

**MINUTES OF THE  
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Eighth Session  
March 30, 2015**

The Senate Committee on Government Affairs was called to order by Chair Pete Goicoechea at 1:09 p.m. on Monday, March 30, 2015, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4404B of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Pete Goicoechea, Chair  
Senator Joe P. Hardy, Vice Chair  
Senator Mark Lipparelli  
Senator David R. Parks  
Senator Kelvin Atkinson

**GUEST LEGISLATORS PRESENT:**

Senator Moises (Mo) Denis, Senatorial District No. 2  
Senator Ben Kieckhefer, Senatorial District No. 16  
Assemblyman Paul Anderson, Assembly District No. 13

**STAFF MEMBERS PRESENT:**

Jennifer Ruedy, Policy Analyst  
Heidi Chlarson, Counsel  
Darlene Velicki, Committee Secretary

**OTHERS PRESENT:**

Adam Kramer, Switch  
Seth Rau, Nevada Succeeds  
Bob Ostrovsky, Cox Communications, Inc.  
Randy Brown, AT&T  
Michael Hillerby, Charter Communications, Inc.  
John Fudenberg, Clark County

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Steve Polikalas, Northern Nevada Urban Development Company  
Scott Gilles, City of Reno  
Jason King, State Engineer, Division of Water Resources, State Department of  
Conservation and Natural Resources  
Ernest C. Schank, President, Board of Directors, Truckee-Carson Irrigation  
District  
Rusty Jardine, District Manager and General Counsel, Truckee-Carson Irrigation  
District  
Steve Walker, Eureka County  
Kyle Davis, Great Basin Water Network  
Mike Baughman, Executive Director, Humboldt River Basin Water Authority  
Joe Guild, Southern Nevada Water Authority

**Chair Goicoechea:**

I will introduce Senate Bill (S.B.) 289.

**SENATE BILL 289**: Revises provisions relating to the protection of technology.  
(BDR 19-892)

**Senator Moises (Mo) Denis (Senatorial District No. 2):**

I am here to present Senate Bill 289. This bill revises provisions relating to the protection of technology in *Nevada Revised Statutes* (NRS) 239C and creates the Nevada Commission on Homeland Security. This bill protects Nevada residents and visitors from potential acts of terrorism and related emergencies. I have provided Proposed Amendment 9932 to the Committee ([Exhibit C](#)) to limit the scope, as it was not my intention to impact rural areas. The proposed amendment pertains to section 6 and section 7 of the bill. Section 2 of S.B. 289 recognizes the physical and digital risks inherent in an unnecessary indirect path for the delivery of Internet protocol services and expresses the many benefits of peering, which is a term defined in section 5 of S.B. 289.

I have provided a visual aid ([Exhibit D](#)) to show the benefits of peering. It graphically shows what happens when you send an email. For instance, if I were to send an email to Senator Hardy, the email will not just go from me to you, but it will go to either Salt Lake City or California first and then come back. This is when the peering occurs. If a person sends an email from an office in Las Vegas to an agency across the street, it goes all the way to Los Angeles before reaching the recipient across the street. There are data security issues inherent to the interstate transmission of data belonging to this State. Section 4

of the Proposed Amendment 9932 defines Internet protocol service using the same definition found in subsection 3 of NRS 704.685 which addresses regulations of public utilities, but also includes Voice over Internet Protocol (VoIP) service.

**Assemblyman Paul Anderson (Assembly District No. 13):**

Regarding sections 6 and 7 in Proposed Amendment 9932, it certainly was not our intention to impact the rural areas. The amendment adds language to restrict the applicability to a county with a population of 100,000 or more. Section 6 requires each provider of Internet protocol service which serves any agency of this State or political subdivision in a county with a population of 100,000 or more to interconnect and maintain a peering arrangement within this State with all other providers of Internet protocol service which serve any such agency or political subdivision. It further prohibits any agency of the State or political subdivision in a county with a population of 100,000 or more from obtaining Internet protocol service from a provider that has not complied with this new requirement, in subsection 1, to interconnect and maintain certain peering arrangements.

Section 7 of the Proposed Amendment 9932 sets forth the effective dates, noting that the measure does not affect a contract or other agreement for the provision of Internet service protocol entered into before October 1. On or before December 31, 2016, each agency of this State and political subdivision in a county with a population of 100,000 or more shall terminate any contract or other agreement for the provision of Internet protocol service from any provider that does not comply with these provisions. We have asked for a fiscal note which is pending. The due date for the fiscal note is April 3.

**Chair Goicoechea:**

I am concerned about the amendment termination language in section 7, subsection 3. Some jurisdictions of over 100,000 may have a contract in place scheduled to run over 18 months. You are sawing them off at the knees if not higher. I am concerned about the hard dateline. It speaks of a sole provider since it must be someone in the State with this kind of connection.

**Senator Denis:**

Provisions do not take effect until December 2016, which still is 2 years out.

**Chair Goicoechea:**

Not in my book; that is less than 2 years.

**Senator Denis:**

That can be answered as we hear the various testimonies.

**Chair Goicoechea:**

Will these connections be over hard lines or cloud-based? Will there be cables coming through the center of the State to provide this connection?

