs for various programs and back language. The five budget bills had been discussed thoroughly in the bill draft request (BDR) format, and today was the official hearing when members could ask questions before passing the bill out of Committee. Ms. Jones noted that S.B. 515 was the K-12 education funding bill that had to be passed by both the Senate and the Assembly before any other budget bills containing General Fund Appropriations for the 2015-2017 biennium could be approved by the second house.

Assemblywoman Carlton noted that section 19, subsection 5, paragraph (g) of the bill included the funding for the Jobs for America's Graduates Program, and she wondered whether the funding for the Teach for America program was also included in the bill. She asked whether teachers could receive money from both programs.

Ms. Jones indicated that she was not aware of funding for the Teach for America program within the budget bills. Teach for America teachers were eligible to apply for funds through the Great Teaching and Leading Fund. There was also a bill that provided teacher pipeline funding, which would be in addition to the funding included in the bill. Ms. Jones stated the teacher pipeline funding provided scholarships to students enrolled in the Nevada System of Higher Education (NSHE) and through alternative teacher licensure mechanisms.

Ms. Jones reiterated that no funding was directly appropriated in the budget for the Teach for America program, and teachers could apply for funds through the Great Teaching and Leading Fund. Those funds were available to regional professional development programs and any other organizations eligible to provide professional development for school districts.

Chair Anderson asked whether there was further testimony to come before the Committee in support of, in opposition to, or neutral regarding S.B. 515, and there being no further testimony, the Chair closed the hearing. The Chair opened the hearing on Senate Bill 513.

Senate Bill 513: Makes various changes relating to the subsidies paid to the Public Employees' Benefits Program for insurance for certain active and retired public officers and employees. (BDR 23-1276)

Alex Haartz, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that Senate Bill 513 was commonly referred to as the "PEBP" benefit bill. The bill established the rates for the state's contribution to the Public Employees' Benefits Program (PEBP) that would be provided for both active employees and retirees for the upcoming biennium. Mr. Haartz stated that section 2 of the bill included the Active Employee Group Insurance Subsidy (AEGIS) state monthly contribution of $701.73 per month for fiscal year (FY) 2016 and $699.25 per month for FY 2017.

Mr. Haartz indicated that section 3, subsection 1, paragraphs (a) and (b) included the state's monthly contribution on behalf of non-Medicare-eligible state retirees. The contribution for FY 2016 was $425.57 per month, and for FY 2017, the contribution was $451.15 per month. Section 3, subsection 2 pertained to Medicare-eligible state retirees and was divided into two groups. For state employees who retired prior to January 1, 1994, the state's contribution per month for FY 2016 was $165, and the contribution for FY 2017 was $180. For state employees who retired on or after January 1, 1994, the state's contribution for FY 2016 was a maximum of $220, and the maximum contribution for FY 2017 was $240.

Mr. Haartz said those amounts were approved by the Assembly Committee on Ways and Means and the Senate Committee on Finance when the PEBP budget was closed. Mr. Haartz advised that there was clarifying language in section 1, subsection 7 of the bill. He explained that *Nevada Revised Statutes* (NRS) contained some exclusions or prohibitions for certain individuals who were employed on or after January 1, 2012, from being excluded from receiving the Retired Employee Group Insurance (REGI) contribution.

According to Mr. Haartz, in section 1, subsection 8, the Legislative Counsel Bureau proposed an exemption to the prohibition to provide that the exclusion from receiving the state retiree contribution benefit would not apply to a person who was employed by the state on or before January 1, 2012, who had a break in service and returned to work for the state at the same or another participating state agency after that date, regardless of the length of the break in service, as long as the person had not withdrawn from and was eligible to participate in the Public Employees' Retirement System (PERS) before or during the break in service.

Mr. Haartz said the intent of the exemption was narrowly limited and applied to an employee who had worked for the state, left public service, and then decided to return to public service. That employee would not lose eligibility for the REGI contribution upon retirement from the state. The language removed the disincentive to return to state service. The Legislative Counsel Bureau was proposing the limited exception that would apply not only to the Legislative Counsel Bureau, but to all state agencies. Section 4, said Mr. Haartz, indicated that the provisions of section 1 applied to an employee who was reemployed by the state before, on, or after July 1, 2015. The intent was to restore eligibility to receive the REGI contribution provided by the state once the employee retired.

Assemblywoman Carlton said the proposed language had been discussed when the Committee discussed the PEBP benefits earlier in the session. She believed the proposed language would help former employees make the decision to return to state service.

Chair Anderson asked whether there was further testimony to come before the Committee in support of, in opposition to, or neutral regarding S.B. 513, and there being none, the Chair closed the hearing. The Chair opened the hearing on Senate Bill 92 (1st Reprint).

Senate Bill 92 (1st Reprint): Revises provisions relating to education. (BDR 34-485)

Mark A. Hutchison, Lieutenant Governor, Office of the Lieutenant Governor, stated that Senate Bill (S.B.) 92 (1st Reprint) was aimed at improving education in Nevada by adopting important reforms resulting from the *Vergara v. California,* No. BC484642 (Cal. Super. Ct. Aug. 27, 2014) decision. Those reforms included ending the "last in, first out" (LIFO) provision in collective bargaining agreements and developing guidance for future reductions in force, as well as establishing a mutual consent placement procedure. Lt. Governor Hutchison said S.B. 92 (R1) would also authorize the statewide turnaround school designation system and establish a protocol related to its use.

Lt. Governor Hutchison said the reforms were important to improve education in Nevada. The *Vergara v. California* court decision raised important constitutional issues concerning rightful provisions in collective bargaining agreements. The decision determined that seniority-based layoffs disproportionately affected the most at-risk student populations, specifically minority and poor students.

Lt. Governor Hutchison said he recognized that the state of California was challenging the *Vergara* decision, and that the 2011 Legislature limited consideration of seniority for collective bargaining agreements and ensured that it was not the sole factor in determining future reductions in force. However, he believed the state continued a disservice to the students of Nevada by allowing seniority to remain anything but the final criterion in the collective bargaining process. Because of that, said Lt. Governor Hutchison, the bill proposed that future reductions in force be based on the overall performance of the teacher or administrator, and that seniority only be considered should teachers or administrators remain evenly matched after applying all of the factors.

Lt. Governor Hutchison stated that S.B. 92 (R1) detailed a protocol for future reductions in force. Most school districts throughout Nevada would not be considering a reduction in force anytime soon, but putting a process into place that protected the most effective teachers and administrators was an important step in guaranteeing quality education in Nevada when reductions in force occurred in the future.

The protocol detailed in S.B. 92 (R1), said Lt. Governor Hutchison, would require that in a situation that required layoffs, ineffective and minimally effective administrators and teachers would be considered first in the reduction of force. The school district would then be required to consider administrators and teachers who had received disciplinary action, in order from the most to the

least severe, with an exception for those administrators and teachers who were in the process of adjudicating disciplinary action taken against them.

Lt. Governor Hutchison said should further reductions be required, the district would apply existing factors currently established under *Nevada Revised Statutes* (NRS). While considering the phases in a reduction in force situation, the school districts would be allowed to consider the subject areas taught by a teacher to determine whether that reduction would result in a shortage of teachers for that subject. Lt. Governor Hutchison stated if that was the case, those teachers could be exempted from the specific reductions in force.

Lt. Governor Hutchison indicated that S.B. 92 (R1) also established a mutual consent placement procedure. The bill required a school district to consult with and obtain the approval of the principal of a school to which the district was transferring a teacher or administrator who was rated ineffective or minimally effective. The superintendent of each school district would develop a plan that addressed the action that would be taken should the ineffective or minimally effective teacher deny reassignment under the mutual consent procedure, which must include professional development and appropriate training.

Continuing his presentation, Lt. Governor Hutchison stated that mutual consent placement procedures were important and assured that principals were empowered to hire teachers and administrators who best suited the needs of the school and the students by prohibiting the forced placement of an administrator or teacher. That reinforced the conclusion of the *Vergara* decision that competent teachers and administrators were a critical, if not the most important, component of a child's in-school educational experience.

Lt. Governor Hutchison explained that the mutual consent placement would not apply to teachers or administrators who were rated effective or highly effective. Those administrators and teachers could be placed in a school regardless of approval by the principal.

The final component of the bill, said Lt. Governor Hutchison, was the turnaround schools, which were included, designated, and implemented within S.B. 92 (R1). The bill required the State Board of Education to establish by regulation the criteria for designating a school as a turnaround school and empowered the Department of Education to designate a school as a turnaround school if that school met the established criteria. Should the Department of Education designate a school as underperforming, the board of trustees of the school district in which the school was located could review the

principal's performance and determine whether or not that principal should be retained at the school.

Lt. Governor Hutchison said that process had to commence immediately, and should the board of trustees determine that a principal needed to be replaced, and with the approval of the Department of Education, the incoming principal would be given ample time to prepare for the next school year. The reassigned principal also had to be transitioned to another school within the district. The responsibilities of a principal at a turnaround school would include all determinations for the school concerning hiring, curriculum, school schedule, structural design, and other elements of the educational experience.

Lt. Governor Hutchison indicated that the principal would have the authority to review every employee in the turnaround school and determine whether or not to retain or reassign each employee based on the needs of the school. The board of trustees for the school district would be responsible for the reassignment of any employees who were transferred because of the principal's review.

Continuing, Lt. Governor Hutchison said that after adoption of Amendment No. 7574 to the bill, the board of trustees for a school district would also be responsible for ensuring that the reassigned employees received assistance to help them meet standards for effective teaching, which could include, without limitation, peer assistance and review. He noted that S.B. 92 (R1) would also allow the board of trustees of a school district to provide financial and other incentives to teachers and paraprofessionals employed in a turnaround school to incentivize them to apply, participate, and continue to be employed at the turnaround school. Those incentives included, without limitation, salary increases, bonuses, flexible schedules, opportunities to receive training and professional development, as well as opportunities for promotion.

Lt. Governor Hutchison indicated that S.B. 92 (R1) also required that all costs resulting from determinations made by the principal of a turnaround school directly related to changes for that school to improve its performance had to be funded from a requested grant through the Department of Education or through a request to the board of trustees for the district in which the school was located, before any action was taken. Any cost savings resulting from a determination made by a principal of a turnaround school would be reallocated to other spending categories at that school for the principal's desired purposes.

Lt. Governor Hutchison thanked the Committee for hearing S.B. 92 (R1), and stated he believed the bill would be instrumental in the continuous efforts to strengthen Nevada's education system.

Assemblywoman Kirkpatrick asked how the mandates of the bill would work with the other turnaround school bills that had recently been passed. She wondered whether the bills should be coalesced to determine what the expectations were for turnaround schools.

Lt. Governor Hutchison indicated that he would refer that question to Mr. Canavero.

Steve Canavero, Ph.D., Deputy Superintendent for Student Achievement, Department of Education, asked whether Assemblywoman Kirkpatrick was referring to achievement school districts.

Assemblywoman Kirkpatrick said she was referring to other bills that addressed turnaround schools.

Mr. Canavero said to his knowledge there had not yet been discussions regarding turnaround schools, but there had been discussions about achievement schools.

Assemblywoman Kirkpatrick wondered how the various achievement schools and turnaround schools would align because it appeared those schools were targeting the same student population.

Mr. Canavero explained that S.B. 92 (R1) provided a strategy that the Department of Education could use to support the improvement of schools and to effectively keep those schools out of the achievement school district.

Assemblywoman Kirkpatrick asked what would occur with existing turnaround schools. She commented that she did not want to drive around to the schools in her district and wonder what the label was for each school, and she also wondered how schools would eventually become equal.

Mr. Canavero explained there were existing turnaround schools in both Clark and Washoe Counties. With the provisions of S.B. 92 (R1), the state would work in conjunction with the school districts to identify and designate schools as turnaround schools or schools in need of improvement and provide support for those schools. Additional schools could be labeled as turnaround schools in districts that had not yet identified such schools.

Assemblywoman Carlton said her concern was with teacher seniority. The provisions in the bill that would be used to judge performance were very subjective whereas seniority was fact-based and was allowed for the final determination. Without seniority, the Department of Education and the school districts could open the door to discrimination because of age, disability, race, religion, national origin, and the other issues that could be used to file a grievance against the Department and the school districts. Assemblywoman Carlton said the reason that unions, businesses, and school districts liked seniority was because it was a cut-and-dried issue, and there was no argument that could be used against seniority.

Assemblywoman Carlton said the problem with adding the disciplinary component to judging teacher performance was that it would create a double penalty. She opined that once an administrator or teacher had complied with the disciplinary action, it would again become a judgmental argument should there be a reduction in force. That meant the administrator or teacher would be penalized twice for the same deficiency. Assemblywoman Carlton said she had real concerns when the value of seniority was reduced because it would create grievances that could be won by employees. She believed that everyone should stop looking at seniority as being bad because it could be good for both employers and employees. Once employees reached a high level of seniority, there was less turnover and fewer problems.

