

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

**Seventy-Eighth Session  
April 3, 2015**

The Senate Committee on Government Affairs was called to order by Chair Pete Goicoechea at 2:16 p.m. on Friday, April 3, 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 Ben Kieckhefer, Senatorial District No. 16

**STAFF MEMBERS PRESENT:**

Jennifer Ruedy, Policy Analyst  
Heidi Chlarson, Counsel  
Suzanne Efford, Committee Secretary

**OTHERS PRESENT:**

Roger Rahming, Operations Officer, Public Employees' Benefits Program  
Celestena Glover, Chief Financial Officer, Public Employees' Benefits Program  
Marlene Lockard, Retired Public Employees of Nevada; Service Employees  
International Union  
Kateri Carraher, Interim Executive Officer, Public Employees' Benefits Program  
Paul Moradkhan, Las Vegas Metro Chamber of Commerce  
Miles Dickson, Accelerate Nevada; Nevada Community Foundation  
Tray Abney, The Chamber

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Samuel P. McMullen, Las Vegas Global Economic Alliance; City of North Las Vegas  
Sheila Lambert, Chief of Grants Procurement, Office of Grant Procurement, Coordination and Management, Department of Administration  
Deonne Contine, Executive Director, Department of Taxation  
Terry Rubald, Chief Deputy Director, Local Government Services, Department of Taxation  
Josh Hicks, National Public Finance Guarantee Corporation  
Yolanda King, Chief Financial Officer, Department of Finance, Clark County

**Chair Goicoechea:**

We will open the meeting with Senate Bill (S.B.) 29 in the work session.

**SENATE BILL 29:** Grants power to a board of county commissioners to perform certain acts which are not prohibited or limited by statute. (BDR 20-465)

**Jennifer Ruedy, Policy Analyst:**

I will read the summary of S.B. 29 from the work session document ([Exhibit C](#)).

The bill states “to ensure the health and safety of the public”; however, Proposed Amendment 9918 by the sponsor changes that language to “for the effective operation of county government.” The amendment also proposes to change “another political subdivision” to “governmental entity” in section 7, subsection 1, paragraphs (a), and (c).

On page 2 of Proposed Amendment 9918, section 7, subsection 2 lists provisions the county government cannot do.

Except as expressly granted by statute or necessarily or fairly implied in or incident to powers expressly granted in statute, a board or county shall not: Impose a service charge or user fee; or Regulate business conduct that is subject to substantial regulation by a federal or state agency.

**Chair Goicoechea:**

Senate Bill 29 addresses home rule versus the Dillon’s Rule and affects counties only.

SENATOR LIPPARELLI MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 29.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR ATKINSON VOTED NO.)

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**Chair Goicoechea:**

We will move on to S.B. 72, the next bill in the work session.

**SENATE BILL 72**: Makes various changes relating to the Division of Enterprise Information Technology Services of the Department of Administration. (BDR 19-310)

**Ms. Ruedy:**

The work session document summarizes S.B. 72 ([Exhibit D](#)).

The Department of Public Safety (DPS) is required to use the services and equipment of the Division of Enterprise Information Technology Services (EITS) for information systems. This brought about discussion in Committee, and an amendment was brought forward which was agreed upon by the DPS representative and the EITS representative. That language is "or as may be necessary to comply with federal requirements." Therefore, the DPS equipment is not subject to the managerial control "as may be necessary to comply with federal requirements." Otherwise, it is subject to control by the DPS.

The Office of the Attorney General presented a second amendment. This amendment adds the Office of the Attorney General to the list of entities that may use EITS services and equipment but is not required to do so. The sponsor of the bill does not consider this a friendly amendment.

**Chair Goicoechea:**

The question before the Committee is about the two amendments. The first amendment from DPS is favorable and reasonable. The second amendment is whether the Office of the Attorney General should be included.

**Senator Hardy:**

I like friendly amendments. It is interesting that the second proposed amendment is labeled amendment No. 1. For our purposes, we should accept the first amendment from DPS which amends section 12. The second amendment from the Office of the Attorney General should not be considered.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 72 WITH THE AMENDMENT FROM THE DEPARTMENT OF PUBLIC  
SAFETY.

SENATOR LIPPARELLI SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Goicoechea:**

We will move on to S.B. 108 in the work session.

**SENATE BILL 108:** Revises provisions relating to public works projects.  
(BDR 28-598)

**Ms. Ruedy:**

Senate Bill 108 is summarized in the work session document ([Exhibit E](#)).

Proposed Amendment 6105 offered by the sponsor of the bill deletes sections 1 and 2 and sections 4 through 17, 19 and 20. It also changes the estimated costs threshold from \$1 million to \$500,000.

**Chair Goicoechea:**

The bill's sponsor is willing to decrease the threshold from \$500,000 to \$250,000 if the Committee supports it.

**Senator Hardy:**

I have no trouble accepting the \$250,000 threshold.