**Assemblyman Anderson:**

Peering is the high-level infrastructure piece of the puzzle. Our contracts for bandwidth are often for 3 to 5 years with termination provisions to accommodate change. If the Internet provider did not comply with State law—were this bill to pass—contract termination would be easier. I would leave the determination to legal counsel. Each circumstance would be unique.

**Senator Lipparelli:**

How will I become comfortable that this language results in the most optimized service? We want the company that can deliver the best service at the best price. If we lay down these requirements, will we make the agency contracting processes less competitive?

**Adam Kramer (Switch):**

Switch does not see that concern ([Exhibit E](#)). Las Vegas is uniquely positioned as it has much hard wire infrastructure. Hard wire is necessary to connect. Creating peering is a simple process. Major providers can easily follow the statute. This is the reason the exemption for the rurals was created. It will enhance the State's competitiveness; however, resiliency is ultimately the point of this bill.

What is sent from someone in Nevada to someone else in Nevada should never leave the State of Nevada. Many of the carriers that sell connectivity to government-funded entities do not have peering arrangements with each other to keep that traffic in Nevada. In many cases, an email sent from one school in Nevada to another school in Nevada will travel to California before it is exchanged from one carrier to another. Then it comes back to a recipient located in the State.

Senate Bill 289 is a very easy policy to enact so that carriers selling service in Nevada must peer with each other. This in-state peering is an easy adjustment for the carriers and will allow improved bandwidth speeds, less jitter on VoIP and improved latency when sending large files. The bill integrates important risk mitigation protocols into our Internet usage. An earthquake in California could cause extensive outages in Nevada. Mandatory in-state peering will improve the Internet experience and reliability for the people of Nevada. It is an important step toward improving Nevada's economic development environment. This is where we see its value.

**Senator Lipparelli:**

What happens when an untimely event happens in Nevada and the peering is required? Is there a mechanism in place for rerouting if necessary?

**Mr. Kramer:**

It would go to California as it now does. This serves as the redundancy.

**Senator Hardy:**

How does the electron know where to go?

**Mr. Kramer:**

This is very different from electricity. Electrons go to the first available outlet, as with compressed copper. The Internet sends packets of information, which travel along designated routes to an intended recipient. With peering, those packets would be routed into the data center or to the peering switch. The information would stay in Nevada rather than the current procedure whereby packets travel over lines to California and come back to Nevada.

**Senator Hardy:**

Are we going to get in trouble with incumbent local exchange carriers and competitive local exchange carriers whose peering points match with other peering points? Will another bill cause consternation because of where that packet went and who is in charge of it because of a monopoly?

**Mr. Kramer:**

I would not feel comfortable answering because I do not understand your question completely.

**Chairman Goicoechea:**

I appreciate the 100,000 population stipulation to exclude rural counties, but you are telling me that we will be hardwired from Las Vegas to Reno. Would some places, like Tonopah, which are located on this line, be able to access service even though they are not mandated in the bill?

**Assemblyman Anderson:**

Hard lines between Las Vegas and Reno are in the works now. The routing process, which Senator Hardy referenced, follows a best route concept. The closest man wins. When there is in-state peering, the data goes through the fastest route possible. If there is a local hiccup, the data reroutes as it does now. This is how the Internet generally functions. Latency, reliability and jitter refer to the speed with which the data comes and goes, like a two-way radio.

**Senator Hardy:**

Which is closest to here, Sacramento or Las Vegas?

**Assemblyman Anderson:**

It will take seven milliseconds from Las Vegas to Reno once the fiber is in place.

**Senator Hardy:**

Packets do not understand state lines. They do not stop at the border. My point is that the closest available place is not pertinent.

**Mr. Kramer:**

Data packets would most likely not go to Sacramento but rather go to Los Angeles to One Wilshire, which is a major peering hub. The packets likely go where there is a major peering hub, but peering does occur at smaller hubs like Sacramento. The amendment proposes the establishment of a hub inside the State of Nevada for the carriers that provide service to the State. In the instance that you just described, the peering would not happen in Sacramento.

**Chair Goicoechea:**

Could a company put a peering center in the State and still be competitive without a statutory mandate?

**Assemblyman Anderson:**

Are you saying that this is an opportunity for the State to be on the far edge of technology? We are not seeing other states doing this just yet. It allows Nevada

to be very competitive because the data routed through the State has very fast access to the rest of the world. It allows those with a great volume of data that want to use Nevada data centers and telecommunications providers to have faster access to data across the Net.

**Chair Goicoechea:**

Better service and speed make it the place where you would want to do business, but it may not have to be statutorily mandated.

**Assemblyman Anderson:**

Our data center and technology industries are growing, and new ones are moving into the State. We will be more competitive with this effort. Typically, peering involves three cities. One Wilshire in Los Angeles is where much data is aggregated and rerouted. The telecommunication business areas grew into Internet service provider areas, and then turned into the Internet itself.

**Senator Denis:**

This will make the State agencies more competitive. It will also make us more commercially competitive. We will be peering in Nevada; therefore, we will benefit our own companies.

