

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

**Seventy-Ninth Session
March 30, 2017**

The Committee on Government Affairs was called to order by Vice Chairwoman Dina Neal at 8:33 a.m. on Thursday, March 30, 2017, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblyman Edgar Flores, Chairman
Assemblywoman Dina Neal, Vice Chairwoman
Assemblywoman Shannon Bilbray-Axelrod
Assemblyman Chris Brooks
Assemblyman Richard Carrillo
Assemblyman Skip Daly
Assemblyman John Ellison
Assemblywoman Amber Joiner
Assemblyman Al Kramer
Assemblyman Jim Marchant
Assemblyman Richard McArthur
Assemblyman William McCurdy II
Assemblywoman Daniele Monroe-Moreno
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman Chris Edwards, Assembly District No. 19
Assemblywoman Heidi Swank, Assembly District No. 16



STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Jim Penrose, Committee Counsel
Isabel Youngs, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Andrew Diss, Director, Government Affairs, Grand Sierra Resort
Steven Silberkraus, Private Citizen, Las Vegas, Nevada
Alexis Motarex, Government Affairs Coordinator, Nevada Chapter, The Associated General Contractors of America, Inc.
Steve Weinberger, CPA, Administrator, Division of Internal Audits, Office of Finance, Office of the Governor
David Cherry, Communications and Intergovernmental Relations Manager, City of Henderson
John Fudenberg, representing Clark County
Justin Harrison, Director, Government Affairs, Las Vegas Metro Chamber of Commerce
Jeremy Drew, Commissioner, Board of Wildlife Commissioners, Department of Wildlife
K. Neena Laxalt, representing Nevada Cattlemen's Association
Robert Uithoven, representing National Rifle Association
Greg Smith, Private Citizen, Sparks, Nevada
William Molini, Director, Coalition for Nevada's Wildlife, Inc.
Tina Nappe, Private Citizen, Reno, Nevada
Larry Johnson, President, Coalition for Nevada's Wildlife, Inc.
Josh Vittori, President, Nevada Bighorns Unlimited
Karen Boeger, representing Coalition for Nevada's Wildlife, Inc. and Backcountry Hunters and Anglers
Julius Fortuna, Conservation Division Director, Nevada Firearms Coalition
Joel Blakeslee, representing Southern Nevada Wildlife Coalition
Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation
Mike Cassiday, Private Citizen, Reno, Nevada
Steve Canavero, Ph.D., Superintendent of Public Instruction, Department of Education
Connor Cain, representing Nevada Bankers Association
Jennifer J. Gaynor, representing Nevada Credit Union League
George E. Burns, Commissioner of Financial Institutions, Division of Financial Institutions, Department of Business and Industry
Phyllis Gurgevich, President and Chief Executive Officer, Nevada Bankers Association
Raymond Specht, Vice Chairman, Toyota Financial Savings Bank
Stan Wilmoth, President and Chief Executive Officer, Heritage Bank of Nevada

Vice Chairwoman Neal:

[Roll was called. Rules and protocol were explained.] Assemblyman Flores is in the Assembly Committee on Judiciary, so he is not here right now. We will open the meeting and start with Assembly Bill 201.

Assembly Bill 201: Creates the Office of the Inspector General in the Office of Finance in the Office of the Governor. (BDR 18-548)

Assemblyman Chris Edwards, Assembly District No. 19:

I know this bill is long, so I will take it in bite-size pieces and keep it as simple as I can. A logical question to ask would be, Why do we need an Inspector General? In 2016, a purchasing analyst for the Las Vegas Valley Water District was discovered to have stolen \$6.7 million in printer ink over eight years. The Inspector General could have stopped her long before she was caught and could have saved the taxpayers millions of dollars.

A Henderson woman was discovered to have falsely obtained \$1.6 million in loans supposedly for tenant apartment improvements. She obtained an additional \$1.3 million several months later, only to use some of it to pay off her restitution to the district court. The Inspector General could have intervened earlier and diminished the fraud.