**Senator Atkinson:**

Is that in the amendment or are you proposing it now?

**Chair Goicoechea:**

That is correct. I would bring that forward if it makes it more palatable to the Committee. I am looking for a consensus from the Committee. Otherwise, it will remain as it is. In an effort to be bipartisan and find some middle ground, the sponsor would decrease the threshold to \$250,000. We could change that amendment right here.

**Senator Atkinson:**

I am not prepared to vote on it now. I will vote no and reserve my right to change it on the floor. If, after research, we find that is the appropriate number, then that is fine with me.

**Senator Goicoechea:**

If we pass it out of Committee at \$500,000, which is the original amendment threshold amount, you would not have the opportunity to change your vote. However, the sponsor could propose a floor amendment.

**Senator Parks:**

I have similar sentiments as Senator Atkinson. Reluctantly, I am in opposition to the amended bill.

SENATOR LIPPARELLI MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 108 WITH PROPOSED AMENDMENT 6105.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS ATKINSON AND PARKS VOTED  
NO.)

\* \* \* \* \*

**Chair Goicoechea:**

Next in the work session is S.B. 310.

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

**Ms. Ruedy:**

Senate Bill 310 is summarized in the work session document ([Exhibit F](#)). The amendment offered by Steve Polikalas was accepted by the bill sponsor.

**Chair Goicoechea:**

The agreement for the Tessera Tourism Improvement District has been in place for over 5 years; however, nothing was brought forward. That is the rationale for extending the life of a tourism district. When the Committee heard this bill, there was no opposing testimony.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 310.

SENATOR LIPPARELLI SECONDED THE MOTION.

**Senator Parks:**

Does this just reset the clock?

**Chair Goicoechea:**

Technically, that is what it does.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Goicoechea:**

We will move on to S.B. 340.

[SENATE BILL 340](#): Revises provisions governing public works. (BDR 28-255)

**Ms. Ruedy:**

I will summarize S.B. 340 as contained in the work session document ([Exhibit G](#)). There is Proposed Amendment 6028.

**Chair Goicoechea:**

To clarify, an action must be taken against a contractor, not just a proposed action such as suspension or debarment, as stated in the proposed amendment. If the contractor is not eligible for federal contracts, he or she should not be eligible for State contracts.

SENATOR PARKS MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 340 WITH PROPOSED AMENDMENT 6028.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Goicoechea:**

The next bill in the work session is S.B. 480.

**SENATE BILL 480**: Revises the membership of the county fair and recreation board in certain counties. (BDR 20-1113)

**Ms. Ruedy:**

Senate Bill 480 is summarized in the work session document ([Exhibit H](#)).

An amendment proposed by Greg Ferraro, who represents the Nevada Resort Association, reduces the membership of a county fair and recreation board from 12 to 9. The proposed amendment lists the nine members. Another change is adding "A chairman of the board shall be elected from the members appointed pursuant to paragraphs (a), (b), and (c)."

In the hearing on this bill, Mr. Ferraro asked that the language "One member who is a representative of the resort hotel business or other commercial interests or interests related to tourism from a list of nominees submitted by the chamber of commerce of the largest incorporated city in the county" be listed third.

**Chair Goicoechea:**

The chair of the board is elected from among the three elected members who are one from the city and two from the county.

SENATOR PARKS MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 480.

SENATOR LIPPARELLI SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Goicoechea:**

The next bill is S.B. 482.

**SENATE BILL 482:** Makes various changes relating to elected county officers.  
(BDR 20-1117)

**Ms. Ruedy:**

The summary of S.B. 482 is contained in the work session document ([Exhibit I](#)).

There are no proposed amendments for this bill; however, there are some fiscal notes from local governments.

**Chair Goicoechea:**

This is a simple, self-explanatory bill. It sets the board of county commissioners' salary increases for fiscal years 2015-2019 at 3 percent. They can elect not to receive any portion of their salaries.

SENATOR LIPPARELLI MOVED TO DO PASS S.B. 482.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Goicoechea:**

The last bill in the work session is S.B. 485.

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

**Ms. Ruedy:**

I will read the summary of S.B. 485 from the work session document ([Exhibit J](#)).



There was a small fiscal note from the Division of Water Resources for about \$1,000 in each fiscal year for notice publication.

SENATOR PARKS MOVED TO DO PASS S.B. 485.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Goicoechea:**

That concludes the work session. We will open the hearing on S.B. 471.

**SENATE BILL 471:** Revises provisions governing payments from the State Retirees' Health and Welfare Benefits Fund made on behalf of certain retired persons. (BDR 23-1178)

**Roger Rahming (Operations Officer, Public Employees' Benefits Program):**

I have submitted my written testimony on S.B. 471 ([Exhibit K](#)).

**Chair Goicoechea:**

We are trying to understand what you just told us. What is TRICARE?