**Chair Goicoechea:**

I do not disagree. Many fiber optic lines are going in along Interstate 80 and U.S. 50. Will the peering in S.B. 289 be a part of this, or does someone else own this? I am looking for the capabilities to apply to everyone. I like the exemption for the rurals, because it will either not be available to them or they will not be able to afford it. As the fibers are being installed, can the rurals be incorporated?

**Assemblyman Anderson:**

There is a lot of fiber going in around the State. Peering is only a routing mechanism, keeping that data here rather than it leaving and coming back. It is just an expensive router, so to speak.

**Chair Goicoechea:**

This new fiber going in is really not part of this peering opportunity.

**Assemblyman Anderson:**

It complements the infrastructure.

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**Chair Goicoechea:**

It complements it but is not part of it.

**Senator Lipparelli:**

Is there sufficient capacity in the ground already if we mandate this?

**Mr. Kramer:**

Yes.

**Senator Hardy:**

Is there a cable between Las Vegas and Reno right now that will handle this?

**Mr. Kramer:**

Yes, it is being constructed now.

**Senator Hardy:**

That is different. Is it done or in progress?

**Mr. Kramer:**

It is in progress. It will be completed by January 1, 2017.

**Senator Hardy:**

October 2016 is different from December 2016.

**Chair Goicoechea:**

He is referring to the fact that all contracts will terminate in 2016, but the cable will not be in the ground until 2017.

**Mr. Kramer:**

I misspoke. It will be done by the time S.B. 289 is enacted.

**Senator Denis:**

We need that piece to be done to tie it all together. Before this is enacted, it will be completed.

**Seth Rau (Nevada Succeeds):**

I want to speak to the importance of S.B. 289 in regard to securing data privacy and our education system. As Nevada Succeeds is concerned with education issues, we want to ensure that all education data stays secure in Nevada and is

available to all parents, families and students. This peering mechanism does this.

**Bob Ostrovsky (Cox Communications, Inc.):**

This bill addresses several concerns: network diversity, reliability and security. These issues are already being covered by Cox Communications and other providers. Cox maintains several diverse Internet pathways to California, Utah and Arizona. There are peering relationships on those paths. We have established over \$1 billion in networking facilities in Nevada that assure reliability and resiliency in the system. In Clark County, we will reroute traffic within 50 milliseconds of an event, such as losing connection with one source. If we lose a connection with California, it will be reestablished with Utah or Arizona. This bill concerns our relationship with local governments.

There are two categories of Internet systems, private secure systems and public systems. Public systems are the ones with which we are most familiar daily. We also provide service to private systems, local governments and State agencies that submit request for proposals (RFPs) for their development. For security reasons, those private systems are built in different ways and often hosted on different platforms than public systems. It is important to understand that when members of the public access a database, for instance, that of the Department of Motor Vehicles, they enter through a public system but the Department of Public Safety may have its own secure private system.

You heard testimony that indicated that there are only eight peering sites in the Country, but those are only the ones one hears about. Cox Communications has proprietary peering sites that we would rather not speak about in a public hearing. We have peering sites in Las Vegas. Peering relationships are not free. There is a cost involved. We have a whole department dedicated to peering. We sometimes pay through a third party. We measure traffic between Internet providers and determine if it has reached a strength level to warrant a direct peering agreement instead of going through a third party.

We peer with Charter Communications out of State because the closest connection between Cox and Charter is not in Nevada. Charter is in the north. We access the closest facility available. We think that peering on private networks, which most State agency systems operate under, would be costly and may introduce new security vulnerabilities that do not exist today because we would be forced into peering relationships. The appropriate place to address

peering and reliability is in the RFP that any local State agency issues. It would address redundancy, diversity and service-level agreements. We have service-level agreements in existence today.

Almost all Tier 1 companies, Level 3 Communications, Cox Communications, Inc., Comcast and AT&T, have peering arrangements. Voice over Internet Protocol runs on private networks, not public, so we do not think it is covered. Cost is a factor here. Like any other business, we will find the most cost-effective way to peer with others. We analyze those arrangements. This bill would force us to peer in one location rather than the multiple locations in which we now peer. This may add to our costs.

There has never been a connection between the two ends of the State. Now a connection being built is one using federal funds. The Nevada Hospital Association is installing a network to interconnect hospitals in the rural areas. We have had testimony in other hearings about how other traffic may move on that network. Since the fiber networks are small, a limited amount of data can move through them. The dark fiber being installed will not improve this situation for the rurals, as this fiber is being installed for a specific purpose. If the north-south connection is completed, people will have to pay to use it. The builders of the network want to be paid. We will analyze from a cost perspective where we want our peering arrangements. Peering is complicated and costly for the carriers. We do a pretty good job now, and the competitive market forces us to do better all the time. We are opposed to this effort, but we are happy to participate in more discussions with the sponsor.

**Senator Hardy:**

Regarding your private system peering, is there a way to allow the Emergency Alert System to use private peering in the event of an act of terrorism? Is this network, with its many peering points, more protected and viable?

**Mr. Ostrovsky:**

I do not feel technically comfortable answering that question. I know we provide private networks to law enforcement in southern Nevada, the Clark County School District and the University Medical Center, but I do not know how they access the network and if they would be affected by more or less peering.