The Department of Health and Human Services was found to have overpaid \$3.5 million to \$4.3 million to providers. The Inspector General could have conducted an audit to find the errors and stop them before the millions of dollars were spent. There was the recent case where the Clark County School District was found to have received \$19 million in erroneous payments from the Department of Motor Vehicles. The Inspector General could have intervened and had the money redirected to its proper place.

Each biennium the Audit Division of the Legislative Counsel Bureau provides ample examples of things not being done right in the public agencies. I could go on with more examples of waste, fraud, abuse, corruption, and mismanagement, but I think you get the point.

We spend around \$25 billion over the biennium. We have many dedicated public employees who do a great job. But sometimes even the best make mistakes—or worse, some forget to abide by the rules. To minimize the number of bad apples, an Inspector General could stand as a significant deterrent to the ones who are bad and those who may consider doing bad things.

What is an Inspector General? Simply put, an Inspector General is a watchdog for the public. The Office of the Inspector General would be an objective arbiter of what is going right or wrong, and it would force a fix for what is wrong. It is about accountability and protecting our constituents. It is not about Democrats, Republicans, or third parties. It is about ensuring people do their jobs in a correct fashion. The office would be designed to uncover waste, fraud, abuse, and corruption so that the public money that we authorize for expenditures is spent on what we—the representatives of our constituents—decide we need to spend it on.

This would help to ensure that taxpayer dollars are properly spent and not stolen, wasted, or mismanaged. This would help us to maximize the amount of things we can do for our constituents by not having to pay three or four times as much money to do the same thing. In short, an Office of the Inspector General would help us to maximize the things we do for our constituents regarding education, health care, law enforcement, public safety, et cetera.

The Inspector General would be designed to have investigative, audit, and enforcement functions. The Audit Division conducts audits of state agencies, finds errors, makes recommendations, and follows up, but it does not have the scope of authority that an Inspector General would have. When an Inspector General finds waste, fraud, abuse, or corruption, it would become an integral part of the case that would then be handled by the Attorney General or enforcement divisions within an agency or department.

The Inspector General would tee up the ball for the Attorney General and law enforcement. It would conduct the audit, find a problem, seek out the cause—which could be mismanagement, embezzlement, et cetera—and take appropriate action to stop the waste, fraud, abuse, or corruption. The Inspector General would work as part of the team that corrects the problem and protects the people of Nevada.

Unlike the Audit Division, the Inspector General would not be the agent of a branch of government. Though we housed it in the Executive Branch for practical purposes, it would not act as an agent of the Governor. It would have a tremendous degree of flexibility to pursue waste, fraud, abuse, and corruption in any branch. It would also be given considerable leeway to require the agencies and their personnel to cooperate.

Unlike the Attorney General, the Inspector General is not a constitutional office; it is an independent one. Though the Attorney General focuses on enforcement and penalties in any area of law, the Inspector General would specialize in waste, fraud, abuse, and corruption. The Fraud Unit of the Office of the Attorney General focuses more on individuals and businesses, but the Inspector General would focus more on the public sector. When the Inspector General uncovers a case, it would do the grunt work of putting the process together and then would hand it to the Attorney General. Then the Inspector General would work collaboratively with the Attorney General as needed during the prosecution phase.

I want to emphasize that this is an effort to focus on real money agencies where the potential for waste, fraud, abuse, and corruption is greatest due to the size of their budgets. The Department of Education and the Department of Health and Human Services make up 85 percent of our expenditures. They also involve many people. There are around 25,000 people in the education arena and thousands more in the Department of Health and Human Services. The amount of money they get is in the billions. That is where the Inspector General would focus, because that is where the real savings would likely be found. Those arenas are also important to the state, and we need to ensure every tax dollar we appropriate is properly spent for education and health and human services.