Ryan Cherry, Chief of Staff, Office of the Lieutenant Governor, said the bill would not remove seniority, but would make seniority the final factor in judging teacher performance. The larger school districts already included seniority in their collective bargaining agreements as the final criteria for judging teacher performance. Mr. Cherry said the collective bargaining agreements for the larger school districts included disciplinary action before the evaluation was processed, which would have a greater effect on those administrators and teachers. The bill would not consider disciplinary action after the evaluation was processed, and if a grievance had been filed, administrators and teachers would not be considered for removal until the grievance had been fully adjudicated.

Assemblywoman Carlton said she was not concerned about the adjudication, but rather the idea that the administrator or teacher was being penalized twice for the same deficiency, even when that deficiency might have occurred several years earlier.

Assemblyman Sprinkle stated that section 30, subsection 1 of S.B. 92 (R1) set the various parameters for a reduction in force and discussed the overall performance of administrators and teachers. He wondered about the time frame used for the performance evaluation and whether there was a set number of years for administrators or teachers to improve their performance.

Lt. Governor Hutchison stated that performance reviews for administrators and teachers would be conducted annually, and the order of reduction-in-force layoffs would be based on the latest performance evaluation and the performance leading up to the reduction in force.

Assemblyman Sprinkle said it appeared that the annual evaluation to determine whether an administrator or teacher would be laid off could be based on a one-year period.

Lt. Governor Hutchison said it would be based on the prior annual performance and the performance in the months leading up to the reduction in force.

Assemblyman Sprinkle reiterated that there had been many discussions during the 2015 Legislature about the difficulty in hiring teachers, and there was a massive teacher shortage in Clark County. The mandates of S.B. 92 (R1) appeared to be very subjective and would give school districts and principals significant opportunity to eliminate teachers that were considered less than par. Assemblyman Sprinkle said the language of the bill did not appear to enhance teacher growth in the state, but rather would make it more difficult to hire teachers in the future, which could lead to overcrowding in the schools.

Lt. Governor Hutchison stated that S.B. 92 (R1) did not address incentives for teachers or deal with the substitute teacher concerns in Clark County. The bill would prioritize the method used by school districts when a reduction in force was necessary. Lt. Governor Hutchison said that would prevent the best teachers who were hired last from being automatically laid off before a teacher that was ineffective or minimally effective who had 20 years seniority. The bill reflected policy and also reflected what some courts had termed a serious constitutional issue, which was when a school district laid off teachers based on seniority, those ineffective teachers who remained in the system tended to pool disproportionately with those students who were most at risk. That raised the constitutional question about equal protection and the right to an equal educational experience.

Lt. Governor Hutchison advised Assemblyman Sprinkle that as the father of six children who attended the Clark County School District (CCSD), and having attended school there himself, he was very aware of the problems CCSD was experiencing. However, there were other bills that addressed those issues, while S.B. 92 (R1) dealt only with turnaround schools and reductions in force.

Assemblyman Sprinkle noted the fiscal notes attached to the bill by local jurisdictions, and he wondered whether those fiscal notes had been reduced.

Mr. Cherry indicated that the fiscal notes applied to the original version of S.B. 92 (R1), and the amendment had addressed those amounts.

Assemblywoman Swank wondered about using only one year for evaluation when judging teacher performance. She noted there had been bills that changed the student count day because considering a broader range of data would provide a more representative picture of what was happening in the schools.

Assemblywoman Swank said when she was teaching at the University of Nevada, Las Vegas, there had been much discussion about professor evaluations and how many years should be reviewed for merit increases. The time frame originally covered only one year for professor evaluations to determine the merit increase. However, a professor could have a great year during the core year, or a situation could develop that affected the professor's performance during the core year that was not indicative of the professor's actual overall performance.

Assemblywoman Swank believed that the Nevada System of Higher Education (NSHE) currently used three years, which provided a more stable picture of the teacher or professor's abilities in the classroom. She suggested that using only one data point would not provide a sufficient amount of information.

Mr. Cherry said the intent was to align the bill with Assembly Bill 447 (1st Reprint), which stated if an administrator or teacher had one ineffective or minimally effective evaluation, that person would go through three observation periods in the second year that would provide a comprehensive evaluation. The intent was to ensure that S.B. 92 (R1) followed the same process; he assured the Committee that multiple data points would be considered in developing the evaluations. Mr. Cherry said the evaluation process would begin upon passage and approval of the bill.

Assemblyman Edwards commented that with the current teacher vacancies in Nevada, the mandates of S.B. 92 (R1) would probably not be reached within the next two years because there would be no need for reductions in force. However, if use of the mandates was required, the bill would have provided ineffective teachers with much needed remediation. He said it appeared the thrust of the bill was to ensure that the students were taught by the best teachers and were offered the best opportunities to succeed.

Lt. Governor Hutchison said Assemblyman Edwards was correct; the purpose of the bill was when a reduction in force became necessary, school districts could prioritize those who were laid off so the most effective teachers would continue to teach the students. The bill also provided a way for those teachers who were less effective to receive professional development opportunities and peer review, and they would not be forgotten. However, when school districts were forced to select those teachers that would be laid off because of a reduction in force, the bill would guarantee that the best and most effective teachers remained in the classrooms.

Assemblyman Edwards said it was not simply a matter of "kicking teachers out the door," it was a matter of giving underperforming teachers an opportunity to become better teachers so they could remain in the classrooms. The bill apparently looked at the welfare of underperforming teachers, but not at the expense of the students who deserved the best teachers.

Lt. Governor Hutchison agreed, and noted that S.B. 92 (R1) also gave the school districts and superintendents the tools to help underperforming teachers who were displaced.

Assemblyman Hickey asked about the role the principals would play if a reduction in force was necessary. The bill established the criteria for principals to decide whether minimally effective teachers could be transferred. That was important because highly effective schools were frequently led by highly effective principals.

Lt. Governor Hutchison said the intent was to ensure that principals in turnaround schools were empowered to select the staff for the school and determine scheduling, curriculum, and the pace of education. Rather than allowing an underperforming school to become chronically underperforming, the bill would allow the current principal or an incoming principal to bring in a new team and start over. The bill gave a significant amount of authority to the principal, said Lt. Governor Hutchison, and those principals would be held accountable by the school districts and the boards of trustees.

Lt. Governor Hutchison said in the event that a reduction of force became necessary, the principals would help select the teachers who would be laid off or transferred. An ineffective or minimally effective teacher could be displaced because of a reduction in force, and with the consent of the principal, that teacher could be added to the workforce of another school, or the board of trustees would determine how to help the teacher become more effective.

Assemblywoman Benitez-Thompson stated that section 4.2 of S.B. 92 (R1) indicated that the principal of the school could make all decisions determining the school's curriculum, and she wondered whether that language would empower the principal to make determinations that could not be made in the past.

Mr. Canavero said the bill did not depart from the standards, and the additional empowerment for principals related to the curriculum that was used for instructional designs. The bill included some latitude for principals in that area.

Assemblywoman Benitez-Thompson noted that the bill indicated the principal would make all determinations for the school concerning hiring and the school's curriculum, schedule, and instructional design, and she asked for clarification.

Mr. Canavero said the language in S.B. 92 (R1) related to empowerment. He noted that decisions made by principals were also connected to potential funding to help support teachers at the schools. Funding of $2.5 million in each year of the biennium was included in the budget for the Department of Education, which was associated with the language of Senate Bill 77, which was a more robust turnaround school bill that had not been passed.

Mr. Canavero said a principal could conduct a comprehensive review of programs within the school and determine that some "boxed" programs could be eliminated and new programs introduced. Mr. Canavero said the school day could also be restructured by the principal. For example, a determination could be made by the principal not to adjust transportation schedules, but to adjust the scheduling to accommodate a reading block at a certain time.

Assemblywoman Carlton wondered, if there were supposed ineffective teachers within school districts, why that situation was only addressed when a reduction in force was necessary. She believed the school districts had a responsibility to deal with ineffective teachers on a daily basis, and those teachers should not be allowed to remain on staff. Assemblywoman Carlton noted that there was a process in place to address ineffective teachers. Should a teacher remain on staff until there was a need for a reduction in force, she believed the school

district had not done its job in making sure that there was an effective teacher in every classroom. It appeared that the issue of ineffective teachers would be addressed too late in the process, and the bill assumed that because a teacher worked in an at-risk school, the teacher was ineffective.

Assemblywoman Carlton opined that there were many young teachers who would teach in at-risk schools because they wanted to make a difference, and she did not want to categorize the teachers in at-risk schools as less effective.

Mr. Canavero noted that several educational programs had been approved throughout the 2015 Legislature, and many of those were directly related to developing teacher talents. The bill would address teachers through the evaluation system that were identified as needing development, and ensure that the development would be provided to "grow" those teachers. Mr. Canavero said the determinations related to reductions in force or reductions of human capital at specific designated underperforming schools would be made at the end of the process. The bill would not allow or perpetuate minimally effective educators in the classrooms.

Assemblywoman Dickman asked whether the bill was protecting the school districts by defining the criteria under which teachers could be dismissed, because teachers could not claim they were unaware of the criteria.

Ryan Cherry, Chief of Staff, Office of the Lieutenant Governor, said the bill clarified in *Nevada Revised Statutes* the action that would be taken should there be a reduction in force, which all districts should be aware because of collective bargaining agreements; however, those agreements differed from school district to school district. Therefore, the bill would establish a fair and reasonable process that could be used by all school districts.

Mr. Cherry stated that young teachers electing to work in designated turnaround schools would be exempt from the pupil achievement data portion of the evaluation criteria for two years after the designation to give those teachers added incentive to teach at those schools without suffering a negative evaluation.

Chair Anderson asked whether there was further testimony to come before the Committee in support of S.B. 92 (R1).

Joyce Haldeman, Associate Superintendent, Community and Government Relations, Clark County School District, stated that the Clark County School District (CCSD) supported S.B. 92 (R1). Ms. Haldeman thanked Lieutenant Governor Hutchison and his staff for the many opportunities offered

to CCSD to provide input in the language of the bill. There were three main components to the bill that were helpful to CCSD. She referred to the Governor's education reform package that was introduced during the 2011 Legislature that included ambitious mandates for dealing with classroom issues; however, only portions of that package passed. The language regarding postprobationary teachers who were not performing and could be returned to probationary status for additional training was passed in 2011. She noted that the "last in, first out" (LIFO) provision and mutual consent language in S.B. 92 (R1) would help school districts prevent LIFO from occurring.

Ms. Haldeman emphasized that the bill did not address a large portion of CCDS's teaching staff; less than 2 percent of CCSD teachers would fall into the ineffective or minimally effective categories. It would take a very severe reduction in force before the mandates of the bill would come into play. Ms. Haldeman said there were currently approximately 600 vacancies in the CCSD, and she did not feel the mandates of the bill would be put into place for quite some time.

Ms. Haldeman said it was important for CCSD to ensure that the correct teachers were in the classrooms, and when it was time to make the very difficult choices about teacher layoffs, the criteria would be established to review effective, ineffective, or minimally effective teachers as the first qualification. She pointed out that CCSD worked closely with its teachers' association and had already bargained LIFO provisions, and the bill would not be dramatically different from the current collective bargaining agreement.

Ms. Haldeman said the language in S.B. 92 (R1) pertaining to turnaround schools was initially problematic because CCSD had a very robust and effective turnaround school program. There were approximately 15 schools currently participating in CCSD's turnaround program. Over the years, CCSD had regularly identified turnaround schools and provided assistance so the schools could emerge from the turnaround designation as the schools improved in their star ranking. However, said Ms. Haldeman, the bill presented an opportunity for CCSD to increase its turnaround programs because of the availability of funding that would help with incentives. The CCSD was confident that it could work closely with Mr. Canavero to identify the turnaround schools.

Assemblyman Edwards commented that he was glad to hear that CCSD did not believe there would be a dramatic loss of teachers because of a major reduction in force, and the bill would only apply to 2 percent of the teachers in Clark County who were deemed ineffective or minimally effective and required additional training. The bill was to protect the students, and he was glad CCSD recognized that aspect of the bill.

Stephen Augspurger, Executive Director, Clark County Association of School Administrators and Professional-Technical Employees, stated he was also speaking on behalf of the Washoe School Principals' Association, and both associations were in complete support of S.B. 92 (R1) because it would be great for the students. He noted that CCSD also worked closely with the Clark County Association of School Administrators and Professional-Technical Employees. Mr. Augspurger said the turnaround provisions in section 4.2 of the bill would appropriately incentivize the best principals and the best teachers to work in underachieving schools.