**Celestena Glover (Chief Financial Officer, Public Employees' Benefits Program):**

TRICARE is the health insurance received by retired military members. This bill would allow those individuals who are currently required to enroll in a plan through the Public Employees' Benefits Program (PEBP) on the Medicare Exchange to receive the Health Reimbursement Arrangement (HRA). This would provide an exemption to the requirement to enroll through PEBP. They would use TRICARE in lieu of our plan and still receive the HRA.

**Marlene Lockard (Retired Public Employees of Nevada):**

I had submitted an amendment to this bill ([Exhibit L](#)). In 2011, when Medicare-eligible State retirees were removed from PEBP, they were put into the Medicare Exchange. In order to receive State employer health benefits, a Medicare retiree has to be in the Exchange. This bill would make an exception for federal employees to be eligible in TRICARE.

The purpose of my amendment was to make that health benefit available to retirees no matter what program they chose. They could choose their own individual health program and not go into the Medicare Exchange.

The health benefit should follow the employee. The employee should be able to choose any health care provider. We support the exemption for TRICARE. We would like it to apply to all Medicare retirees.

I have discussed my amendment with PEBP, and the PEBP Board is willing to sit down and work with Retired Public Employees of Nevada to determine a way because it is a complicated area. We are leery of any unintended consequences of my amendment, but we are pleased that PEBP has given us an opportunity to make our case to the Board to provide another solution for our retirees.

**Chair Goicoechea:**

Because of the deadline, we are probably not going to get this worked out.

**Ms. Lockard:**

That is why I am withdrawing the amendment.

**Chair Goicoechea:**

You are withdrawing the amendment. We ask you to work with it in the Assembly if the time is opportune.

**Ms. Lockard:**

Yes, I will.

**Chair Goicoechea:**

Seeing no opposition and no amendments, if the Committee is comfortable with this, we will vote it out.

SENATOR PARKS MOVED TO DO PASS S.B. 471.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Goicoechea:**

I will close the hearing on S.B. 471 and open the hearing on S.B. 472.

**SENATE BILL 472**: Revises provisions governing the eligibility of state officers and employees for health benefits. (BDR 23-1193)

**Mr. Rahming:**

I have submitted written testimony on S.B. 472 ([Exhibit M](#)).

**Senator Lipparelli:**

Section 6 is about automatic enrollment. Is that necessary? Why is it prescribed that the individual will be enrolled? What if the person declines because he or she is covered by a spouse's plan or something like that? Why is it an automatic enrollment?

**Mr. Rahming:**

It is an automatic enrollment if the person is eligible and does not select a plan. If the person selects the spouse's plan, it would not play.

**Senator Lipparelli:**

If a person does not make an election, are we compelling that person to be enrolled regardless of his or her decision?

**Ms. Glover:**

We send information to our participants. If the participant fails to choose a plan or fails to decline the plan, he or she is defaulted to our base plan. Should the participant decide to decline, then we would not put him or her in the plan.

**Senator Lipparelli:**

Perhaps the wording should be changed to "if no notice of declination is provided then the person will be enrolled." However, the bill does not say that. It says if the person fails to enroll.

**Ms. Glover:**

Failing to enroll means they did not tell us anything.

**Senator Lipparelli:**

A failure to enroll is different than I choose not to enroll.

**Ms. Glover:**

Yes.

**Senator Lipparelli:**

If I am reading this correctly, it does not say that.

**Ms. Glover:**

We have no way of knowing that the person chooses not to enroll if he or she does not tell us.

**Senator Lipparelli:**

We are going in circles. That is not what this bill says. It says that for whatever reason under the sky, if a person fails to enroll, he or she is enrolled anyway. That is what I am pointing out.

**Kateri Carraher (Interim Executive Officer, Public Employees' Benefits Program):**

Participants return paperwork to us. If the person declines, we receive written notice of the declination.

**Senator Lipparelli:**

Is that a failure to enroll?

**Ms. Carraher:**

No, it is not a failure to enroll. It is a declination to enroll. If the form is not returned, that is a failure to enroll. It is a failure to enroll as opposed to a declination to enroll with the return of paperwork.

**Chair Goicoechea:**

I understand what Senator Lipparelli means. The language in the bill says if you do not have something, that is an automatic enrollment. If the individual has another plan, then he or she does not want to be automatically enrolled. We might need to clarify that, which would require an amendment. The individual is not automatically enrolled if he or she opts out.

**Ms. Carraher:**

We will do that.

**Chair Goicoechea:**

We will close the hearing on S.B. 472.

I have to reopen the hearing on S.B. 471 to rescind the previous action of do pass because we do not yet have the fiscal note.

SENATOR HARDY MOVED TO RESCIND THE PREVIOUS ACTION TAKEN ON S.B. 471.

SENATOR LIPPARELLI SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Goicoechea:**

I will close the hearing on S.B. 471 and open the hearing on S.B. 473.

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

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

This bill is introduced to ensure that the State makes the highest and best use of the federal tax dollars coming into the State.

I previously presented two bills on the same subject. Senate Bill 473 is the final bill in that three-bill package.