The Committee understands the critical needs in education from classroom supply shortages and lack of textbooks to low pay for teachers. You also know of the significant health care needs of our people. Mental health care needs are not being met. By having an Inspector General to safeguard expenditures, we would help these agencies deliver the services people pay for. I also want to note that this is not aimed at launching excessive or costly investigations into small towns, rural communities, or smaller agencies unless there is credible evidence presented that would warrant the Inspector General investigate it. The authorities in those places would handle those instances locally. Of course, if there were a situation that required an outside investigative agency, the Inspector General would be perfectly suited to help.

This bill was designed to minimize, if not eliminate, start-up and operations costs. It does so by combining the Division of Internal Audits, Office of Finance, Office of the Governor, with investigators from the Nevada Transportation Authority (NTA), Department of Business and Industry, and the Taxicab Authority (TA), also in the Department of Business and Industry. These personnel have the requisite skills to forge an effective Inspector General's office and can be reorganized relatively quickly. Inspector Generals in other states like Virginia, Florida, or Louisiana have had great success at recovering many more times the amount of money than it costs to run their offices.

Assemblywoman Joiner:

In concept, of course this sounds great. None of us wants fraud, waste, or abuse of our public dollars. But I recall hearing this bill last session, and all the examples you gave today were the examples given last time—episodes where we found and responded to the abuse. Last session this did not pass mainly because there was no demonstration of need. There was no evidence that we have waste, fraud, or abuse happening that we are not detecting, or that the agencies are not being responsive. What new evidence do you have that we need this bill? What evidence do you have of things happening that we are not identifying? What evidence is there that agencies are not being responsive?

Assemblyman Edwards:

The examples I used are a bit new. The other examples are from the Audit Division. You are correct that there are agencies that do go out and find it. What I am proposing is that the Inspector General has specialized skills because they are focusing on it, whereas the Attorney General might have a fraud office that deals with people and companies. The Office of the Inspector General would look at the public sector for state agencies. There is a differentiation of services there.

Assemblywoman Joiner:

All of the examples you provided are cases that we have discovered. The Audit Division does an excellent job. The book you held up means they found it, and it has been corrected. So for me, this is still a duplication. I do not understand, and I would like you to respond to why we should give the Executive Branch this duplication at quite an expense. If we do not think the Audit Division has enough capacity to deal with this, why are we not funding our Audit Division more? So far, you have not demonstrated to me at all that our auditors are not

doing enough or are not discovering certain things. In my experience, those agencies do respond because they know we have their budgets. If you have ever sat through a money committee meeting, you know they are often asked about the audit transgressions. Why would we have the Governor appoint someone to oversee his own agencies and spend all that money when you have no evidence that our auditors currently are lacking in any way? Why would we not expand the Audit Division if it were merely a capacity issue?

Assemblyman Edwards:

One of the first questions I asked the Audit Division when I became an assemblyman was, Do you have enough people to do the job? Because I did not think they did. They can conduct about 14 audits a year. They do a great job; there is no doubt about it. But you do not know what you do not know. We may have agencies out there doing a great job keeping a lot of stuff under control, but sometimes an agency needs an outside party to come in and do the investigation. Sometimes other agencies need supplemental assistance. Sometimes agencies do not know what to look for.

We would be getting a specialized group of people whose focus is waste, fraud, abuse, and corruption. They know where to look. It would help the current efforts to find the things we are missing. One of the examples in education was where the Audit Division discovered \$384 million of class size-reduction money that could not be accounted for. Part of that was they did not have the records and files to go on. By having someone look at the files, it forced the agency to do the job correctly so that people could be assured the money was spent correctly. I think it is not just a matter of other agencies are not doing their jobs now, but that they need a whole lot more help. We are talking about \$25 billion dollars every two years. It is being spent in all kinds of contracts, actions, and programs. If there is waste, fraud, abuse, or corruption, this is a tool we could use that has been effective in other states.

Assemblyman Ellison:

I am looking at two things—one is the \$10 million to get this started. Is this not something we could take and create a division out of the Office of the Attorney General? We would not be creating a new finance board.