Mr. Augspurger said mutual consent placement was extremely important and would effectively stop LIFO, and he believed there was nothing more important than having an effective teacher in the classroom, and nothing more important than having an effective administrator who worked with the teachers. He believed S.B. 92 (R1) would cause both to occur.

Regarding reductions in force, Mr. Augspurger said the district would declare when a reduction in force was necessary and someone would lose his or her job. The question was which teachers should lose their positions—an effective new teacher or an ineffective or minimally effective teacher or administrator with significant seniority. The answer was simple—the school districts wanted the very best people working in their schools, and S.B. 92 (R1) would ensure that occurred.

Seth Rau, Policy Director, Nevada Succeeds, stated Nevada Succeeds strongly supported S.B. 92 (R1). The Lieutenant Governor and his staff had worked closely with all stakeholders to ensure the bill was strong, and as the state was making historic investments in education during the 2015 Legislature, it had to ensure that every student had access to quality teachers and administrators. Mr. Rau said Nevada Succeeds believed the bill was a major step in the right direction.

Lonnie Shields, representing the Nevada Association of School Administrators, echoed the comments made by his colleagues. He indicated that any time a school district had to choose between an effective teacher, an ineffective teacher, or a minimally effective teacher, the decision was easy. It was necessary for the Legislature to move forward with the bill so that qualified teachers could be placed in every classroom.

Mary Pierczynski, representing the Nevada Association of School Superintendents, thanked the bill's sponsors for spending a great deal of time with stakeholders to amend the original version of the bill that contained

language not supported by the Association. Ms. Pierczynski voiced support for the amended version of the bill.

Chair Anderson asked whether there was further testimony to come before the Committee from those who were neutral regarding S.B. 92 (R1).

Theo Small, Vice President, Clark County Education Association, said he had some concerns having been a classroom teacher for 25 years. Mr. Small said the Association wanted highly effective teachers in every classroom. Clark County School District (CCSD) had 19 turnaround schools, and three schools had recently exited the program. Mr. Small stated that the Association felt the current CCSD turnaround school program was of great help to teachers and administrators.

Mr. Small said that section 4.2 of the bill contained language regarding termination of the principal and the selection of a new principal who would make all determinations for the school concerning hiring and the school's curriculum, schedule, and instructional design. He stated that language allowed no voice for the collaboration of those who were actually teaching the curriculum and instructing the students. Mr. Small said he was very concerned about that language because it was opposite of current language regarding empowerment schools where everyone in the community, including students, their families, and all staff were part of the decision-making to improve the school. The language in the bill gave that decision-making solely to the principal.

Mr. Small noted there was a teacher shortage, and the bill would remove all collective bargaining agreements. The Clark County Education Association was currently working with CCSD to attract highly effective teachers in the suburban areas to teach in turnaround schools, and Mr. Small said he was concerned that passage of S.B. 92 (R1) would make it easier to remove teachers from turnaround schools. He wondered whether that would attract the right teachers and administrators to those schools.

The question, said Mr. Small, was whether new, inexperienced teachers should be sent into the highest need areas of the turnaround schools. He noted that Assembly Bill (A.B.) 447 (1st Reprint) had passed, and the language in that bill would ensure there would be multiple years for teachers to become highly effective and for school districts to develop better teachers.

Mr. Small stated that section 30 of S.B. 92 (R1) described the process for teachers who had received uncontested disciplinary action or where the action was adjudicated, but that language did not include the evaluation piece.

He noted that the Clark County Education Association spent a great deal of time working with new teachers who were struggling with the profession. Many of those teachers were considered minimally effective, and the Association was developing those teachers.

Chair Anderson asked whether there was further testimony to come before the Committee in opposition to S.B. 92 (R1), and there being none, the Chair closed the hearing.

Chair Anderson advised that the Committee would continue with a work session regarding bills heard today, commencing with Senate Bill 213 (R1).

Senate Bill 213 (1st Reprint): Revises provisions relating to federal assistance received by agencies of the Executive Department of State Government. (BDR 31-838)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said Senate Bill (S.B.) 213 (1st Reprint) would require the Chief of the Budget Division, Department of Administration, to maintain a database of certain information related to federal assistance received by agencies in the Executive Department of state government and require the Department of Administration to prepare an annual report that contained information relating to federal assistance programs.

Ms. Jones said the bill also required a report to be submitted to the Governor and the Legislature and authorized the Fiscal Analysis Division, Legislative Counsel Bureau, to prepare an advisory report containing information with respect to the federal assistance programs.

Ms. Jones indicated there was a fiscal impact created by both S.B. 213 (R1) and Senate Bill (S.B.) 214 (1st Reprint) that were recently heard in the amount of approximately $97,500 per fiscal year, which included $15,500 per year for travel and support of the board that would be created by S.B. 214 (R1). Those funds were not included in The Executive Budget or in the legislatively approved budget for the Budget Division, Department of Administration and could be added to S.B. 213 (R1) through an amendment to the bill. The funds to support the costs associated with the two bills could also be requested by the Budget Division, Department of Administration, from the Interim Finance Committee.

ASSEMBLYMAN EDWARDS MOVED TO AMEND AND DO PASS SENATE BILL 213 (1ST REPRINT) AS AMENDED WITH AN APPROPRIATION OF $97,500 IN EACH FISCAL YEAR, $15,500 OF WHICH WOULD SUPPORT THE NEVADA ADVISORY COUNCIL ON FEDERAL ASSISTANCE CREATED BY SENATE BILL 214 (1ST REPRINT).

ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Senate Bill 214 (1st Reprint): Creates the Nevada Advisory Council on Federal Assistance. (BDR 31-837)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, said Senate Bill (S.B.) 214 (1st Reprint) was a companion bill to S.B. 213 (R1). The bill created the Nevada Advisory Council on Federal Assistance and provided for the membership, powers, and duties of the Council. Included in the funding added to S.B. 213 (R1) was $15,500 for costs associated with the Council.

ASSEMBLYMAN EDWARDS MOVED TO DO PASS SENATE BILL 214 (1ST REPRINT).

ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Senate Bill 502 (2nd Reprint): Temporarily authorizes the Department of Motor Vehicles to collect a technology fee. (BDR 43-1177)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau said Senate Bill (S.B.) 502 (2nd Reprint) would authorize the Department of Motor Vehicles (DMV) to temporarily collect a technology fee and would temporarily increase the limitation on the percentage of the proceeds of certain fees and charges collected by the DMV that were authorized for the DMV's costs of administration associated with the collection of those fees and charges.

Ms. Jones said S.B. 502 (R2) was a budget bill and was associated with the information technology (IT) project approved by the Assembly Committee on Ways and Means and the Senate Committee on Finance to replace the current DMV information technology system. The bill would raise the cap of the percentage of the State Highway Fund receipts that were allowed to administer the DMV because the cost of the IT project was included in that cap.

ASSEMBLYMAN EDWARDS MOVED TO DO PASS SENATE BILL 502 (2ND REPRINT).

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

THE MOTION PASSED. (Assemblywomen Dickman and Titus voted no.)

Senate Bill 513: Makes various changes relating to the subsidies paid to the Public Employees' Benefits Program for insurance for certain active and retired public officers and employees. (BDR 23-1276)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau said Senate Bill (S.B.) 513 was presented earlier by Fiscal Analysis Division staff. The bill made various changes related to the subsidies paid to the Public Employees' Benefits Program (PEBP) for insurance for certain active and retired public officers and employees for the upcoming biennium. Ms. Jones said S.B. 513 was a budget bill that placed in statute the state PEBP subsidies for the upcoming biennium.

As noted by Fiscal Analysis Division staff, said Ms. Jones, a new exception had been added to the language of the bill that allowed a person who had previously been employed but left state government to return to state service after taking a break from any Public Employees' Retirement System-related employment and retain their ability to access retiree health insurance.

ASSEMBLYMAN EDWARDS MOVED TO DO PASS SENATE BILL 513.

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Senate Bill 515: Ensures sufficient funding for K-12 public education for the 2015-2017 biennium. (BDR 34-1284)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau said Senate Bill (S.B.) 515 was one of the major budget bills that would implement K-12 funding for the upcoming biennium. The bill assured sufficient funding for K-12 public education for the 2015-2017 biennium and apportioned the State Distributive School Account (DSA) in the State General Fund for the 2015-2017 biennium. The bill authorized certain expenditures; made appropriations for purposes relating to basic support, class-size reduction, and other educational purposes; made contingent appropriations for certain educational programs and services; and temporarily diverted the money from the State Supplemental School Support Account to the DSA for use in funding operating costs and other expenditures of school districts.

Ms. Jones said S.B. 515 had to be passed by both houses of the Legislature prior to any other bills containing an appropriation [for the 2015-2017 biennium] being passed by the second house.

> ASSEMBLYMAN EDWARDS MOVED TO DO PASS SENATE BILL 515.
>
> ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED THE MOTION.
>
> THE MOTION PASSED. (Assemblywomen Dickman and Titus voted no.)

Senate Bill 92 (1st Reprint): Revises provisions relating to education. (BDR 34-485)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau said Senate Bill (S.B.) 92 (1st Reprint) was an act relating to education. The bill authorized the designation of certain underperforming schools as turnaround schools, allowed certain measures to be taken with respect to administration and personnel at such schools, and excluded the right of a school district to make reassignments of a principal or teacher from such a school from the scope of collective bargaining. The bill also provided for certain incentives to encourage employment at a school designated as a turnaround school, revised provisions relating to the reassignment of a teacher or administrator whose overall performance was designated as minimally effective or ineffective, required the board of trustees of a school district to

consider specified factors in carrying out a reduction in force, and directed the Legislative Counsel to reorganize certain statutory provisions relating to education. Ms. Jones noted that S.B. 92 (R1) related to section 24 of Senate Bill 515, which provided $2.5 million per fiscal year of the 2015-2017 biennium for costs associated with implementing the turnaround schools program.

Assemblywoman Benitez-Thompson stated the bill was difficult because there were so many aspects and components, but there absolutely had to be accountability for good teachers and good schools. She indicated that her daughter's school was stuck as a two-star school, and eventually the superintendent of the school district reassigned the principals from higher rated schools to the lower rated schools. She said the problems at schools had to be identified, whether it was ineffective teachers or ineffective leadership. She believed the time frames and methods for handling teachers described in the bill would not provide sufficient time for due consideration to determine the cause of the problems. Many of the decisions regarding effective teachers and staff would be made by the principal rather quickly, and Assemblywoman Benitez-Thompson believed there should be more time. Assemblywoman Benitez-Thompson said she did not want her vote to reflect that she was not supportive of the idea, but she believed there should be more time to determine the cause of the problems.

Assemblywoman Dickman believed the bill included the type of reforms and accountability that was needed.

Assemblyman Sprinkle said S.B. 92 (R1) was difficult for him because he did appreciate the necessity of having effective teachers and a process to address those ineffective or minimally effective teachers. He said he was hesitant about the bill because of the subjective nature of the teacher performance evaluation. Assemblyman Sprinkle said he did not know whether a one-year evaluation was appropriate, particularly for newer teachers who were still learning what was needed in the classroom and gaining the necessary experience. He explained that he had sufficient concerns about the bill that he would vote no, even though he understood the overall idea that was behind the bill.

Assemblywoman Titus thanked Lieutenant Governor Hutchison for bringing S.B. 92 (R1) forward. The Legislature had passed several tax increases that would be paid by citizens of the state to improve education. She indicated that she had asked that there be accountability of how that money was spent, and that had to start somewhere. Assemblywoman Titus said the taxpayers and business owners should hold the Legislature accountable for the money, which she believed would begin with S.B. 92 (R1).

Assemblyman Edwards said his constituents wanted the Legislature to have greater accountability, particularly with the large sum of money that would be invested in education during the upcoming biennium. Accountability was not always easy, but it had to be done. Assemblyman Edwards commented that the state would fail its students by not maintaining accountability, and it had to trust that those in charge of the process would be fair and equitable on all accounts. He stated he had faith in those who would handle the process and would vote in favor of S.B. 92 (R1).

Chair Anderson noted that Lieutenant Governor Hutchison had worked with all stakeholders involved to ensure that everyone agreed on the language of the bill, and he was ready to move forward; the Chair called for a motion.

> ASSEMBLYWOMAN DICKMAN MOVED TO DO PASS SENATE BILL 92 (1ST REPRINT).
>
> ASSEMBLYMAN EDWARDS SECONDED THE MOTION.
>
> THE MOTION PASSED. (Assemblymen Benitez-Thompson, Bustamante Adams, Carlton, Kirkpatrick, Sprinkle, and Swank voted no).

Senate Bill 492 (2nd Reprint): Revises provisions governing the financial administration of off-highway vehicle titling and registration. (BDR 43-1175)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau said Senate Bill (S.B.) 492 (2nd Reprint) was heard by the Committee on May 30, 2015. The bill related to off-highway vehicles, revising provisions related to fees collected by the Department of Motor Vehicles for the titling and registration of off-highway vehicles.