Nevada's procurement and use of federal funding lags far behind the rest of the Nation. Our State leaves over \$500 million on the table every year. These funds could be used to increase the quality and quantity of services ranging from education to infrastructure that would benefit all Nevadans.

Also, this significant source of revenue does not increase taxes on our residents. However, it increases efficiency in the use of federal tax dollars that Nevadans remit to the government.

In addition to receiving a disproportionately low amount of grant awards, Nevada is further disadvantaged by returning some of the awarded grant funds.

The first two bills heard previously dealt with both the procurement and the use of funds. Senate Bill 473 deals only with the use of funds. This bill aims to ensure that Nevada fully uses, when possible, the grant funds it is awarded. This is accomplished by establishing a process for the Office of Grant Procurement, Coordination and Management to work with State agencies to identify unused funds and opportunities for the funds to be used by other agencies, as appropriate, before the grant period expires. This process, as outlined in the bill, is simple.

There is a long list of reasons why Nevada does not fully expend grant funds. Senate Bill 473 is not about addressing each of those issues but about ensuring a process whereby any unused funding is leveraged and put to its best use.

In the past few years, Nevada has been making valuable progress in identifying, procuring and utilizing federal grant funds. Senate Bill 473 ensures that moves along further.

Many of the grant funds coming into the State are for specific purposes. While not all of them will be repurposed for another use, identifying the opportunities that may exist is a useful enterprise. We will see soon if it is effective.

**Paul Moradkhan (Las Vegas Metro Chamber of Commerce):**

Nevada can do much to bring additional federal dollars back into the State. The intent of this bill is to ensure that those dollars are used to the utmost maximization rate and captured at different county, city and State levels. This is good, commonsense public policy for the State to help us increase our federal share.

**Miles Dickson (Accelerate Nevada; Nevada Community Foundation):**

Senate Bill 473 deals directly with the use of federal funds and, more specifically, setting up a process by which the State has a chance to take a second bite of every apple.

When federal grant funds come into the State, they are subgranted down or are appropriated for use. They are not always fully expended. Section 2, subsection 3 of the bill requires State agencies to notify the Nevada Grant Office of available, unexpended grant funds. Section 1, subsection 1, paragraph (h) positions the Grant Office to serve as a clearinghouse for unused

grant funds and be responsible for compiling, updating and disseminating information on available and unexpended grant funds.

The goal is to reduce the amount and rate of awarded federal grant funds that are not used and returned to the federal government. We are building on statute to follow legislative intent and utilize the Grant Office core competencies.

The Grant Office 2015 biennial report points out the necessity of ensuring federal funds are fully expended and establishing a process similar to what is outlined in the bill. Therefore, we are on the same page in terms of this being a simple and effective way for Nevada to get a second chance at the funds before they are returned to the federal government.

I have submitted my printed presentation of the points just discussed ([Exhibit N](#)).

**Chair Goicoechea:**

State agencies must notify the Grant Office when an agency has not expended all of its grant funds so the Grant Office can assist the agency in spending the funds or direct the funds somewhere else.

**Mr. Davis:**

That is correct. There are two additional pieces to enacting statutory language. One is requiring State agencies to notify the Grant Office. Agencies already notify the Grant Office when they apply for and use federal grant funds. This is to notify the Grant Office of funds the agency is not going to use. The second piece is for the Grant Office to take that information, periodically update it and disseminate it across the State for any applicable uses.

It will not work every time, but it is an opportunity for the State to make sure it uses the funds it already has before they are returned.

**Tray Abney (The Chamber):**

The Chamber supports S.B. 473.

**Mr. Davis:**

Maureen Schafer, Chair of the Nevada Community Foundation Board, has submitted written testimony supporting S.B. 473 ([Exhibit O](#)).

**Chair Goicoechea:**

We have her written comments and will make them part of the record.

**Samuel P. McMullen (Las Vegas Global Economic Alliance):**

We support this excellent bill.

**Sheila Lambert (Chief of Grants Procurement, Office of Grant Procurement, Coordination and Management, Department of Administration):**

I am neutral on S.B. 473. I want to respond to two points. In fiscal year 2015, the Grant Office, with support from State agencies, counties, cities, nonprofits and service providers across the State, applied for over \$80 million in discretionary funds and was awarded over \$62 million to date.

Second, the Federal Funds Information for States (FFIS) and State policy reports analyzed the federal grants database to reflect the implications of the federal fiscal year 2016 budget. According to the FFIS analysis of spending for fiscal year 2015 to fiscal year 2016, Nevada ranks nineteenth in the Nation for percentage of increase of federal grant dollars.

**Chair Goicoechea:**

We will close the hearing on S.B. 473 and open the hearing on S.B. 475.