[Assemblyman Flores assumed the Chair.]

Assemblyman Edwards:

There are all kinds of ways we could go with this. However, the Attorney General did not come forward this session to create a larger office. Again, this division would focus on people and companies as opposed to the public sector. That is one distinction. To minimize the costs, I have absorbed in current employees who can do the job—auditors and investigators. The other thing I have done is suggested building this into the Executive Branch because it is a logical place to be. However, it is an independent agency. They have tremendous flexibility to pursue waste, fraud, and abuse wherever it may be found.

Assemblyman Marchant:

Do you anticipate this new position would enable us to catch things faster?

Assemblyman Edwards:

Yes. That is one of the key elements. Some agencies may be able to get their audit team together in a few weeks, or they have to borrow from different departments or divisions. This is like a strike team that can go in and efficiently and effectively seek out the information they need in order to stop the corruption, waste, fraud, or simply the mismanagement of funds. Sometimes people just make mistakes with how to spend money. This would give us the opportunity to stop it a whole lot faster. In doing so, we could save millions, or potentially tens of millions, of dollars.

Assemblyman Kramer:

I noticed one of the examples you gave was not a state agency. My question would be, how far-reaching would this go into local governments, general improvement districts, et cetera? I have a tough time seeing this apply to the Nevada Gaming Control Board, which is an investigative agency itself. What types of agencies would be excluded? I noticed you went through a great effort to use existing investigative people and audit groups to encompass them under new leadership. How many new positions are you talking about?

Assemblyman Edwards:

I am trying not to create new positions. That is the nice aspect of this. We are putting people into a new organization. They would continue to do the functions they are already doing, but when you pull these people into an organization that is better focused on waste, fraud, abuse, and corruption, then they can do their job more efficiently. They are more effective at getting the job done faster and more often. As far as the reach, anywhere public money is being spent, the Inspector General could go. However, we put in a primary focus must be in the bigger agencies where the majority of the money is. Frankly, cities and counties make a good point—the local agencies often will find things fast because they are small. People know each other in the smaller rural communities, especially. That will not be our focus. However, if you run into a situation where a small town or a small city needs someone to come in from the outside, that asset would be available to them.

Assemblyman Kramer:

The Gaming Control Board is an investigative agency itself. It seems like that would be exempted from investigation by the Inspector General. I spent time in the military, and if you thought your chain of command was covering something up, the Inspector General was where you went to get that exposed. Is that the purpose of this as well?

Assemblyman Edwards:

Absolutely yes. The idea of the Inspector General comes from my military experience as well. We knew if the Inspector General came in to our command, we had better ensure we cooperate and have our ducks in a row. Not only would this find problems, it would also deter people from creating more problems and doing things wrong in other agencies, divisions, or departments. You make a good point about being duplicative. Part of the bill actually would require them to look into the investigation to ensure they are not doing the same work of others. We do not want them to be paying twice for the same project.

Assemblyman Carrillo:

Obviously you have chosen the NTA and the TA to facilitate this program. With Uber and Lyft, taxicab ridership has dropped, and they have lost a lot of funding. Why did you pick these two agencies to attack? I feel this is not even in the right authority. Why do you want to take money from those two agencies and utilize their investigators?

Assemblyman Edwards:

The reason I chose the NTA and the TA is because in consultation with people who have worked in those departments, they indicated they have the requisite skillsets I was looking for. They have already done the background checks and are hired. It would not take much time to pull them on board. It is not so much an attack on them—they just have the skillsets required. I am trying to reduce the costs. Even though they are losing money now, I am not trying to take every single one of them. I just want enough employees to round out the Office of the Inspector General.

Assemblywoman Neal:

Starting in section 9, subsection 1, it says, ". . . each state agency and local government and any employee of a state agency or local government . . .", and you define local government as meaning all kinds of things, including an irrigation district. But in section 9, subsection 3, you say if a person, ". . . willfully resists, prevents, impedes or interferes with the Inspector General . . ." then you can fine those agencies not less than \$500 but not more than \$25,000. You have all the actions in a series. How do you know which level is egregious? Are there even levels of egregiousness or failures to act?