Ms. Jones said the bill was associated with the decisions made by the Assembly Committee on Ways and Means and the Senate Committee on Finance to support the budget for the off-highway vehicle program.

Assemblywoman Bustamante Adams asked about the fiscal note.

Ms. Jones said she did not have that information available, but the amounts included in the budget had been approved.

ASSEMBLYMAN EDWARDS MOVED TO DO PASS SENATE BILL 492 (2ND REPRINT).

ASSEMBLYMAN ARMSTRONG SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Anderson declared the Committee in recess at 12:32 p.m. and reconvened the hearing at 1:40 p.m. The Chair said the work session would continue with Assembly Bill 147.

Assembly Bill 147: Revises provisions relating to transferable tax credits to attract film and other productions to Nevada. (BDR 32-503)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau said Assembly Bill (A.B.) 147 was heard by the Committee on May 26, 2015. The bill was related to transferrable tax credits to attract filming and other productions to Nevada. The bill revised provisions governing the total amount of transferrable tax credits, which may be approved by the Office of Economic Development, Office of the Governor, pursuant to applications submitted to the Governor's Office of Economic Development by a producer that produced film, television, or other media productions in Nevada.

Ms. Jones said A.B. 147 related to Senate Bill No. 165 of the 77th Session (2013) that established the program. She noted that the 28th Special Session (2014) reduced the amount available in the program from $20 million to $10 million in any fiscal year. The original bill would restore the funding to $20 million, and the proposed conceptual amendment would again reduce the amount to $15 million in any fiscal year. Any tax credits that were not used for the program in the fiscal year in which the credits were available would balance forward to the immediately following two fiscal years.

Assemblywoman Carlton stated that the program funding had been repurposed by the 28th Special Session. The policy was also changed during the 28th Special Session, and the program had transitioned from a pilot project to a demonstration project. Additional money would be provided to the program via A.B. 147 to ensure that dollars could be leveraged to bring additional jobs to Nevada. Realizing the constraints currently facing the state, asking for restoration of the whole amount was not deemed appropriate, said Assemblywoman Carlton, but the amount should keep people working and keep the industry on an even keel.

Assemblywoman Titus opined that if Nevada had a fair tax plan there would be no need for abatements, and she would vote no on the bill.

Assemblywoman Carlton said it was not an abatement, but rather was a credit. Productions would come to Nevada and spend money, provide jobs, and then apply for a tax credit.

Assemblywoman Dickman said she understood the transferrable tax credits, but she believed those were direct subsidies, and she would also vote no on the bill.

> ASSEMBLYWOMAN BENITEZ-THOMPSON MOVED TO AMEND AND DO PASS ASSEMBLY BILL 147 AS AMENDED.
>
> ASSEMBLYMAN OSCARSON SECONDED THE MOTION.
>
> THE MOTION PASSED. (Assemblywomen Dickman and Titus voted no. Assemblywoman Swank was not present for the vote.)

Assembly Bill 394 (1st Reprint): Creates an advisory committee and a technical committee to develop a plan to reorganize the Clark County School District and revises certain provisions related to collective bargaining. (BDR 22-900)

Assemblyman David M. Gardner, Assembly District No. 9, stated that proposed Amendment No. 7799 (Exhibit H) to Assembly Bill (A.B.) 394 (1st Reprint) would require that after the plan to reconfigure the Clark County School District was finished, the Department of Education would promulgate regulations to implement the plan. Assemblyman Gardner said section 28, subsection 4 of the proposed amendment stated, "The State Board of Education shall adopt regulations necessary and appropriate to effectuate the implementation of the proposed plan not later than the 2018-2019 school year." Those regulations would then be reviewed by the Legislative Commission, which would have the final vote on whether or not to adopt the regulations.

Assemblywoman Kirkpatrick said that she had shared in the conversation with Assemblyman Gardner, along with Assemblywoman Benitez-Thompson, Assemblywoman Bustamante Adams, and Assemblywoman Olivia Diaz, regarding proposed Amendment No. 7799. The amendment attempted to provide a backstop for the study, and it was felt that the Legislative Commission could provide the backstop. The State Board of Education would submit regulations that would be approved by the Legislative Commission before implementation. Using the 2018-2019 school year pushed the date out to allow for further discussion going forward.

Assemblywoman Kirkpatrick stated she would support the legislation with the proposed amendment.

> ASSEMBLYWOMAN BENITEZ-THOMPSON MOVED TO AMEND AND DO PASS ASSEMBLY BILL 394 (1ST REPRINT) AS AMENDED WITH PROPOSED AMENDMENT NO. 7799.
>
> ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED THE MOTION.

Assemblyman Gardner explained that proposed Amendment No. 7799 would provide a backstop to the reconfiguration plan for the Clark County School District. The proposed amendment would have the plan submitted to the State Board of Education, which would then develop regulations that would be reviewed by the Legislative Commission for approval.

Chair Anderson asked whether funding was required for the study by the proposed advisory committee. Assemblyman Gardner said the cost was not yet known because a third party would be hired to complete the research; the approximate cost would be in the vicinity of $500,000 to $1 million.

Assemblywoman Kirkpatrick said the study date had also been pushed out to the 2017-2018 school year, so the Legislative Commission could ensure that the study remained within the allowed time frame.

Chair Anderson stated that the funding source needed to be addressed before voting on the bill.

Rick S. Combs, Director, Legislative Counsel Bureau, said the latest version of A.B 394 (R1) that he had reviewed included a provision that allowed the advisory committee to request approval from the Interim Finance Committee (IFC) for an allocation of money to conduct the study. He said that language remained in the amended version of the bill, and the IFC's Contingency Account replenishment bill remained within the purview of the Committee, so it could determine whether to place additional funding in the Contingency Account for the advisory committee to complete the study.

Mr. Combs said it appeared the cost for the study itself was approximately $10,000 for staff costs and travel for members of the advisory committee. However, that amount would not cover the cost of a consultant. Mr. Combs believed the amount for the advisory committee could be funded with the current amount set aside for studies. Currently, only one study had passed both houses of the Legislature, and there was sufficient money for three or four

studies in the Legislative Commission's budget. Mr. Combs believed the costs for the advisory committee could be covered; however, the Committee would need to address the consultant costs.

Chairman Anderson noted there was a motion before the Committee to amend and do pass A.B. 394 (R1) as amended, and he called for a vote on the motion.

> THE MOTION PASSED. (Assemblyman Edwards was not present for the vote.)

Chair Anderson announced that the Committee would hear testimony regarding Senate Bill (S.B.) 111 (2nd Reprint).

Senate Bill 111 (2nd Reprint): Requires the use of portable event recording devices by certain peace officers employed by the Nevada Highway Patrol Division of the Department of Public Safety. (BDR 43-618)

Senator Aaron D. Ford, Senate District No. 11, said Senate Bill (S.B.) 111 (2nd Reprint) required all 481 Nevada Highway Patrol Division (NHP) officers, Department of Public Safety (DPS), to wear portable event recording devices, or body cameras. The bill contained an appropriation to effectuate the cost of the devices.

Assemblyman Armstrong asked how S.B. 111 (R2) would interact with Assembly Bill (A.B.) 162 (1st Reprint) that contained enabling language for body cameras. He wondered whether the bills would work together.

Senator Ford said A.B. 162 (R1) was entirely enabling and authorized not only NHP officers, but all law enforcement officers throughout the state to wear body cameras. He noted that S.B. 111 (R2) only required NHP officers to wear a camera.

Chair Anderson clarified that the funding mechanism included in the bill was the State Highway Fund rather than the State General Fund. Senator Ford stated that was correct.

Assemblyman Hickey asked whether the selection of NHP officers to initiate the body camera program was because the funding mechanism was more readily available from the State Highway Fund than funding from local municipalities.

Senator Ford acknowledged that was the only reason the bill was limited in scope, and only NHP officers would be required to wear the cameras. He said he would prefer that all officers who interacted with the public would wear the cameras, but a funding source was not available.

Assemblyman Hickey believed it was generally true that the type of problems that had been occurring in the news lately were not usually related to Highway Patrol-related arrests, but rather arrests by police and sheriff's department officers.

Senator Ford said there was an NHP office in his district, and those officers patrolled the streets in Las Vegas that were designated as state highways, and those NHP officers patrolled various neighborhoods. He stated he did not have any statistics to verify whether problems were with NHP officers or other officers.

Assemblywoman Carlton noted that the Department of Public Safety included several types of officers, and the bill would address only NHP officers.

Senator Ford stated Assemblywoman Carlton was correct.

Chair Anderson asked whether there was testimony to come before the Committee in support of S.B. 111 (R2).

James M. Wright, Director, Department of Public Safety, said the Department supported S.B. 111 (R2) on behalf of the Nevada Highway Patrol Division.

Robert Roshak, representing the Nevada Sheriffs' and Chiefs' Association, stated the Association also supported S.B. 111 (R2).

Chair Anderson asked whether there was further testimony to come before the Committee in opposition to or neutral regarding S.B. 111 (R2).

Ron Dreher, representing the Peace Officers Research Association of Nevada, said there were several law enforcement entity members of the Association, and the Association supported the body camera aspect of the bill. The only concern was the due process portion of the bill. Mr. Dreher said he wanted to go on record that the Association was concerned with that process and believed there would be problems going forward. He stated the Association believed it would be defending the officers and troopers who were disciplined.

There being no further testimony to come before the Committee regarding S.B. 111 (R2), the Chair closed the hearing. The Chair opened the hearing on Assembly Bill (A.B.) 359 (1st Reprint).

Assembly Bill 359 (1st Reprint): Revises provisions governing common-interest communities. (BDR 10-910)

Senator Scott T. Hammond, Senate District No. 18, stated he would present proposed Amendment No. 7669 (Exhibit I) to Assembly Bill (A.B.) 359 (1st Reprint). Under current law, if a homeowners' association (HOA) had a lien on a home for assessments and other amounts that were owed to the HOA, the HOA could foreclose its lien through a nonjudicial foreclosure process. Senator Hammond said existing law provided that a limited portion of an HOA lien had priority over the first security interest on the unit, and its portion was commonly referred to as the superpriority lien. The amount of the superpriority lien was limited to an amount equal to nine months of assessments, certain maintenance costs, and usage abatements of expenses paid by the HOA.

Senator Hammond stated that in *SFR Investments Pool 1, LLC v. U.S. Bank,* 130 Nev. Adv. Op. 75, 334 P.3d 408 (2014), the Nevada Supreme Court held that foreclosure of the superpriority lien by an HOA extinguished the first mortgage lien on the home. Senator Hammond said the Legislature approved Senate Bill (S.B.) 306 (1st Reprint), and on May 27, 2015, the Governor signed the bill. Senator Hammond indicated that S.B. 306 (R1) did not affect the ruling of the Nevada Supreme Court; rather the bill maintained existing law that the foreclosure of the superpriority lien by an HOA extinguished the first mortgage lien on a home. However, S.B. 306 (R1) provided additional protections that enabled mortgage holders and homeowners to protect their interests when an HOA foreclosed on a superpriority lien.

Senator Hammond stated that S.B. 306 (R1) required enhanced notice to mortgage holders so that a mortgage holder could act to preserve its first mortgage lien. The bill also provided a redemption period during which the mortgage holder or homeowner could redeem the home from an HOA foreclosure.

The proposed amendment (Exhibit I) to A.B. 359 (R1) went one step further and would make improvements to the notice and redemption provisions included in S.B. 306 (R1). Senator Hammond stated the proposed amendment maintained existing law regarding an HOA lien on a home for certain amounts due to the HOA and maintained existing law that authorized the HOA to foreclose its lien through a nonjudicial foreclosure process. However, section 7.55, subsection 5

of the proposed amendment would overturn the holding of the Nevada Supreme Court in *SFR Investments Pool 1, LLC v. U.S. Bank* by providing that an HOA foreclosure did not extinguish either the first or second mortgage lien on a home.

Senator Hammond indicated that if an HOA foreclosed on a home, the foreclosure could not extinguish the first or second mortgage lien on the home, but under the language of section 7.75, subsection 6 of the proposed amendment, the HOA would be first in line to receive whatever proceeds that arose from the HOA's foreclosure sale. However, if a mortgage holder foreclosed on the home, the amount of the HOA's superpriority lien would have to be paid before the purchaser at the foreclosure sale could obtain clear title to the home.

Per Senator Hammond, the remaining provisions of the amendment made conforming changes and improvements to S.B. 306 (R1). Section 7.6 of the proposed amendment (Exhibit I) would delete language from section 2 of S.B. 306 (R1), which required certain notice of the potential extinguishment of a first mortgage holder's lien. That notice would not be necessary because that lien could no longer be extinguished by an HOA foreclosure sale.