**Randy Brown (AT&T):**

For many of the reasons Mr. Ostrovsky cited, AT&T is opposed to this measure. We employ about 1,200 people in Nevada. We have made \$800 million in infrastructure investment over the last 3 years, so we are committed to this State. We see some of the same problems that Senator Lipparelli mentioned. We fear that State agencies will not have as many bidders on their RFPs because providers will not want to peer within the State of Nevada. We agree that if this is an important issue for State agencies, then they may include this in their RFPs, rather than having the Legislature enact a legislative mandate. Legislating IT security policy or IT practice can be dangerous in this quickly evolving arena.

**Senator Lipparelli:**

How can we gain satisfaction that we have the security, since this is one of the aims of the bill? Are packets more subject to risk if they leave the State or are they safer if they stay within the State?

**Mr. Brown:**

As it is not my area of expertise, I would not like to comment. If there was a specific aspect of security the State would like to address, it can be simply included in the RFP. The provider would make a determination as to whether it could comply and bid on the effort.

**Senator Lipparelli:**

The security of various facilities would be a part of the process.

**Mr. Brown:**

Correct.

**Michael Hillerby (Charter Communications, Inc.):**

We are concerned with the way the bill is written. We have not evaluated the amendment limiting its application to a city of 100,000 population or more. In northern Nevada and the parts of northern California served by Charter, we have a redundant fiber ring that wraps around Lake Tahoe and proceeds through Truckee back to Reno. The redundant secure fiber ring, which is very secure, goes into another state, so we are trying to figure out how this would impact those operations. As Mr. Brown said, this ought to be handled at the contractual level as agencies determine their security needs with their vendors.

**John Fudenberg (Clark County):**

We are neutral on this bill because there is much still unknown. Our IT department was concerned that we would have to change Internet service providers if this bill passed. I have been told by the sponsors that this is not the case because all of the service providers in Nevada would have to comply. Our IT department will work out the technical issues with the sponsor. Then we can formulate our position.

**Assemblyman Anderson:**

There were a couple of issues brought forward. Cox is a great partner for Nevada since in Las Vegas, Cox has more than 100 peering arrangements in place. If providers already peer in Nevada, this bill would not affect them. Most providers have peering arrangements so data flows as reliably as possible. All we ask in this bill is that they have a peering site in the State. We are not saying that every provider must have one peering connection only in this State. Not every connection must be peered. If a provider has a presence that is peered in Nevada, it is covered by the bill requirement. Not every single connection has to be changed or rerouted.

There was discussion about public and private networks and the variables of the two. These are not affected either. As long as the provider has a peering presence in the State, it does not have to change the way it does business. The investments are not compromised. The idea of putting these provisions in an RFP is problematic. Agencies would limit themselves to only a few vendors—or maybe none—that have peering arrangements. Through statute, we would make it an even playing field in that they would all have to have peering arrangements. Every RFP would have this included.

**Senator Denis:**

This gives us the opportunity to be at the cutting edge. We will not be as large as California. This is one way we can provide security for Nevadans even as the providers will not have the millions of people that they might want in order to provide this service. This bill is aimed at providing better security, given the presence of cybercrime, but we will receive other benefits as well.

**Assemblyman Anderson:**

I am happy to work with anybody who may have concerns or questions about the bill.

**Chair Goicoechea:**

Dates concern me. Make sure you will have the line in the ground before the mandate becomes effective. I will close the hearing on S.B. 289 and open it on S.B. 310.

**SENATE BILL 310:** Revises provisions relating to local government financing.  
(BDR 22-827)

**Senator Ben Kieckhefer (Senatorial District No. 16):**

The Tessara Tourism Improvement District (TID) is the intended target of this legislation. I have maps that show the location of the district ([Exhibit F](#)). The Tessara TID is strategically located in the downtown Reno urban core, directly south of Interstate 80. We envision a burgeoning growout of the University of Nevada as it expands its footprint, not by ownership, but rather into downtown Reno. This is a redevelopment target created by the City of Reno a number of years ago. Based on statute, the life span of a TID and the tax increment it can collect is clocked from 20 years after its creation. This bill expands for a limited number of TIDs but should be targeted to this one alone to 25 years. This will allow the project to fully utilize 20 years of financing as originally envisioned.

Because of the economic downturn and the date of this TID creation, it never got off the ground after it was built out. That was 5 to 6 years ago. It has not been able to utilize the full 20 years of increment to leverage its financing. This would extend the TID to 25 years, which allows it to leverage out to 19 or 20 years of financing and get off the ground immediately. This language is in S.B. 310 section 1, subsection 2. It is mirrored in section 2, subsection 5. It states that if a district did not collect any pledged increment financing in the first 5 years of its utilization, the length of distributions and bond or note maturity would extend to 25 years rather than 5 years. The other component is in section 3, subsection 2, paragraphs (a) and (b), which allows continued abatement for districts that existed prior to July 1, 2013, to include Local School Support Tax (LSST) as a component of its increment financing. Projects already approved would be grandfathered in, which is clarified in this legislation.