**SENATE BILL 475:** Authorizes a county or city to file a petition in bankruptcy under certain circumstances. (BDR 31-1021)

**Deonne Contine (Executive Director, Department of Taxation):**

Senate Bill 475 gives local governments the statutory authority to file chapter 9 bankruptcy after certain conditions are met. The Nevada Tax Commission must find that a severe financial emergency exists within a local government and that the financial emergency is unlikely to cease within 3 years.

It also requires the Governor and the Attorney General to review and approve, in writing, the local government's chapter 9 petition filing. We are still reviewing this internally and with the Governor's Office. There is some uncertainty if it would be legal approval or an approval that the proper findings have been made by the Committee on Local Government Finance (CLGF) and the Nevada Tax Commission. We may have to rework that. We are working offline to determine what that process would be like.



**Chair Goicoechea:**

I was always under the impression that a city, even though cities generally are chartered, would still be under the county. If a city goes bankrupt, is the county responsible for it?

**Terry Rubald (Chief Deputy Director, Local Government Services, Department of Taxation):**

In the severe financial emergency statutes, if it comes to the point where the city would have to be disincorporated or dissolved, the CLGF asks the county to absorb those services.

**Chair Goicoechea:**

That happens even under a severe financial emergency if it appears there is no other way out. If the city is not providing services and it cannot wait 3 years, then the call could be made that the city is disincorporated and the county has to take over.

Does that also include the indebtedness?

**Ms. Rubald:**

There would still be the requirement to pay off the debt. For example, several years ago when the Nye County Hospital District had its troubles and the hospital was sold into private hands, the District was still there to collect monies to pay off the debt.

This bill provides that a county or city may file for bankruptcy under very restrictive and limiting conditions. School districts, general improvement districts and separate operating agencies of the counties and cities would not have the option to seek bankruptcy at all.

The three limiting conditions are: the Nevada Tax Commission has determined a severe financial emergency; it is unlikely to cease within 3 years; and the Commission has to go to the Governor and Attorney General for final approval.

The idea behind that is to allow an alternative to the remedy of dissolution for a city as provided in *Nevada Revised Statute* (NRS) 354.723 or abolishment of a county in NRS 243 while making access to protection under chapter 9 of the U.S. Bankruptcy Code very difficult because of the potential for negative effects on bond ratings.

Our first exhibit is the “Severe Financial Emergency Decision Tree” ([Exhibit P](#)). Page 1 of [Exhibit P](#) is how we get into a severe financial emergency. Page 2 of [Exhibit P](#) is after the Nevada Tax Commission has already declared a severe financial emergency and has ordered the Department of Taxation to take over the management of the local government. Once that happens, the Department prepares a plan for expense mitigation and revenue enhancement. The Department manages the finances and negotiates future contracts and collective bargaining agreements because it cannot break or suspend current contracts or collective bargaining agreements. The Department works with creditors to formulate a debt liquidation program and tries to rightsize the budget, matching expenditures with revenues to the degree it can.

If the Department is successful and the financial conditions improve, then the Nevada Tax Commission will terminate the management of the local government by the Department. If the Department determines there is insufficient revenue to provide for debt service and operating expenses, it can make recommendations to increase taxes. If the CLGF agrees with that plan, those recommendations are made to a joint committee of the CLGF and the Nevada Tax Commission at public hearings.

If the joint committee agrees, the Nevada Tax Commission can adopt a plan to increase taxes, which may be collected for up to 5 years. After implementation of the expense mitigation and revenue enhancement plan by the Department and if it becomes apparent that the budget still cannot be balanced, the CLGF reports that the tax revenue plan has failed and asks the county to consider absorption of the services. In the case of a county, the CLGF reports failure of the tax revenue plan to correct the situation to the Legislature.

At the same time, the Nevada Tax Commission holds hearings to consider whether the severe financial emergency is unlikely to cease within 3 years. If the Department determines that it is unlikely to cease, then a question is placed before the voters as to whether the local government should be disincorporated or dissolved. If the voters approve the dissolution, the entity that created the local government dissolves it. If the voters do not approve dissolution, the Nevada Tax Commission would have to raise property taxes, potentially to the maximum of \$5 per \$100 of assessed valuation, raise other applicable taxes again and downsize services until the budget is balanced.

The limitations in this bill provide that a county or city can petition for bankruptcy only after the Department of Taxation, the CLGF and the Nevada Tax Commission have done everything in their powers to correct the situation and the only alternatives left are either to dissolve the government or raise the taxes to an onerous maximum as well as decreasing services until the budget is balanced.

Indeed, before a municipality's petition can even be accepted by the bankruptcy court, that municipality must show that it has attempted substantial negotiations with creditors. The severe financial emergency laws already fulfill that requirement for the court. Bankruptcy provides one additional alternative to dissolution.

Our second exhibit ([Exhibit Q](#)) compares the powers of the Department of Taxation under a severe financial emergency to the powers of the bankruptcy court. One of the powers of a federal judge is known as the cramdown power. If the bankruptcy judge finds a settlement to be reasonable, the judge can impose the settlement against a creditor's will. However, at least one class of impaired creditors must vote to accept the plan. The judge cannot cram down a reasonable plan unless at least one class of creditors agrees to the plan. The State has no cramdown power under the severe financial emergency laws.