Senator Hammond said section 7.65 of the proposed amendment authorized the notice of default and election to sell, which began the HOA foreclosure process. The notices would either be mailed or served upon the necessary parties. Sections 7.65 and 7.7 amended sections 3 and 4 of S.B. 306 (R1) respectively to specify that if a lienholder who was required to receive a notice did not have an address listed on the Internet website of the Division of Financial Institutions, Department of Business and Industry, pursuant to section 8.5 of S.B. 306 (R1), the notice may be sent to a registered agent of the holder or to some other address of the holder.

Senator Hammond indicated that section 7.75 of the proposed amendment (Exhibit I) amended section 5 of S.B. 306 (R1), which enhanced the procedures governing the conduct of an HOA foreclosure sale. That section would also remove language that was no longer needed because an HOA foreclosure sale would no longer extinguish the first or second mortgage lien. Section 7.8 of the amendment would amend section 6 of S.B. 306 (R1), which set forth the right of redemption for a homeowner or mortgage holder after an HOA foreclosure sale. The homeowner or lienholder may redeem a home from an HOA foreclosure by paying the purchase price plus interest and certain other amounts to the purchaser who purchased the home at the foreclosure sale. Senator Hammond stated that section 7.8 of the proposed amendment (Exhibit I) revised section 6 of S.B. 306 (R1) to remove language that was no

longer needed because the HOA foreclosure sale would not extinguish the first or second mortgage lien.

Chair Anderson noted that Senator Hammond had made several references to S.B. 306 (R1), which was not heard by the Committee, and he asked for a summary of that bill.

Senator Hammond said he was attempting to retain most of the provisions of S.B. 306 (R1) that was approved by the Legislature and signed by the Governor. The proposed amendment to A.B. 359 (R1) would remove the ability of an HOA foreclosure process to extinguish the first or second lienholder. The question was often asked whether the bill would force HOAs into a judicial foreclosure, and the answer was no it would not. The nonjudicial foreclosure process would remain available, preferably when all the mechanisms were in place from S.B. 306 (R1) to do such.

Senator Hammond said the reason he proposed Amendment No. 7669 to A.B. 359 (R1) was because in recent discussion with the stakeholders involved in finalizing S.B. 306 (R1), concerns were voiced by Alfred M. Pollard, General Counsel, Federal Housing Finance Agency (FHFA). Senator Hammond said FHFA supported S.B. 306 (R1), but believed the bill did not go far enough. The FHFA believed a crisis was looming in the mortgage lending industry in Nevada, and there would be significant future litigation with Fannie Mae [Federal National Mortgage Association] and Freddie Mac [Federal Home Loan Mortgage Corporation] regarding foreclosures. Senator Hammond said the FHFA would vigorously oppose any foreclosure process that included extinguishment of the first and second liens. That was the reason he proposed the amendment to A.B. 359 (R1).

Assemblywoman Carlton said she had been working on HOA concerns for many years. It appeared that with a superpriority lien, the HOA would be made whole, and the first and second mortgage liens would be extinguished, at which time the house could be placed on the market for sale. If the HOA took over the home through a nonjudicial foreclosure process, that home could be sold to satisfy the HOA's superpriority lien. Assemblywoman Carlton asked about the extra money received by the HOA upon the sale of the house. For example, if the amount owed the HOA was $20,000 in assessments and fines and the home was worth $120,000, she wondered whether the HOA would keep the extra money.

Assemblywoman Carlton said she had been contacted by a resident of Las Vegas who had declared bankruptcy so that her home would not be foreclosed because of delinquent HOA fines and assessments. Her concern was

that for the amount of $2,000 or $2,500 owed to the HOA, people were losing the money they had invested in their homes. Assemblywoman Carlton believed, however, that HOAs should not be left "holding the bag." Under the proposed amendment (Exhibit I), it appeared that the HOAs would be made whole, and the first mortgage lienholder would also receive a portion of money from the sale of the property.

Senator Hammond said that it was his understanding that uniform law allowed HOAs to foreclose and allowed the HOAs to extinguish the first mortgage lien, and the opinion issued by the Nevada Supreme Court regarding the *SFR Investments Pool 1, LLC v. U.S. Bank* case proved that to be the case. The question now was whether to retain that as policy in Nevada. There had been some very disturbing incidents that had occurred with HOA foreclosures of houses where the owners owed only a small assessment amount. Senator Hammond said that was the reason he had proposed Amendment No. 7669 to A.B. 359 (R1).

Assemblywoman Carlton said the proposed amendment would make sure the HOAs were made whole. Senator Hammond said that was his intent with S.B. 306 (R1) and remained his intent with the proposed amendment to A.B. 359 (R1). He wanted to ensure that HOAs were made whole, but the first mortgage lien should not be extinguished.

Assemblyman Kirner said that S.B. 306 (R1) had been passed by the Legislature and signed by the Governor, and he wondered why the language in the proposed amendment (Exhibit I) was not made a part of that bill.

Senator Hammond said there were groups that continued to believe that the compromise language of S.B. 306 (R1) did not address the complete problem. Senator Hammond said the 2011 Legislature passed Assembly Bill No. 284 of the 76th Session (2011), and at that time he learned that the industry was very fragile, and some issues could have a severe effect on the mortgage lending and real estate markets. He believed that taking the extra step by approving the proposed amendment would bring more surety to the industries. Senator Hammond noted that 70 to 80 percent of the housing loans in Nevada were federal loans.

Assemblyman Kirner asked whether the parties involved in negotiating the language of S.B. 306 (R1) were also involved in the language of the proposed amendment to A.B. 359 (R1).

Senator Hammond said not all parties were involved in the proposed amendment. The original negotiations for S.B. 306 (R1) included investors, collection agencies, HOAs, lenders, title companies, homeowners, and some federal involvement through the Federal Housing Finance Agency (FHFA). He indicated that some stakeholders were satisfied with the language of S.B. 306 (R1), and others believed that additional language was needed. That was the group he continued to work with regarding the proposed amendment.

Senator Hammond stated that Mr. Breslow was present at the hearing and would present neutral testimony regarding A.B. 359 (R1).

Bruce Breslow, Director, Department of Business and Industry, stated that he had not participated in the discussions regarding S.B. 306 (R1) or the proposed amendment to A.B. 359 (R1). The Department was neutral regarding the bills. He stated that he had met with representatives from Fannie Mae; Freddie Mac; the U.S. Department of Veterans Affairs; and the Federal Housing Administration (FHA), U.S. Department of Housing and Urban Development approximately one year ago while in Washington, D.C. Those representatives advised that there was a problem in Nevada because an HOA could foreclose on a home for nine months of missed payments, no matter what the amount, and that would extinguish an existing mortgage lien. The question was why those entities should continue to lend money for housing in Nevada or insure mortgages.

Chair Anderson asked whether there was further testimony to come before the Committee in favor of A.B. 359 (R1).

Kevin Sigstad, President, Nevada Association of Realtors, submitted written testimony, Exhibit J, in support of the bill for the Committee's review. Mr. Sigstad stated he was also the broker-owner of RE/MAX Premier Properties in Reno.

Mr. Sigstad said the Nevada Association of Realtors supported A.B. 359 (R1) and the proposed amendment to the bill (Exhibit I). He stated that he dealt with homeowners and first-time home buyers on a daily basis and was very concerned about the extinguishment of first deeds of trust through an HOA foreclosure. There had been over 8,000 foreclosures by HOAs since 2011, and while that number might have dropped recently because of the improved economy, it was nonetheless important to take action to provide balance of equity between HOAs, lenders, and homeowners.

Mr. Sigstad indicated that the Federal Housing Finance Agency (FHFA) had testified that it would not consent to the foreclosure or other extinguishment of a Fannie Mae or Freddie Mac lien or other property interest in connection with an HOA superpriority lien foreclosure. The FHFA played an intricate role in a large percentage of mortgage loans in Nevada, and if the extinguishment of Fannie Mae and Freddie Mac liens continued, those government sponsored enterprises would refuse to do business in Nevada. Mr. Sigstad said that would eliminate the ability of a large majority of Nevada home buyers from obtaining loans and home financing.

Mr. Sigstad said it was crucial to preserve lending in Nevada, and the proposed amendment would eliminate the extinguishment of the first deed of trust through an HOA foreclosure, but would still allow the HOA to protect its superpriority interest. The solution would protect home buyers in Nevada, Fannie Mae and Freddie Mac, the HOAs, and the homeowners who were suffering foreclosure.

Mr. Sigstad stated he was also a member of a number of HOA boards and had been on the board of one HOA for many years. That HOA was not high-end condominiums, but rather was in the range of $50,000 to $60,000 condominiums. Out of 300 units, the HOA had foreclosed on over 100 units over the last two years because they were entry-level units that were easy to walk away from.

Mr. Sigstad said it was not until one year ago that his HOA board realized that its foreclosure extinguished the first and second lien on those units. The HOA would foreclose, take control of the property, and rent the unit until the first lien holder foreclosed, and at that time, the HOA would recover the superpriority lien amount.

Chair Anderson said it appeared the proposed amendment would not allow the first mortgage lien to be extinguished, and he wondered how an HOA would recoup its costs when it could not sell the home. He asked whether it would be necessary for the foreclosure process to be finalized prior to the HOA receiving its fees.

Mr. Sigstad said that assuming the home was underwater, the HOA would recoup the HOA fees through the rental process during the lender foreclosure process. He explained that when the foreclosure was finalized, the association fees for the nine previous months would be paid to the HOA. It usually took about 12 months for a bank foreclosure, and the HOA would be made whole on every case because the properties were rented in the interim.

Brad Spires, Legislative Chair, Nevada Association of Realtors, presented written testimony (Exhibit K) in support of the proposed amendment to A.B. 359 (R1). Mr. Spires stated that the first 20 years he was in the business he had heard about foreclosures and deeds in lieu of foreclosure once every two years when he attended continuing education classes. The industry had become very challenging over the past several years, and there were many new terms that had not existed previously, such as underwater loans, loan modifications, short sales, the federal Home Affordable Refinance Program (HARP), and the federal Home Affordable Foreclosure Alternatives (HAFA) Program.

Mr. Spires said the industry responded to what was occurring in the housing market, and regulators at the federal level created HARP and the HAFA programs. The point of Realtors and lenders meeting with homeowners was to determine how the homeowner could remain in the home. Lenders trained realtors about how to assist homeowners with loan modifications and provided other resources to help persons retain ownership of their homes.

When a homeowner was unable to keep his or her property, said Mr. Spires, the second priority process was to ensure the lenders were paid and provide some debt relief to the property owner, which was through short sales. Most of the short sales occurred when the owners had no equity in the property. When the loan was approved for the new buyer, the paperwork from the lender indicated that the loan was paid in full for less than the agreed upon amount.

Mr. Spires said the homeowners were relieved of the amount owed to the lender. However, if an HOA foreclosed on the property, the homeowner no longer had a place to live and owed the complete loan amount to the lender that would receive nothing from the HOA foreclosure process. Mr. Spires opined that left a homeless person owing several hundred thousand dollars to a mortgage lender that would ultimately receive nothing. There would then be a comparable sale that reduced the value to the HOA because it was sold at a much reduced rate.

Rocky Finseth representing the Nevada Land Title Association, stated that the Association supported the proposed amendment to A.B. 359 (R1). The Association believed the amendment and bill would help bring clarity to the marketplace.

Jon Gedde, Chairman, Board of Governors, Nevada Mortgage Lenders Association, said he had worked with Senator Hammond at the outset in an attempt to solve the HOA problem without dealing with the issue of

extinguishment. However, since then the Federal Housing Finance Agency (FHFA) had made it abundantly clear that extinguishment was not acceptable, and FHFA had released several statements indicating that it would aggressively pursue legal action against any extinguished mortgage liens. Mr. Gedde indicated that if the proposed amendment was not adopted, there could be two possible outcomes, the first of which would occur if FHFA won its lawsuit. In that case, the HOA superpriority liens would only apply to nonfederally insured mortgages. That would leave the industry in a situation where it would be nearly impossible to secure a private or nonfederally insured loan if the property was within an HOA.

The second possible outcome, said Mr. Gedde, was if FHFA lost its lawsuit. In that case, FHFA would stop lending for properties in Nevada HOAs altogether, or at the very least, there would be much tighter underwriting guidelines and significant risk premiums assessed that would cause higher interest rates and closing costs for owners in HOAs and purchasers attempting to buy HOA properties. That would cause a reduced demand for HOA homes, which would push prices down. Neither of those options would be good for the housing industry in Nevada. Because of that, said Mr. Gedde, the Nevada Mortgage Lenders Association strongly supported the proposed amendment to A.B. 359 (R1).