**Steve Polikalas (Northern Nevada Urban Development Company):**

Our company and the City of Reno created a public-private development partnership, the Tessera TID in 2009. We had to do this before this legislation sunsets. This TID can still be a viable financing tool in this hard-to-develop part

of downtown Reno. It comprises eight and a half city blocks of long-blighted property under Interstate 80 and just south of the University of Nevada, Reno. Irrespective of its proximity to the University and a freeway, it has been a tough process for Reno and the private sector to assemble these pieces of business property.

The Northern Nevada Urban Development Company is the largest landholder, but there has been some successful assemblage by a couple of other landholders. Everyone has been working toward the same goal for a long time, but the deep effect of the Great Recession has wiped out time and financing in downtown Reno. Unfortunately, a tertiary market made it difficult. We do not know if the planned economic development projects we hear about will come through. We need to make the downtown urban core infrastructure better once and for all. It is an eyesore.

Last fall, the University embraced the notion of creating a university district, if only nominally, in this area. I have submitted an article, *Higher Cred: Behind Reno's Gambit to Become a University Town* from the *Reno Gazette-Journal* ([Exhibit G](#)), in which the City of Reno speaks to the concept of a university town. It says, "One is reimagining an urban structure originally geared toward gaming instead of college students—a structure that includes liquor stores, pawn shops, seedy motels and the elements that frequent them." This describes the blight that we aim to eradicate.

The Northern Nevada Urban Development Company has taken four seedy motels out of commission. We demolished them. We have shut down five others. We continue these efforts, but it is not easy. We have invested more than \$28 million of private money in this project. All property taxes continue to be paid. We continue to work with all stakeholders, including the University and the City of Reno. It is a fantastic opportunity to recreate and reimagine downtown, but it is a tough business. We ask for your support of this measure.

**Senator Kieckhefer:**

I have a conceptual amendment ([Exhibit H](#)) to section 3 which restricts the provisions governing the LSST to this district exclusively so it does not apply broadly to all TIDs. This would have been grandfathered in when the law was changed in 2013.

**Chair Goicoechea:**

You began in 2009. Have you had the 5 years with zero revenue? Are you asking to push it out to 25 years to reset the clock?

**Mr. Polikalas:**

Yes, we would restart the clock today. It will not get us 25 but 19 years. It is important for the project to succeed.

**Chair Goicoechea:**

Is the school district mitigation amount carved out?

**Mr. Polikalas:**

The amendment would refine that language to ensure that it only applied to this project. The 2013 law acknowledged that no law could be passed that would impair bonding, but in this circumstance, it undermined the contractual obligations and financial modeling upon which we had been relying even prior to the downturn. The amendment is to address this on a contractual basis.

**Scott Gilles (City of Reno):**

The City of Reno supports S.B. 310. This bill impacts the Tessera TID. I confirm that this local government has not received any distributions over the last 5 years since the start of the project. It could then apply to the City of Reno. The Tessera TID is a crucial component of the City's vision to reconnect the University to the downtown area and its general economic efforts. Senate Bill 310 will directly impact the long-term viability of the Tessera TID, allowing it to fulfill its potential and ultimately benefit the City of Reno. The City offers its full support of this legislation.

**Chair Goicoechea:**

I will close the hearing on S.B. 310 and open the hearing on S.B. 485.

**SENATE BILL 485**: Revises provisions relating to water. (BDR 48-708)

**Jason King (State Engineer and Administrator, Division of Water Resources, State Department of Conservation and Natural Resources):**

The purpose of this bill is to establish a sunset date of December 31, 2025, for filing prestatutory water rights, also known as claims of vested rights, with the State Engineer. Any beneficial use of surface water, artesian groundwater or percolating groundwater prior to 1905, 1913 or 1939, respectively, must be

quantified pursuant to the adjudication process spelled out in NRS 533. The law allows vested claims to be filed any time until an adjudication of a source is conducted. We have about 8,800 claims of vested right filed in our Office today.

The reason for pursuing a sunset date, pursuant to NRS 533.085, is vested water rights cannot be impaired through subsequent statutory appropriation of water. Therefore, our office is required to protect claims of vested water rights. If our Office is not aware of claims of vested water rights, how do we protect them? When evaluating whether to approve or deny an application to appropriate water, we must consider if water is available at the source. Without knowing whether prestatutory rights are on a given source, we cannot make that determination with absolute certainty. Since the quantification of vested claims in an adjudication process depends on review and analysis of historical records and data, the further away we are from the prestatutory dates, the more difficult it becomes to quantify uses and priorities. Records can be harder to procure. Old-timers whose affidavits can be critical to identify water usage pass away, and a loss of information occurs.

Ultimately, a certain date beyond which all vested claims must be filed promotes the most protection of people's water rights. It also provides our Office essential information on water resources statewide which helps us make better decisions. In order to publicize this sunset date to potential vested claimholders, the bill requires us to publish notification of the sunset date in four or more newspapers for 4 consecutive weeks each year and to notice it on our Website. Additionally, we will send this notification out in all our blast emails which go to hundreds of water professionals statewide. It will be an anchor notice in our annual newsletters to water rights surveyors and water well drillers.