Other items discussed in the comparison, [Exhibit Q](#), include the fact that the bankruptcy court does not interfere in running a local government. There is no power to appoint a trustee to run the city or municipal government. Unlike chapter 11 for corporate bankruptcies, in chapter 9, the judge cannot force a city to sell its assets. The judge cannot restrict the hiring of professionals such as accountants, lawyers or auditors, and the judge cannot limit the city's ability to go out in the market and issue more unsecured debt—although the judge must approve any issuance of secured debt.

Under chapter 9 bankruptcy, the plan to solve the municipality's debt problems can only come from the municipality. Creditors cannot submit their own plans. When a chapter 9 is filed, the municipality does not have to pay its debt obligations. That also stops all lawsuits. Municipal contracts, including union contracts, can be rejected or changed, which the State cannot do under the severe financial emergency laws.

Twenty-three states do not allow municipal bankruptcy; however, 15 states allow bankruptcy with conditions, and 12 allow bankruptcy without conditions. This bill would place Nevada in the group of 15 that allow municipal bankruptcies with conditions.

This bill is modeled in part after Connecticut and Louisiana, which require express written permission of the Governor. Michigan and Pennsylvania also allow for state recomposition plans much like Nevada's severe financial emergency laws but require their state agencies and or their Governors to sign off on bankruptcy petitions.

**Senator Lipparelli:**

You answered some of my questions, but NRS 354.685 subsection 1, paragraphs (a) through (aa) enumerate all the different conditions. Do all of those conditions have to be met to determine a finding or declaration of a severe financial emergency, or can it be some number of those conditions for the Tax Commission to arrive at the point of issuing a severe financial emergency?

**Ms. Rubald:**

There are 27 conditions, and any one could be enough for the Executive Director of the Department of Taxation to take it to the CLGF.

**Senator Lipparelli:**

Does that relate to section 1, subsection 1, paragraph (a) of the bill?

**Ms. Rubald:**

Yes.

**Senator Lipparelli:**

That is what is intended. Therefore, in section 1, subsection 1, paragraph (c), do the Governor and Office of the Attorney General have that same set of overarching guidelines in their determination, or are they free to make a determination at will once the emergency has been declared?

**Ms. Rubald:**

The process of review by the Governor and the Attorney General has not been determined. As it stands right now, no, they would not be guided by the 27 conditions.

**Senator Lipparelli:**

If I understand section 1, subsection 1 paragraph (a), some number of the 27 conditions must be met for the Nevada Tax Commission to declare a severe financial emergency; and then in section 1, subsection 1, paragraph (c), that might be sufficient for the Attorney General and the Governor to say they do not object to the bankruptcy filing. They do not need to also follow some compendium of requirements.

**Ms. Rubald:**

That is correct. Do not forget that a severe financial emergency is unlikely to cease within 3 years as noted in section 1, subsection 1, paragraph (b). That is important because it gives the Department and CLGF time to work with the local government to determine if they can resolve it.

**Senator Lipparelli:**

I understand.

**Chair Goicoechea:**

I did not realize a couple things in your presentation, including that you can increase taxes to the \$5 limit under severe economic hardship. I am familiar with the situation in White Pine County. You also said that you could impose those taxes for 5 years; however, some of those taxes can continue even after the 5-year period. The local jurisdiction can continue the taxes even though they were imposed by the State.

**Ms. Rubald:**

We were in White Pine County for 4 years from 2005 to 2009. We were there that long because it became apparent in the third year that we were going to right the ship. We wanted to make sure that all was well in the internal accounting controls. We recognized early on that we would be able to right the ship. If we could not make that determination within the first year or two and it became apparent by the third year, then that is when we would have to throw in the towel.

When a severe financial emergency is declared and the Department takes over, we can increase the tax rate to \$4.50; however, if the voters decide not to dissolve the local government, then the tax rate is increased to \$5.

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**Chair Goicoechea:**

If you are up against the wire and afraid you cannot right the ship, then you could increase the tax rate to \$4.50 for that interim. Is that correct?

**Ms. Rubald:**

Yes, and those tax rates cannot go longer than 5 years.

**Chair Goicoechea:**

We need to rerefer S.B. 46 to the Senate Committee on Finance. This is the Colorado River Commission and the Public Utilities Commission employee classification bill.

**SENATE BILL 46:** Revises provisions relating to the Colorado River Commission of Nevada and the Public Utilities Commission of Nevada. (BDR 31-359)

SENATOR PARKS MOVED WITHOUT RECOMMENDATION TO REREFER S.B. 46 TO THE SENATE COMMITTEE ON FINANCE.

SENATOR HARDY SECONDED THE MOTION.

**Senator Parks:**

Is that without recommendation?