Senator Aaron D. Ford, Senate District No. 11, stated he would like to provide some background regarding S.B. 306 (R1) and how the language interacted with the proposed amendment to A.B. 359 (R1). Senator Ford emphasized that it had never been a secret that the model law upon which Nevada based its law contemplated extinguishing the first mortgage lien. That extinguishment was in the notes in the uniform law that the state adopted.

Senator Ford said S.B. 306 (R1) attempted to address some issues, and the proposed amendment (Exhibit I) provided a remedy for the catastrophes that proponents of the bill said would befall the industry if S.B. 306 (R1) became law without the amendment. That remedy was for the bank to pay the amount owed to the HOA. The argument had been that the HOAs failed to notify the banks of the amount owned, but when HOAs gave the banks notice, and the bank attempted to pay that amount, the HOA would not accept the payment because additional costs had accrued.

Senator Ford stated that the HOAs complained that banks were not responding to the notices, and there was a continuing disconnect between the banks and the HOAs regarding specificity requirements. He explained that S.B. 306 (R1) fixed that problem on the front side of a foreclosure, and in his view, that bill would ensure that no foreclosures on HOA liens would take place going

forward. That was because the bank was now on notice that if it did not respond to a notice from the HOA declaring the amount due and owing, it would lose its first mortgage lien. That was the context of S.B. 306 (R1). Senator Ford opined that no bank would lose its first interest in the mortgage because a remedy had been provided.

Senator Ford said S.B. 306 (R1) went even further by adding language to help the homeowner and the bank again at the end of the foreclosure process. That language allowed redemption: after the foreclosure took place, there were a set amount of days that either the homeowner or the bank could redeem the home. Senator Ford said the stakeholder group for the bill included title companies, banks, HOAs, Realtors, and others, who had derived what he believed was the quintessential example of compromise legislation.

Chair Anderson said if, hypothetically, he loaned Senator Ford money for a house, and that house was encumbered by unpaid HOA fees, it appeared he could lose his investment in that house if the owner failed to pay the HOA fees.

Senator Ford said everyone had to remember why HOAs were founded in the first place. The state founded HOAs and gave HOAs quasigovernmental functions because those HOAs would take care of the neighborhoods. The superpriority lien was offered as a "hammer" to ensure that banks and others that financed homes in the neighborhood would make certain the neighborhoods were maintained. There was a tripartite scale that had to be weighed—the homeowner, the lender, and the HOAs.

Senator Ford said the Uniform Law Commission determined that allowing the foreclosure of a superpriority lien to extinguish the first mortgage lien was a sufficient "hammer" to induce and convince a bank or mortgage lender to pay the amount due and owing to the HOAs. The bank would ultimately get its money back, either from the homeowner or through the sale of the property.

Chair Anderson asked whether there was further testimony to come before the Committee in opposition to proposed Amendment No. 7669 to A.B. 359 (R1).

Assemblywoman Ellen B. Spiegel, Assembly District No. 20, stated she would offer some history regarding HOAs. In 2008 and 2009 the state's HOAs were in dire straits, and during the 2009 Legislature, Assemblywoman Spiegel sponsored Assembly Bill No. 204 of the 75th Session (2009). That bill was designed to increase the time of the superpriority lien from 6 months to 24 months because at that time it was taking banks 24 months on average to foreclose on homes when owners were delinquent in mortgage payments.

Those homeowners were also not paying their HOA assessments, which caused problems for the HOAs.

Assemblywoman Spiegel said as a compromise, the language of A.B. No. 204 was amended to provide that the superpriority lien would last nine months. Through the years, there had been a number of bills that attempted to fix the issues. She stated the bottom line was that as property taxes declined, the government pushed more and more responsibilities onto the HOAs.

Assemblywoman Spiegel commented that she owned homes in two HOAs. Representatives from the City of Henderson approached one of her HOAs and indicated that the City could no longer afford to maintain the sidewalks and they now belonged to the HOA, which would be required to continue the maintenance. The City of Henderson also laid off most of its code enforcement department for economic reasons and told the HOA to also take over code enforcement. Assemblywoman Spiegel said that was an example of the added responsibilities given to HOAs, and HOAs often had trouble collecting fees and assessments.

Earlier this session, said Assemblywoman Spiegel, a constituent came to her office and advised that she lived in a small HOA community that had $53,000 in delinquent assessments. That HOA contained fewer than 150 homes, and even though it was owed $53,000, the HOA still had to maintain the neighborhood.

To address the question asked earlier by Assemblywoman Carlton about whether proposed Amendment No. 7669 (Exhibit I) to A.B. 359 (R1) would make the HOAs whole, Assemblywoman Spiegel believed that it would not. As it existed today, the superpriority lien covered nine months of assessments, and in reality, homeowners could be in arrears for two or three years of assessments, but the HOA would only recover the amount for nine months.

Chair Anderson asked, when a foreclosure lasted for a period of two years or more, whether the HOA was only reimbursed for nine months of fees. Assemblywoman Spiegel stated that was correct. The issue was how HOAs could get homeowners to pay what was due and owing and how HOAs could get banks to accept some responsibility for reimbursement.

Chair Anderson said it appeared it was the homeowner's responsibility to pay the HOA fees, but that responsibility would be shifted to the banks once the HOA foreclosed.

Assemblywoman Spiegel believed it was somewhat of a shared responsibility, and that was part of the decision for banks when making a determination about whether or not to make a housing loan. When she and her husband purchased their second HOA home, they had to submit documents from their current HOA including the covenants, conditions, and restrictions (CC&Rs) and their financial statements.

Assemblyman Erven T. Nelson, Assembly District No. 5, stated he had litigated approximately 10 HOA foreclosure cases. Assemblyman Nelson stated that he had submitted emails dated June 1, 2015, to the Committee from John E. Leach, Leach Johnson Song & Gruchow, Las Vegas, Nevada (Exhibit L).

Assemblyman Nelson said adoption of the proposed amendment would break two grand bargains. The first grand bargain was made in the 1980s when the HOAs were given the equivalent of a tax lien because HOAs were performing quasigovernmental duties. The only leverage an HOA had to insure payment of past due fees and assessments was through the superpriority lien process.

Assemblyman Nelson said if proposed Amendment No. 7669 (Exhibit I) was passed, HOAs would still have the "guns," but the amendment would take away their "bullets," and they would have no leverage in securing past-due fees and assessments.

Assemblyman Nelson said he would focus on the foreclosure process. After two years of not being paid, the HOA would initiate a foreclosure. It would take four to six months to get the foreclosure process to the point of sale, which would be a publicly noticed sale and lenders were usually noticed. The sale of foreclosed property was done through a bidding process, and it was very rare for a purchaser to pay a few thousand dollars for a property, particularly after the Nevada Supreme Court decision in the *SFR Investments Pool 1, LLC v. U.S. Bank* case. Assemblyman Nelson said before the decision on that case, it was impossible to get title insurance for HOA foreclosure sales.

Assemblyman Nelson said if the proposed amendment was approved, the purchaser at an HOA foreclosure sale was purchasing subject to the first deed of trust, which in essence simply replaced one borrower with the new buyer who would become the borrower. The main problem was that the new buyer would not know the amount of the bank lien. If the borrower had the property appraised and it was worth $300,000 and the HOA lien was $20,000, the borrower still would not know the amount of the bank lien. Assemblyman Nelson said if the bank lien was $200,000, it would be impossible to calculate the profit, and he believed that would dry up the foreclosure market. If that

occurred, the HOAs would have no leverage and would be required to wait until the bank foreclosed to receive nine months in past-due fees and assessments.

Assemblyman Nelson said *Nevada Revised Statutes* (NRS) 116.31164, established the priorities of how the money was paid after an HOA foreclosure sale, and any remaining money was paid to the unit owner.

Senator Becky Harris, Senate District No. 9, stated that she opposed proposed Amendment No. 7669 (Exhibit I). She particularly opposed the notice provisions. Senator Harris had proffered the amendment that resulted in section 8.5 of S.B. 306 (R1), and that stemmed from her long experience in representing homeowners with regard to bank foreclosures. She stated she and her clients had experienced many difficulties in attempting to locate a meaningful individual to communicate with at most banks. She was aware that it was often the HOA notice of superpriority lien foreclosure that began the process, and she believed it was important for HOAs to put the lenders on notice.

Senator Harris said it was difficult for HOAs to determine where to serve the notice when a lender had several locations in the same area. National banks were also problematic because it was difficult to determine which unit of that bank's national affiliation would receive the notice. For that reason, she had worked with the Division of Financial Institutions, Department of Business and Industry, on an amendment that indicated lenders were required to put an address for notice purposes on file with the Division, so HOAs could send that notice to the lender by certified mail.

Sentor Harris said the proposed amendment, in addition to requiring certified mail, required in the alternative that HOAs serve a copy of the notice on the holder of the security interest, which was the lender. Her concern was that if for some reason the certified mail was sent to the wrong address, the lender would be able to default because of the service of notice, which became an expense for HOAs and was also problematic.

Senator Harris stated that another problem was language in the bill that stated in the event that an address was not provided, the HOA had to track down the lienholder. The amendment to S.B. 306 (R1) indicated that the lender must register an address so there would always be a current address on file for the HOA to serve notice. She believed the bill was a good compromise because it was not a black and white issue, and there was a third alternative.

Senator Harris stated that she had presented a letter dated May 31, 2015, from the U.S. Department of Housing and Urban Development (HUD), for the Committee's review (Exhibit M). That letter described impound accounts as a way to reach a middle ground between payment of HOA assessments versus the possibility of losing the first mortgage lien. Senator Harris said she had sponsored a bill that discussed impound accounts, but that bill had not passed.

Assemblyman Glenn E. Trowbridge, Assembly District No. 37, said his district included over 50 HOAs, some as large as Boulder City, and some as small as 50 units. Assemblyman Trowbridge respectfully requested that the Committee reject any last minute efforts to undermine the superpriority position of an HOA lien and simultaneously undo the significant work and compromise that resulted in the passage of S.B. 306 (R1).

Assemblyman Trowbridge indicated that the idea was first introduced as Assembly Bill 240, and a compromise was reached on that bill between the lenders and the HOAs. The bill was then sent to the Senate, where it morphed into S.B. 306 (R1), which was passed by both houses of the Legislature and signed by the Governor. Now the proposed amendment to A.B. 359 (R1) attempted to make changes to the language of S.B. 306 (R1). He noted there had been many meetings before and during session that included representatives from all interested stakeholders regarding the mandates of S.B. 306 (R1). For months, all parties worked on what could only be characterized as a compromise bill; each side compromised so that all industry professionals could support the bill.

Assemblyman Trowbridge said the HOA industry accepted several compromises including increased and improved foreclosure notice to lenders and allowing the lenders to retain the right of redemption, even after the HOA nonjudicial foreclosure process had been completed. The proposed amendment would eliminate two different bill compromises.

Garrett Gordon, representing Southern Highlands Homeowners Association, Olympia Companies, and the Community Associations Institute, stated that those entities were opposed to both A.B. 359 (R1) and proposed Amendment No. 7669 (Exhibit I).

Mr. Gordon said the Uniform Common Interest Ownership Act was codified in 1991 in Nevada. He stated he had submitted a map from the Community Associations Institute that showed the assessment priority lien statutes by state, Exhibit N, for review by the Committee. That map indicated that 22 other states had superpriority liens and in each of those states, the

superpriority lien had a reviser's note that indicated extinguishment occurred after an HOA superpriority foreclosure.

Mr. Gordon said the decision in the *SFR Investments Pool 1, LLC v. U.S. Bank* Nevada Supreme Court case upheld the reviser's note that an HOA foreclosure would extinguish the first mortgage lien. Since that decision had been reached, there had been no apocalyptic consideration or problems with lending in Nevada. There was also a decision from the United States District Court, District of Nevada, in the *Freedom Mortgage Corporation v. Las Vegas Development Group, LLC* case, Exhibit O, where lenders claimed there would be underwriter problems, lending problems, and many other concerns if the law was not upheld.

Mr. Gordon indicated since that case was adjudicated, the Southern Nevada Home Builders Association stated 5,000 new homes had been sold, and the Association expected a 15 percent increase going forward. He submitted that the evidence did not show there were problems in the lending industry, and the court decisions had also helped the HOA industry. Now HOAs had the ability to collect delinquent fees and assessments for a nine-month period, similar to real estate taxes. Mr. Gordon said when the lender loaned on the property, the lender was aware of the amount of the assessments and the amount of the property taxes. In the event the borrower failed to pay either of those superpriority liens, the lender was required to cure; lenders cured real estate taxes and HOA assessment liens so there would be no foreclosure on the property. That meant there was no extra burden on dues-paying homeowners in the entire community.