This past fall, our Office held a series of seven listening sessions throughout the State wherein this issue was discussed. Without exception, people liked the idea of a sunset date. The only semicontroversial part of the discussion was what it should be. Ten years out gives everybody plenty of time to file vested claims. This date has been somewhat vetted in these listening sessions. We want to be clear that the vested claims will only be filed in the Office of the State Engineer. We are not saying that we are going to adjudicate all these vested claims since that cannot be done in 10 years. We want to collect them and have them in one place in 10 years.

**Chair Goicoechea:**

We will have to define a vested claim. If it is already part of an adjudication or a decree, this bill will have no impact. If 8 years out, we find people are complying but struggling, this body may move the sunset up a couple years if we are up against a deadline. In ten years though, if people are struggling, it may be problematic. At least beginning the process to file vested claims will be a tremendous start. The bottom line is we have to start someplace if we are ever going to have a water inventory. It did not take long for me to understand that we have problems we need to address.

**Ernest C. Schank (President, Board of Directors, Truckee-Carson Irrigation District):**

I reside in Fallon and operate a farm in the Newlands Project. My grandfather purchased the family farm in 1939. I am the third-generation Schank and have the pleasure of being able to work with my son, who is the fourth generation to operate the family farm. I am also pleased that he has two sons, the fifth generation of farmers-in-training. I received a bachelor of science in animal science from Brigham Young University. I have served on the Truckee-Carson Irrigation District (TCID) Board of Directors for 21 years, the last 17 of which I have been the President.

I am pleased to present testimony on S.B. 485 ([Exhibit I](#)) on behalf of the TCID and the water rights owners within the Newlands Project. We have a good working relationship with Mr. King. We have some concerns that need clarification. We understand the need for the inventory and are not opposed to this bill. We would like to bring forward concerns that we feel are not adequately addressed in S.B. 485.

With this historical perspective, we have cause to be alarmed by the language in section 1 of S.B. 485 which amends NRS 533. It says:

A claimant of any vested water right must submit, on a form prescribed by the State Engineer, proof of the claim to the State Engineer on or before December 31, 2025. If a claimant fails to file such proof on or before December 31, 2025, the claim shall be deemed to be extinguished.

Waters adjudicated to the landowners of the Newlands Project have perhaps been the cause of more legal battles than any other in the entire United States. In 1999, a compromise was reached when A.B. No. 380 of the 70th Session was passed by the Legislature and signed by the Governor. It settled litigation instigated by the Pyramid Lake Paiute Tribe which alleged that many thousands of acres within the project were abandoned and forfeited. Assembly Bill No. 380 of the 70th Session made abandonment and forfeiture more difficult.

We object to any procedure such as that contained in S.B. 485 which could open litigation, including legal challenges over forfeiture and abandonment, and require legal costs. Senate Bill 485 is confusing and ambiguous. Since S.B. 485 applies to prestatutory rights, would all the water rights of the Newlands Project be included? It is not clear whether previously adjudicated, prestatutory water rights require proof to be submitted before the 2025 deadline. Moreover, neither the *United States v. Orr Water Ditch Co.*, Equity No. A3 (D. Nev. 1944), nor the *United States v. Alpine Land & Reservoir Co.*, 503 F. Supp. 877 (D. Nev. 1980), decrees adjudicated the water rights to individuals. Does S.B. 485 insinuate that there has been no adjudication of these rights? Will the State Engineer recognize the individual rights records of the TCID, or will each individual be required to file proof? The State Engineer has a grant from the Bureau of Reclamation to verify all TCID, Bureau and State Engineer water right maps on file.

There are too many unknowns in this bill. It does not address the unique nature of the Newlands Project. If the State of Nevada needs more proof of prestatutory water rights, TCID can provide that without requiring 400 individuals with serial-numbered parcels to provide individual proof of vested rights. If an individual has adjudicated water rights in the Newlands Project and fails to provide the proof stipulated by this bill, can those rights be extinguished by other than the court that granted those rights?

We propose that language be inserted into S.B. 485 to exempt the Newlands Project because of the *Orr Ditch* and *Alpine* decrees, or to allow TCID to submit its records as proof of the rights.

**Rusty Jardine (District Manager and General Counsel, Truckee-Carson Irrigation District):**

Since the State Engineer defined the important term “vested water right” for the record, my concerns ([Exhibit J](#)) have been somewhat assuaged. Our interest is to protect adjudications that have occurred with respect to water rights rising within the Newlands Project. The State Engineer provided us assurance that this bill does not impinge the rights that have been adjudicated regarding the Newlands Project. Mr. Schank’s concerns have been addressed. We support the proposed legislation because of strong public interest in the certainty that these claims will come forth and there will be a basis to deal with them in the future.

We work closely with the State Engineer regarding the administration of water rights in the Project, for which I am proud. When there is a question, an application or a temporary change, I provide a letter to the State Engineer that reflects our records. If we maintain with certainty that the term “vested right” does not include a decreed right associated with the *Orr Ditch* or *Alpine* decrees, we support S.B. 485. This legislation will benefit the entire administration of water rights within the State of Nevada.