**Chair Goicoechea:**

Yes, that is without recommendation.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

**Chair Goicoechea:**

The next bill to rerefer without recommendation is S.B. 111.

**SENATE BILL 111:** Providing for the use of portable event recording devices by local law enforcement agencies in certain counties. (BDR 23-618)

SENATOR PARKS MOVED WITHOUT RECOMMENDATION TO REREFER S.B. 111 TO THE SENATE COMMITTEE ON FINANCE.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

**Chair Goicoechea:**

We will go back to S.B. 475.

**Samuel P. McMullen (City of North Las Vegas):**

The City of North Las Vegas has gone through some difficult times. Its position on this bill is that it is not necessary regarding any bankruptcy the City is looking at now. It has weathered its storms and because of the City's experience, it supports the bill. These kinds of tools in the arsenal of the State are excellent. Through research, the City found that the untested receivership model creates uncertainty. There are other options around the Country. This one is our try at it.

Mayor John J. Lee of the City of North Las Vegas submitted a letter supporting S.B. 475 ([Exhibit R](#)).

**Chair Goicoechea:**

As I understand the testimony of the previous presenters, even the City of North Las Vegas would fall under the Department of Taxation in a severe economic hardship and would be managed for a period if it got to that point and had to default.

**Mr. McMullen:**

That is correct. I hope that it will never be in that situation.

**Chair Goicoechea:**

Right, but I feel more comfortable. We are facing the situation for a year or two before we actually get to a bankruptcy declaration.

**Mr. McMullen:**

If you look at the job that was done in White Pine County, there are some significant tools. This adds to them.

**Josh Hicks (National Public Finance Guarantee Corporation):**

Barbara Flickinger of National Public Finance Guarantee Corporation submitted a letter outlining the corporation's position on S.B. 475 ([Exhibit S](#)).

National Public Finance Guarantee Corporation is an insurance guarantee corporation. It is not the bond issuer; it is the bond insurer. Bond insurance allows local governments that issue bonds to issue them at a lower rate because they are backed by a guarantee.

This company has been involved with 20 municipalities in Nevada and insures over \$2.3 billion in bonds. It also does this nationwide, so it has much perspective. The corporation works in states that have bankruptcy authorizations and do not have bankruptcy authorizations.

This bill is new ground for Nevada. Chapter 9 bankruptcy has never been in the State before. There are some ramifications of which the Committee should be aware. This affects bond rates, insurance and the affordability of issuing bonds because of increased risk. Any time the risk of bonds being defaulted on is increased, they become more expensive to issue and insure. There are concerns with that piece of it. This resorts to taking it all the way to get out of some of these financial issues.

Another bill working its way through the Assembly significantly expands some of the powers of the Department of Taxation in a severe financial emergency. We have worked with the Department and support this bill that allows the Department to get into different kinds of contracts and financial pieces and resolve some of these issues short of actually going into bankruptcy. Those are better ways to go other than a chapter 9 bankruptcy authorization.

Some parts of this bill were considered good. However, the Department's testimony about the requirement that the Governor and Attorney General approve these kinds of things made me nervous. That was a good check and balance, but now there may be some concern over how much authority they have to approve that. The Attorney General and the Governor should have full authority to review and decide if this is appropriate. If you do not do that, the way the bill is written, these determinations about chapter 9 will be made by groups like the CLGF and the Nevada Tax Commission. While they are staffed by people with expertise in those areas, they are not elected officials. They are appointed officials; therefore, there is no elected accountability. Going into



chapter 9 is a major occurrence. It will have major impacts on existing and future contracts and finances of that municipality.

One other issue is that this would affect bonds issued on or after the effective date of the bill. When the outstanding bonds were entered into, including bonds guaranteed by my client, there was no chapter 9 in Nevada. Therefore, they are structured and priced accordingly. It would make sense to have that happen on a go-forward basis.

The only local government supporting this bill is the City of North Las Vegas, and it does not intend to use it. It would be appropriate to have an amendment that if this is enacted, it would only apply to bonds issued on or after the effective date of the bill.

**Senator Hardy:**

Does the other bill define severe financial emergency?

**Mr. Hicks:**

Yes, it does, although it follows the same severe financial emergency determination that is made now. The bill expands the powers of the Department of Taxation to deal with a severe financial emergency.

**Senator Hardy:**

Will there be a term that we can apply to a city or entity that is close to bankruptcy or in bankruptcy?

**Marlene Lockard (Service Employees International Union):**

The Service Employees International Union (SEIU) opposes this bill because a process is already in place. The SEIU has been working with the bill in the Assembly and on the amendments that would satisfy the issues that the Department has identified.

**Yolanda King (Chief Financial Officer, Department of Finance, Clark County):**

I am in the neutral position because, obviously, there are pros and cons to bankruptcy. It has already been stated that there is an increased risk for investors because of bonds defaulting in the future if bankruptcy is approved.