Mr. Gordon noted that he had been part of the working group regarding S.B. 306 (R1) since September 2014 on behalf of HOAs. That group worked on a number of provisions that had been mentioned today, including right of redemption, which had been signed into law by the Governor. That right of redemption was similar to the failsafe for real estate tax liens. There were compromises, and the proposed amendment (Exhibit I) did not include the Community Associations Institute or the approximately 500,000 unit owners in the Institute. He also submitted Exhibit P for the Committee's review, which was a letter signed by various HOA presidents asking that the Committee oppose the proposed amendment.

Kandis McClure, representing The Howard Hughes Corporation, stated the Corporation also opposed the proposed amendment to A.B. 359 (R1). Representatives from the Corporation had participated in the conversations regarding S.B. 306 (R1) and believed the proposed amendment was not

necessary; she noted representatives had not participated in conservations regarding the amendment.

K. Nina Laxalt said she represented the Nevada Association of Services, Inc., which was an HOA collections company. Ms. Laxalt said she found it interesting in today's discussions that the two main issues that were being discussed were those that the proposed amendment (Exhibit I) would address. One issue was extinguishment of the first mortgage lien and the second issue was the nonjudicial HOA foreclosure process. There was a large section in the amendment that applied to HOAs and collections that was not mentioned, and that was section 1 that removed any costs of collecting the past due obligations, which was a major part of the bill. Ms. Laxalt said S.B. 306 (R1) included language about costs of collection, and the proposed amendment to A.B. 359 (R1) would remove that language.

Ms. Laxalt stated that collection companies provided a service to the HOAs, and the collection had been limited to nine months. She said S.B. 306 (R1) definitely was compromise legislation, and the amounts that could be collected were listed specifically in statute. That bill also included language that stated collections could be made through other than licensed collection agencies. Ms. Laxalt pointed out that all stakeholders had agreed on the language included in S.B. 306 (R1) that had been signed by the Governor. Ms. Laxalt believed that the proposed amendment to A.B. 359 (R1) indicated that everyone was wrong, and the language of S.B. 306 (R1) needed to be changed.

Sara Partida, representing SFR Investments Pool 1, LLC, stated that during the 2013 Legislature, she had participated in the same conversation with legislators. At that time, Assemblywoman Kirkpatrick told everyone present to work together over the interim and return to the 2015 Legislature with a compromise. Ms. Partida said everyone had worked together, and the result was S.B. 306 (R1), which was passed unanimously by both houses of the Legislature and signed by the Governor.

Ms. Partida said A.B. 359 (R1) would change certain language of the compromise legislation and would add language that had not been fully vetted by all stakeholders. She pointed out that the bill was now before the Assembly Committee on Ways and Means, undergoing a very technical policy debate.

Ms. Partida commented that questions had arisen regarding order of payment, and A.B. 359 (R1) indicated that a first lien would not be extinguished, but the section that addressed the order in which payment of the proceeds of

a foreclosure sale would be distributed, was not amended. She believed that would create some legal issues.

Ms. Partida said it was interesting that section 7.55 of the proposed amendment (Exhibit I) amended section 1 of S.B. 306 (R1) and changed the language of Chapter 116 of *Nevada Revised Statutes* (NRS). That section would establish the order of payment and would give the second mortgage lien or deed of trust similar rights as the first lien.

According to Ms. Partida, the stakeholders working on S.B. 306 (R1) had received guidance letters from the federal government, and some of letters were issued after the Nevada Supreme Court decision regarding *SFR Investments Pool 1, LLC v. U.S. Bank*.

Ms. Partida indicated that the time frame for an HOA superpriority lien foreclosure remained nine months. The difference was that currently an HOA could control its timing, and if an HOA decided to wait before foreclosure because of the factors involved, that would be a business decision made by the HOA. However, A.B. 359 (R1) would put that control into the hands of the banks.

Norm Rosensteel, President, Nevada Chapter, Community Associations Institute, stated he owned the largest management company in northern Nevada until his retirement in 2012. His company managed associations with over $1 million in receivables, and of the 110 associations the company managed, 95 percent of those associations had to create a bad debt expense line to pay for the units when the owners failed to pay the HOA fees. That meant the residents who were paying their assessments would also pay for those who were not. Mr. Rosensteel said that had gone on for many years and still occurred today in some associations.

Mr. Rosensteel said he had talked with managers of some of the larger common-interest communities in northern Nevada, and since the *SFR Investments Pool 1, LLC v. U.S. Bank* court decision, HOA receivables had gone down, in one case from $200,000 to $70,000, because banks were now stepping up and paying the nine months in HOA assessments, which helped the delinquency problem for HOAs.

Mr. Rosensteel said the Community Associations Institute was definitely opposed to the proposed amendment to A.B. 359 (R1) and the bill itself. It appeared odd that the bill attempted to amend S.B. 306 (R1) that was agreed to by all stakeholders; he noted that Community Associations Institute was not

included in any discussions or negotiations regarding A.B. 359 (R1) or the proposed amendment.

Donna A. Zanetti, Attorney, Leach Johnson Song & Gruchow, Las Vegas, Nevada, and Cochair of the Legislative Action Committee, Nevada Chapter, Community Associations Institute, said HOAs were not made whole by the foreclosure process. Generally, it took between one and four years for a lender to proceed to foreclosure. An HOA could wait that time out or pursue its own foreclosure, but the nine months recovered in assessments was generally not sufficient to pay the costs of foreclosure, which transferred the burden to the owners who were paying their HOA fees.

Ms. Zanetti noted that the proposed amendment (Exhibit I) to A.B. 359 (R1) that would change the language of S.B. 306 (R1) would take away the only ground gained in the compromise legislation, which was supported by all stakeholders. That compromise was that HOAs would be able to recoup some of the costs of collections that were incurred in foreclosing or pursuing delinquent homeowner fees. Ms. Zanetti stated that A.B. 359 (R1) would eliminate the ability of HOAs to recoup any of the collection costs that were provided for in S.B. 306 (R1). That would shift the burden completely to those owners who were paying their HOA assessments.

Ms. Zanetti stated that Fannie Mae, Freddie Mac, and the U.S. Department of Housing and Urban Development (HUD) already required mortgagees to protect the mortgage loan by paying HOA assessments in states with superpriority lien legislation. That was not aspirational, but rather was a requirement discussed in the aforementioned *Freedom Mortgage Corp. v. Las Vegas Dev. Grp., LLC*, No. 2:14-CV-01928-JAD-NJ, 2015 WL 2398402 (D. Nev. May 19, 2015) (Exhibit O). Ms. Zanetti believed it was important to understand that the solution was within the lender's control, and the threat of extinguishment seemed to garner the lender's attention to step up and pay and follow the regulations already in place. Without the superpriority lien, lenders ignored the HOAs, the assessments continued to rack up, and HOAs had no recourse.

Ms. Zanetti said the Committee had heard about lenders who would suffer if the first mortgage lien was extinguished, and the homeowners who might find it more difficult to borrow because they were unable to pay their HOA assessments and were foreclosed upon. She asked the Committee to focus on the owners who did pay their HOA assessments and the difficulty that ensued when the burden of covering the cost for others was shifted to them.

Marilyn Brainard, Legislative Action Committee, Nevada Chapter, Community Associations Institute, stated she lived in Wingfield Springs,

Reno, Nevada, and was the first homeowner testifying today to ask for the Committee's help. She explained that Wingfield Springs had a master community HOA, and she was the current secretary of that HOA board. Ms. Brainard said she had lived happily in Wingfield Springs for 17 years.

Ms. Brainard stated she had emailed members of the Committee and explained why she valued the Committee's role in helping to protect many Nevada citizens. She commented that the saying, "timing is everything" applied to the proposed amendment (Exhibit I) to A.B. 359 (R1), which was a complete reversal of the compromises by the stakeholder group that worked for several months to create S.B. 306 (R1). She wondered what duress prompted the proposed amendment that would almost completely destroy the language in S.B. 306 (R1). It was blatantly obvious that some of the former working group members were now desperate to convince the Committee they had it wrong the first time. Ms. Brainard said one of the representatives present at the meeting today had come to the table when the Senate Committee on Judiciary was discussing S.B. 306 (R1), and she assumed feigned agreement at that time.

Ms. Brainard commented that the timing of the "late to the party" amendment was underhanded at the minimum, and she asked the Committee to reject that attempt because the one million homeowners living in common-interest communities deserved the Committee's attention. Ms. Brainard noted that the Real Estate Division's [Department of Business and Industry] bill that increased the per-door fee for every owner in a common-interest community from $3 to $5 per year recently passed out of the Senate Committee on Finance.

Eric Theros, Vice Chair, Nevada Association of Community Managers, stated the Association represented licensed community managers in Nevada and was on the front line with all parties and all issues that governed HOAs. Mr. Theros said the goal of common-interest communities was not to take homes away from owners or lenders. The only goal was to guarantee that assessments would be paid so the HOAs could operate. Mr. Theros said when an owner failed to pay the HOA could foreclose for the unpaid assessments. He explained that before the great recession, what usually occurred was that at the 11th hour on the courthouse steps, lenders would pay the HOA lien and then seek payment from the homeowner, which was common sense securing of the lender's investments because of its large vested interest in the property.

However, said Mr. Theros, since the recession, lenders had ceased paying the delinquent HOA fees for homeowners. Since the *SFR Investments Pool 1, LLC v. U.S. Bank* decision, lenders again had stepped up to the plate and a number of foreclosures had not been processed because the lender had paid the fee to secure its interest. That meant the HOAs were receiving the money

budgeted for, so the burden of bad debt did not fall on current owners. Mr. Theros said based on the way the HOAs and lenders had handled foreclosures since that verdict, there were a number of HOAs that would not need to increase assessments over the next year because the HOAs were being paid the amount budgeted for.

Mr. Theros surmised that lenders wanted to ensure that the common-interest communities were well maintained through landscaping, road repairs, and building maintenance. The lenders also required the HOAs to have adequate reserves in bank accounts to secure a loan in that common-interest community. The lenders had many requirements, but might not realize that the proposed amendment (Exhibit I) to A.B. 359 (R1) would lessen the ability of common-interest communities to maintain their neighborhoods. If owners did not pay and the HOA had no leverage in a foreclosure sale, the foreclosed properties would not sell and the debts would not be paid.

Mr. Theros asked the Committee to remember that even at a current successful HOA foreclosure sale, the lenders were not being wiped out, and homes were not being purchased for sums such as $3,000. The foreclosures today were sold at near market value. For example, a $3,000 HOA lien was only the starting bid on a $100,000 home, and investors and bidders were now bidding the amount up at auction to near market value.

Mr. Theros indicated that the only amount paid to HOAs was the $3,000 that was owed in delinquent assessments, and the remaining funds were placed in an excess proceeds account, which was dispersed to the invested interests that sought payment, which meant that banks were receiving payment through those excess proceeds.

Mr. Theros stated that the Nevada Association of Community Managers supported S.B. 306 (R1), which at one point discussed impounding of assessments into loans the same as taxes to secure the lender's interest. That bill also gave lenders an additional 60 days after successful foreclosure to redeem the property. Not only did A.B. 359 (R1) undermine the *SFR Investments Pool 1, LLC v. U.S. Bank* verdict, but placed the HOAs behind the second mortgage as well: the bill would actually demote the HOA lien status.

Charles Niggemeyer, private citizen, Las Vegas, Nevada, stated he was an HOA owner who served on the board of his association. He agreed with the previous comments in opposition to the proposed amendment to A.B. 359 (R1). There were comments made earlier in the meeting that federal loans would not be made in Nevada. Mr. Niggemeyer said building of new homes in his

neighborhood continued, and most of the owners of the new homes were not cash buyers. He said he could see no evidence that lenders were no longer offering federal loans. He believed that accusation was not founded and was not germane to the problem. Mr. Niggemeyer said that if A.B. 359 (R1), as amended, passed, it would make the situation worse for HOAs because unless the delinquent assessments were paid, it would be difficult for HOAs to maintain the streets, the landscaping, or the homes. He asked that the Committee not allow the bill to pass.

In closing, Senator Hammond said the question facing the policy group was to determine how much leverage HOAs should have. He believed the proposed amendment (Exhibit I) to A.B. 359 (R1) would retain the tool to get banks and lenders to the table when there was an HOA property foreclosure. Banks and lenders did not want the HOAs to have control of the foreclosure process and would step up to the plate to initiate proceedings. Senator Hammond said after the HOA foreclosure process was initiated, the property was often rented, which financially benefitted the HOAs; he noted there were many remedies to ensure that HOAs were made whole. The intent of the bill was still to make HOAs whole.

Senator Hammond explained that after S.B. 306 (R1) was heard in the Senate, there were several proposed amendments to the bill, even though it was a compromise bill. When the bill was heard in the Assembly, approximately 22 amendments were proposed. His cosponsor believed the language of the bill was complete, but Senator Hammond believed some questions still needed to be addressed. Therefore, he had approached Alfred M. Pollard, General Counsel, Federal Housing Finance Agency (FHFA). Senator Hammond said Mr. Pollard indicated it was noted in testimony that with a superpriority lien, the first lienholder could experience losses regarding a unit in the form of unpaid mortgage obligations and would be asked to cover additional costs that were not its responsibility. That concept had limitations, and at some point too great a burden could be placed on lienholders who might find that altering their underwriting policies might be the appropriate course.