**Chair Goicoechea:**

If someone filed a vested claim with the State Engineer today, he would deny it because the water rights are adjudicated. We are in the same process here. I want this to be on the record.

**Steve Walker (Eureka County):**

Accounting for Nevada’s water resources, water owned by the citizens of the State is essential to effective water management. Putting a date on filing proofs for vested water rights is a start toward accounting. Eureka County supports S.B. 485. Vested water rights are commonly perceived by their owners as highly valuable based on their dates in our priority system. In fact, they are not valuable until adjudicated. This starts that process.

**Kyle Davis (Great Basin Water Network):**

We support S.B. 485. This bill is an important step toward figuring out what vested rights are out there. We would like to see adequate notification provisions included so that every potential water right owner will have the opportunity to file proofs. In the past, notifications were not as adequate as they should have been.

**Chair Goicoechea:**

I agree with you. We have to get the word out. If people were not noticed and the deadline for proofs was missed, it could be cause for litigation or the deadline would have to be moved. Give us some insight on a better way, and we will get there.

**Mike Baughman (Executive Director, Humboldt River Basin Water Authority):**

We support S.B. 485. The Humboldt River Basin Water Authority expended about \$30,000, a combination of resources from five counties and S.B. No. 62 of the 73rd Session grant funds from several sessions ago for the Nevada Water Resources Association to develop and implement an educational program concerning the definition of vested water rights. We encourage those who think they have a vested water right to file their claims. Education is important beyond notification because vested water rights is a complicated subject. The information required to substantiate the claim can be detailed and involved. Education to help people develop good claims is important.

Our materials are public information that can be made available to entities so they can provide them to landowners. The Authority includes the Pershing County Water Conservation District area. We are confident that this bill would not have an adverse effect on the decreed water rights. We operate under the Bartlett and Edwards decrees in the Humboldt system. We are confident that this bill does not impair them.

**Joe Guild (Southern Nevada Water Authority):**

We support the concept and future efforts that will be undertaken subject to S.B. 485. There will be a gap. The McCarran Amendment only does away with federal supremacy in general adjudications of streams; therefore, it requires the federal government to come into our State court processes to participate. The individual adjudications this bill contemplates would be outside of this requirement, and therefore we will have a gap in all three of these types of vested rights claims. Other than this concern, we support the State Engineer's efforts and the bill in general.

**Chair Goicoechea:**

You do not think that the McCarran Amendment extends to requiring ion groundwater applications? Prestatutory groundwater claims are very limited, especially by the federal government. We did not get a grazing act until about

1936. I assume it would not be too big an issue. For surface water, parties clearly have to come to State court.

**Mr. Guild:**

In my practice, I have seen an incremental increase in the federal government's attempts to insinuate itself into Western water law, specifically in Nevada, in the last 25 or so years. I believe we will see a gap in nonsurface water cases. This is a concern for the record.

**Chair Goicoechea:**

We also have the issue of public water reserves and how they match up. Clearly, they were established as old public water reserves even though the agency does not go back that far. We assume there will be some challenges; but maybe most of those will occur after we have all the proofs and the inventory in place. Then we can have that argument. We would just as soon have it in 10 years rather than in 100.

**Mr. King:**

I appreciate Mr. Schank's comments expressing his concern. For the record, it is not the intention to go after decreed rights, nor could it be. The bill is specific to claims of vested rights. Once those claims go through an adjudication process, they become decreed by the court. If they have already been decreed, they are no longer a claim of vested water right. They would not need to come forward and file anything new with our Office.

**Chair Goicoechea:**

I agree. This process is to get those vested claims through the process, adjudicated once and for all, so we know what is available. I am afraid there will be a pretty small number available. I will close the hearing on S.B. 485. We have three bills in the work session.

**Jennifer Ruedy (Policy Analyst):**

Three bills in the work session were requested by the Senate Committee on Finance, and all three have been noticed as eligible for exemption by the Fiscal Analysis Division. Senate Bill 213 heard on March 20 is addressed in the work session document ([Exhibit K](#)).

**SENATE BILL 213**: Revises provisions relating to federal assistance received by agencies of the Executive Department of State Government. (BDR 31-838)

Senate Bill 213 requires the Chief of the Budget Division, Department of Administration, to maintain a database of each request for budget submitted or resubmitted by an agency of the Executive Department that requests money, equipment, material or services from the federal government. Proposed Amendment 9934 requires the Department of Administration, instead of the chief, to prepare a report that contains certain information relating to federal assistance programs, excluding money, equipment, material or services.

There was concern expressed at the Committee meeting about having the manpower to do some of the evaluations, specifically in section 1, subsection 3, paragraphs (b) and (c). Proposed Amendment 9934 changed what they are required to include in the report to identify the total amount of federal assistance used by each department, institution and agency, and adds "applied to receive for the fiscal year."

Proposed Amendment 9934 deletes language that raised questions about its ability to accomplish the report. Section 1, subsection 3, paragraph (b) "Identifies the total amount of federal assistance which each department, institution and agency of the Executive Department of the State Government applied to receive for the fiscal year."