If bankruptcy is approved, that increased risk means that interest rates will increase on any bonds issued. It would not be just for a local government that

may be in trouble or appear to be in trouble. The interest rates increase on all local governments that issue bonds from that point on.

Clark County does not issue bonds just for itself. It issues bonds on behalf of many agencies and entities outside of Clark County, for example, the Clark County Regional Flood Control District. Most recently, Clark County issued bonds for the Regional Transportation Commission of Southern Nevada. It is issuing those bonds for the fuel tax dollars being collected, which are worth hundreds of millions of dollars. There is a great deal of flood control infrastructure occurring in the Clark County area.

Clark County also issues bonds for the Clark County Water Reclamation District. There is much infrastructure and hundreds of millions of dollars to be issued in bonds with that agency.

In addition to those agencies, we issue bonds for the Las Vegas Convention and Visitors Authority. Significant expansion is anticipated for that agency; therefore, we will issue bonds for them. Lastly, we issue hundreds of millions of dollars in bonds for the Clark County Department of Aviation.

We are talking about billions of dollars in bonds that Clark County issues not just for itself but also on behalf of other entities. If this law were approved, there would be an immediate impact and an increase in interest rates.

**Senator Hardy:**

Are you sure you are neutral?

**Ms. King:**

That is why I said there are pros and cons with bankruptcy; however, I want you to know of some immediate costs that would occur because of it.

**Senator Hardy:**

I was looking for the pro in your testimony.

**Ms. King:**

Ms. Rubald mentioned the pros associated with the bill. My testimony was specifically to outline that we issue bonds for not just within Clark County proper.

**Chair Goicoechea:**

The issue was raised that it could cost more money. We are presently functioning without the ability to go into bankruptcy, and we work our way through it. What happens if we default today? We cannot declare bankruptcy, so we continue to move forward.

**Ms. Rubald:**

Under the severe financial emergency laws, dissolution is a possibility. In fact, that happened to the City of Gabbs.

**Chair Goicoechea:**

What happens if you have to dissolve a county? The State assumes it, but you continue to work your way forward.

**Ms. Rubald:**

That is true. What I intended to demonstrate regarding bankruptcies on the pro side was the fact that we do not have certain powers, such as breaking existing contracts. That power is carried by the bankruptcy court because it can restructure everything and right the ship in a different way.

**Chair Goicoechea:**

If we do not pass S.B. 475 and the Assembly bill does not go forward, would we not be able to declare bankruptcy?

**Ms. Rubald:**

That is correct.

**Chair Goicoechea:**

It probably would not happen in Clark County, although you never know. A couple cities could go into bankruptcy, disincorporate and suddenly leave Clark County responsible. First Clark County is insolvent and then the State. The State cannot absorb the responsibilities for Clark County, North Las Vegas and Las Vegas. I am just running these scenarios through my mind. If we do not pass this bill, that is where we might be. If we pass it, we are hearing the issues from the other side that bankruptcy could affect bond status.

**Ms. Rubald:**

Yes, that is the negative side to it. However, the objective is to provide one more tool to avoid dissolution and give local governments one more chance through bankruptcy. That is why we are offering this bill.

**Chair Goicoechea:**

Then that is the bottom line. If a city becomes insolvent under the economic hardship and is dissolved, it falls heir to the county, or it could declare bankruptcy. Is that where we are?

**Ms. Rubald:**

Yes, the city could declare bankruptcy under this.

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**Chair Goicoechea:**

It could declare bankruptcy and it would not have to be dissolved.

I will close the hearing on S.B. 475 and adjourn the meeting of the Senate Committee on Government Affairs at 3:42 p.m.

RESPECTFULLY SUBMITTED:

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Suzanne Efford,  
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	4		Attendance Roster
S.B. 29	C	4	Jennifer Ruedy	Work Session Document
S.B. 72	D	3	Jennifer Ruedy	Work Session Document
S.B. 108	E	3	Jennifer Ruedy	Work Session Document
S.B. 310	F	3	Jennifer Ruedy	Work Session Document
S.B. 340	G	3	Jennifer Ruedy	Work Session Document
S.B. 480	H	3	Jennifer Ruedy	Work Session Document
S.B. 482	I	1	Jennifer Ruedy	Work Session Document
S.B. 485	J	1	Jennifer Ruedy	Work Session Document
S.B. 471	K	1	Roger Rahming	Written Testimony
S.B. 471	L	1	Marlene Lockard	Proposed Amendment
S.B. 472	M	1	Roger Rahming	Written Testimony
S.B. 473	N	9	Miles Dickson	Printed Presentation
S.B. 473	O	1	Miles Dickson	Maureen Schafer Written Testimony
S.B. 475	P	2	Terry Rubald	Severe Financial Emergency Decision Tree
S.B. 475	Q	6	Terry Rubald	Comparison of Powers
S.B. 475	R	2	Samuel P. McMullen	Letter from John J. Lee
S.B. 475	S	2	Josh Hicks	Letter from Barbara Flickinger