Senator Hammond said the proposed amendment (Exhibit I) to A.B. 359 (R1) was about fairness and the consequences of changes in the mechanism that might occur, which would result in price increases for first-time home buyers and for all home buyers. He commented that FHFA had been active in Nevada in litigating issues surrounding the Supreme Court decision of last fall. An agency statement on December 22, 2014, indicated that "FHFA had an obligation to protect Fannie Mae and Freddie Mac's rights and will aggressively do so by bringing action to delay foreclosures that purported to extinguish enterprise property interest."

Senator Hammond said past testimony indicated that "extinguishing property rights was no inconsequential matter and FHFA, which operated under federal law in addressing such matters, must consider this as a Fannie Mae and Freddie Mac review, not only the legal issues involved, but as well, the underwriting standards of applying states that maintained such potential extraordinary remedies."

In closing, Assemblyman David M. Gardner, Assembly District No. 9, said many statements had been made about the terrible consequences of passing A.B. 359 (R1), but nine months ago that was the law of the land in Nevada.

Chair Anderson asked for clarification regarding the fiscal note attached to A.B. 359 (R1).

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that the original bill had a fiscal note from the Real Estate Division, Department of Business and Industry, of $881,444 in the first year of the biennium and $750,901 in the second year. Fiscal Analysis Division staff spoke with Bruce Breslow, Director, Department of Business and Industry regarding the fiscal note, and he indicated that proposed Amendment No. 7669 (Exhibit I) to A.B. 359 (R1) would remove the fiscal note.

Chair Anderson asked whether there was further testimony to come before the Committee regarding A.B. 359 (R1), and there being none, the Chair closed the hearing.

Chair Anderson announced that the Committee would commence with work session beginning with A.B. 359 (R1).

Assembly Bill 359 (1st Reprint): Revises provisions governing common-interest communities. (BDR 10-910)

Chair Anderson stated that he lived in a common-interest community and had neighbors who had gone through the foreclosure process and struggled to pay their fees. He noted that he sat on the board of the homeowners' association (HOA) in his community and was aware that if his neighbors failed to pay HOA fees, the remaining homeowners had to carry part of that responsibility, which meant his fees could increase.

Chair Anderson said all homeowners residing in common-interest communities shared the costs for roads, landscaping, and maintenance; it was a shared responsibility within the HOA environment. He believed that the responsibility

regarding payment of fees and the distribution of the fees was the reason persons resided in common-interest communities. While he did not think it was fair that the lender or bank that had provided a loan to the homeowner should be put in second place in the foreclosure process, he did think HOAs needed to be made whole regarding delinquent fees.

Chair Anderson believed that Senator Hammond had made the point that Assembly Bill (A.B.) 359 (1st Reprint) would not eliminate the ability for HOAs to be made whole in the foreclosure process.

Chair Anderson said his preference would be that the Committee amend and do pass A.B. 359 (R1) as amended with proposed Amendment No. 7669 (Exhibit I).

> ASSEMBLYMAN HICKEY MOVED TO AMEND AND DO PASS ASSEMBLY BILL 359 (1ST REPRINT) AS AMENDED WITH PROPOSED AMENDMENT NO. 7669.
>
> ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

Assemblywoman Dickman stated that HOA issues were very complicated, which was the reason she intentionally did not live in a common-interest community; however, her district included many common-interest communities, and she had received an overwhelming number of emails in opposition to A.B. 359 (R1). Therefore, she would not support the bill.

Assemblywoman Carlton said she was willing to support the vote to move the bill out of Committee, but would reserve her right to change her vote on the floor of the Assembly, because she wanted to read the bill and proposed amendment more carefully.

Assemblyman Edwards said he would also support the bill to move it out of Committee, but would reserve his right to change his vote on the floor of the Assembly.

> THE MOTION PASSED. (Assemblywoman Dickman voted no. Assemblymen Armstrong and Kirner were not present for the vote.)

Senate Bill 111 (2nd Reprint): Requires the use of portable event recording devices by certain peace officers employed by the Nevada Highway Patrol Division of the Department of Public Safety. (BDR 43-618)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that Senate Bill (S.B.) 111 (2nd Reprint) was heard by the Committee earlier in the day. The bill related to the Nevada Highway Patrol (NHP) Division, Department of Public Safety, and required certain peace officers employed by NHP to wear portable event recording devices under certain circumstances.

Ms. Jones said the bill also required that NHP adopt policies and procedures governing the use of the portable event recording devices, provided that records made by those devices were public records and could be requested under certain circumstances, exempted the use of portable event recording devices from the provisions governing interception of certain communications, and exempted the use of portable event recording devices upon certain property. The bill required the Advisory Commission on the Administration of Justice to review the policies and procedures adopted by NHP governing the use of portable event recording devices.

Ms. Jones said the bill included an appropriation from the State Highway Fund of $785,002 in fiscal year (FY) 2016 and $475,104 in FY 2017 to support the costs of the bill.

Assemblywoman Titus said she was a strong supporter of S.B. 111 (R2), and she would vote in favor of the bill. She believed that body cameras would not only improve officer behavior, but would also improve citizen behavior.

ASSEMBLYWOMAN TITUS MOVED TO DO PASS SENATE BILL 111 (2ND REPRINT).

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Kirner was not present for the vote).

Senate Bill 511: Establishes the Teach Nevada Scholarship Program and incentives for new teachers in certain schools. (BDR 34-1277)

Chair Anderson said he was a joint sponsor of Senate Bill (S.B.) 511, and the bill would provide grants to providers of alternative licensure programs in Nevada to award scholarships to students entering certain teaching programs. The intent was to grow and retain teachers in Nevada. Chair Anderson stated that section 11 of the bill outlined the spending, remediation, and innovation funding. Portions of the funding were included in the budget for the Department of Education, and S.B. 511 contained a separate appropriation.

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that Senate Bill (S.B.) 511 was heard by the Committee on May 29, 2015, and established the Teach Nevada Scholarship Program and incentives for new teachers in certain schools. The bill appropriated $2.5 million from the State General Fund to the Teach Nevada Scholarship Program account in each year of the 2015-2017 biennium to provide grants to universities, colleges, and providers of alternative licensure programs to fund scholarships for students entering certain teacher preparation programs.

Ms. Jones said S.B. 511 further appropriated $5 million to the Account for Programs for Innovation and the Prevention of Remediation in each year of the upcoming biennium to provide incentive pay and professional development for newly hired teachers who were employed to teach at certain at-risk schools.

Assemblyman Oscarson said he would vote in favor of the bill to move it out of Committee, but he had concerns about the additional $10 million in funding to the Account for Programs for Innovation and the Prevention of Remediation.

> ASSEMBLYWOMAN KIRKPATRICK MOVED TO DO PASS SENATE BILL 511.
>
> ASSEMBLYMAN ARMSTRONG SECONDED THE MOTION.
>
> THE MOTION PASSED. (Assemblywomen Dickman and Titus voted no. Assemblyman Kirner was not present for the vote.)

Chair Anderson declared the Committee in recess at 3:33 p.m. and reconvened the meeting at 8:45 p.m. behind the bar of the Assembly; all members were present. The Chair advised the Committee that there were five bills for consideration, the first of which was Senate Bill 514.

Senate Bill 514: Makes various changes regarding state financial administration and makes appropriations for the support of the civil government of the State. (BDR S-1288)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that Senate Bill (S.B.) 514 was the Appropriations Act that was heard and passed by the Senate Committee on Finance on May 31, 2015. The bill was also reviewed May 31, 2015, as a bill draft request by the Assembly Committee on Ways and Means.

ASSEMBLYWOMAN CARLTON MOVED TO DO PASS SENATE BILL 514.

ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Senate Bill 428 (1st Reprint): Makes appropriations to the State Department of Conservation and Natural Resources for the replacement of emergency response, firefighting and other critical equipment and vehicles. (BDR S-1223)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that Senate Bill (S.B.) 428 (1st Reprint) was heard by the Committee on May 21, 2015. The appropriation amounts were included in the budget closing for the State Department of Conservation and Natural Resources.

ASSEMBLYMAN OSCARSON MOVED TO DO PASS SENATE BILL 428 (1ST REPRINT).

ASSEMBLYMAN SPRINKLE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Senate Bill 497 (1st Reprint): Makes appropriations to restore the balances in the Stale Claims Account, Emergency Account, Reserve for Statutory Contingency Account and Contingency Account. (BDR S-1152)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that Senate Bill (S.B.) 497 (1st Reprint) was heard by the Committee on May 29, 2015. The appropriations were included in The Executive Budget.

ASSEMBLYMAN SPRINKLE MOVED TO DO PASS SENATE BILL 497 (1ST REPRINT).

ASSEMBLYMAN KIRNER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Senate Bill 332 (1st Reprint): Makes an appropriation to the Clark County School District to carry out a program of peer assistance and review of teachers. (BDR S-763)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that Senate Bill (S.B.) 332 (1st Reprint) was heard by the Committee on May 29, 2015. The bill made an appropriation to the Clark County School District (CCSD) to carry out a program of peer assistance and review of teachers and required CCSD to use the money to provide assistance to teachers in meeting the standards of effective teaching.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO DO PASS SENATE BILL 332 (1ST REPRINT).

ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED THE MOTION.

THE MOTION PASSED. (Assemblywoman Titus voted no.)

Senate Bill 133 (1st Reprint): Authorizes the reimbursement of teachers for certain out-of-pocket expenses. (BDR 34-118)

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that Senate Bill (S.B.) 133 (1st Reprint) was heard by the Committee on May 29, 2015. The bill created the Teachers' School Supplies Reimbursement Account and provided for an annual allocation from the

Account to each school district and charter school for distribution to teachers for reimbursement for certain out-of-pocket expenses.

ASSEMBLYWOMAN CARLTON MOVED TO DO PASS SENATE BILL 133 (1ST REPRINT).

ASSEMBLYWOMAN SWANK SECONDED THE MOTION.

THE MOTION PASSED. (Assemblymen Dickman, Kirner, and Titus voted no.)

With no further business to come before the Committee, the meeting was adjourned at 8:56 p.m.

RESPECTFULLY SUBMITTED:

Carol Thomsen
Committee Secretary

APPROVED BY:

Assemblyman Paul Anderson, Chair

DATE:

EXHIBITS

Committee Name: Assembly Committee on Ways and Means

Date: June 1, 2015 **Time of Meeting: 11:01 a.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 213 (R1)	C	Miles Dickson, representing the Nevada Community Foundation	Packet entitled, "SB 213, Increasing Tracking and Reporting of Federal Grant Funds in Nevada"
S.B. 213 (R1) & S.B. 214 (R1)	D	Miles Dickson, representing the Nevada Community Foundation	Testimony in support of bills from Maureen Schafer, Council for a Better Nevada and Nevada Community Foundation
S.B. 213 (R1)	E	Miles Dickson, representing the Nevada Community Foundation	Legislative testimony dated June 1, 2015, in support of S.B. 213 (R1), prepared by the Kenny C. Guinn Center for Policy Priorities
S.B. 214 (R1)	F	Miles Dickson, representing the Nevada Community Foundation	Legislative testimony dated June 1, 2015, in support of S.B. 214 (R1), prepared by the Kenny C. Guinn Center for Policy Priorities
S.B. 214 (R1)	G	Miles Dickson, representing the Nevada Community Foundation	Packet entitled, "SB 214, Creating the Nevada Advisory Council on Federal Assistance"
A.B. 394 (R1)	H	Assemblyman David M. Gardner	Proposed Amendment No. 7799
A.B. 359 (R1)	I	Senator Scott Hammond	Proposed Amendment No. 7669
A.B. 359 (R1)	J	Kevin Sigstad, Nevada Association of Realtors	Testimony in support

A.B. 359 (R1)	K	Brad Spires, Nevada Association of Realtors	Testimony in support
A.B. 359 (R1)	L	Assemblyman Erven T. Nelson, Assembly District No. 5	Email letters from John Leach dated May 21, 2015, and June 1, 2015
A.B. 359 (R1)	M	Senator Becky Harris	Letter dated May 31, 2015 from HUD
A.B. 359 (R1)	N	Garrett Gordon	Map from Community Associations Institute
A.B. 359 (R1)	O	Garrett Gordon	U.S. District Court case decision, *Freedom Mortgage Corporation v. Las Vegas Development Group, LLC*
A.B. 359 (R1)	P	Garrett Gordon	Letter signed by various HOA presidents in opposition to the amendment