In section 1, subsection 4, the report as to the advisability of increasing or decreasing the use of any federal assistance program is no longer required but may be prepared by the Fiscal Analysis Division. Therefore, it is lessening the requirements imposed by the bill.

In section 1, subsection 5, the Department of Administration is required to, on or before October 1 of each year, submit the report prepared pursuant to subsection 3.

**Senator Atkinson:**

When we are done with this bill, does it go back to the Senate Committee on Finance? It does not appear to be on the Finance Committee list.

**Chair Goicoechea:**

It is not on their list. We are just dealing with the policy. The intent of the bill is to show how much federal money we receive. We should have a handle on it. I do not know that there is a real answer today.

**Senator Parks:**

I applaud this bill as it goes along with a bill that I sponsored 2 years ago. My concern is a lot of politics at the federal level goes into certain programs. Instead of sending the money to the State, the federal government sends the money to local organizations and entities. The best example I can give is the funding for HIV/AIDS, which has been a political football for 2 decades. The funds then become difficult to track. I have no problem with what we are trying to achieve; however, some types of federal revenues will certainly take a lot of work to track.

**Chair Goicoechea:**

It identifies the total amount of federal assistance by each department. I do not think we are getting down to the level that you are talking about. Is it what the department does with it? Does that give you a little more comfort?

**Senator Parks:**

Supposedly, it applies to every federal department. Reports may be generated.

**Chair Goicoechea:**

It applies to departments, institutions and agencies of the Executive Department of the State government. They would give us the first cut but we would never be able to delve down to where the final dollar went and to what person.

SENATOR LIPPARELLI MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 213 WITH PROPOSED AMENDMENT 9934.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Goicoechea:**

We will hear S.B. 214 in work session.

**SENATE BILL 214**: Creates the Nevada Advisory Council on Federal Assistance.  
(BDR 31-837)

**Jennifer Ruedy (Policy Analyst):**

When S.B. 214 was introduced, it required a 17-member Council. In response to concerns raised by the Committee, Proposed Amendment 6023 ([Exhibit L](#)) makes it a seven-member Council with five voting members and two nonvoting members. The purpose of the Council is to evaluate, monitor and advise State and local agencies with respect to obtaining and maximizing federal assistance that may be available.

What has not changed is that members continue to serve without compensation and are entitled to per diem expenses. The Department of Administration is tasked with providing the administrative support.

Starting on line 12, page 4, Proposed Amendment 6023 details some of the changes to the duties of the Council. Each member of the Council is charged with streamlining the process, regulatory, structural and other barriers to the acquisition of federal assistance that may exist at each level of federal, state or local government; developing and expanding opportunities for obtaining matching funds for federal assistance; ensuring sufficient personnel and technical expertise in State and local governments and nonprofits; and developing and expanding opportunities to work with nonprofit organizations to achieve common goals.

**Chair Goicoechea:**

We are putting this Council together. There does not appear to be a huge fiscal impact, and we hope to get some productive data out of it.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 214 WITH PROPOSED AMENDMENT 6023.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Goicoechea:**

We will proceed with S.B. 420.

**SENATE BILL 420:** Revises provisions governing the executive staff of the Public Employees' Retirement System. (BDR 23-1176)

**Ms. Ruedy:**

Senate Bill 420, as noted in the work session document ([Exhibit M](#)), was part of the 2016-2017 Governor's Executive Budget, so it will need to go to the Senate Committee on Finance. It was presented in this Committee on March 27. It creates the position of General Counsel as a member of the executive staff of the Public Employees' Retirement System. It sets forth the requirements for that position. The Counsel must be an attorney in good standing, licensed and admitted to practice law in the State of Nevada. I have included the information for the budget as a special note.

**Chair Goicoechea:**

In this Committee, we vote on the policy and rerefer it to the Senate Committee on Finance to fund the \$189,000.

SENATOR PARKS MOVED TO DO PASS AND REREFER S.B. 420 TO THE SENATE COMMITTEE ON FINANCE.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Goicoechea:**

This Committee stands adjourned at 2:46 p.m.

RESPECTFULLY SUBMITTED:

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Darlene Velicki,  
Committee Secretary

APPROVED BY:

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Senator Pete Goicoechea, Chair

DATE: \_\_\_\_\_

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit</b>		<b>Witness or Agency</b>	<b>Description</b>
	A	1		Agenda
	B	5		Attendance Roster
S.B. 289	C	2	Senator Moises (Mo) Denis	Proposed Amendment
S.B. 289	D	1	Senator Moises (Mo) Denis	Visual aid
S.B. 289	E	2	Switch	Letter of support
S.B. 310	F	4	Senator Ben Kieckhefer	Graphic maps
S.B. 310	G	5	Steve Polikalas	Article
S.B. 310	H	1	Senator Ben Kieckhefer	Proposed amendment
S.B. 485	I	4	Ernest C. Schank	Testimony
S.B. 485	J	2	Rusty Jardine	Testimony
S.B. 213	K	4	Jennifer Ruedy	Work Session Document
S.B. 214	L	6	Jennifer Ruedy	Work Session Document
S.B. 420	M	1	Jennifer Ruedy	Work Session Document