Assemblyman Edwards:

Absolutely yes. That is why I use the terms "appropriately" and "appropriate agencies" in various parts of the bill. The fines are not there to be employed; they are there to deter people from not cooperating or from perhaps trashing evidence. Whether the evidence is on a web server, file, or computer, we want to prevent the loss of evidence. Having a fine does a whole lot of good to deter that action.

Assemblywoman Neal:

I want to know instances where people deliberately disposed of information that was requested by the Attorney General, the Department of Taxation, or the Department of Administration in their audits. That is something you can answer later. I have a question on section 25 and section 26. Section 25 establishes a time period of seven years that someone cannot bid on a public works project. How did you arrive at seven years?

You also create a penalty if the person knows they were guilty of fraud or abuse and they apply for work on a public works project. In section 26, subsection 2, you have that the person ". . . shall be punished by imprisonment in the county jail for not more than 364 days, or by a fine of not less than \$2,000 or more than \$50,000 . . ." Can you explain those provisions?

Assemblyman Edwards:

The reason for the penalties is to deter people from wasting our time in future contract bids. If they know they were convicted of some type of waste, fraud, or abuse—if they even had a plea bargain—they know they should not be submitting another bid. This is simply to say that if you do, we will have to punish you again. We do not want to put an additional workload on our people by having people who cannot qualify for the award submitting bids.

Assemblywoman Neal:

You have fraud, waste, and abuse listed. Section 11, subsection 5 says, ". . . maliciously engaged in . . . waste" If you engaged in waste, what level of waste prevents you from applying for a public works project for seven years? It seems arbitrary. There is a huge difference between fraud and waste. I do not know if we apply legal ramifications for wasting money and turn around and say, Because you wasted money you cannot get a public contract.

Assemblyman Edwards:

That section can be defined better. I would be more than happy to work with you on that.

Chairman Flores:

Are there any other questions from the Committee? [There were none.] Is there anyone wishing to testify in favor of the bill?

Andrew Diss, Director, Government Affairs, Grand Sierra Resort:

According to the Council of State Governments, 12 states have an Inspector General's office with statewide jurisdiction. Approximately 28 other states have created Inspector General offices with jurisdiction limited to specific agencies. There are 40 other states doing this in some form. Assemblywoman Joiner asked about new examples that have happened recently, and I am here to talk about one in particular. The deterrence and elimination of fraud, waste, and abuse is the primary charge of an Inspector General. The Reno-Sparks Convention and Visitors Authority (RSCVA) is a ripe organization for an investigation. Out of a State General Fund budget of approximately \$42 million, over \$4 million a year is lost through mismanagement of its facilities. This represents 10 percent of its overall operating budget. It is all paid for through public tax dollars. I have provided the Committee with financial documents from RSCVA, which outline the growing losses it is responsible for ([Exhibit C](#)). It continues through 2020.

During the last legislative session, the RSCVA was charged with formulating a strategic plan to set a clear direction for the organization that will allow them to attract more visitors to northern Nevada. However, the losses are projected to increase with no solution for how to deal with the growing problem ([Exhibit D](#)). These growing liabilities and increasing losses of taxpayer funds are not a sign of a well-formulated plan. It is for these reasons I am supporting this bill. I hope that an Inspector General would be able to do a thorough investigation of this organization and get to the bottom of why these public tax dollars are being frivolously wasted. The old saying goes, Where there is smoke, there is fire. When you look at this organization, there is a lot of smoke.

Steven Silberkraus, Private Citizen, Las Vegas, Nevada:

I am here to support Assembly Bill 201. Having spoken with many people on both sides of the aisle in Las Vegas, this issue has garnered a lot of support. The opportunity to shine a light on additional areas to ensure we are rooting out fraud and waste is a net positive for all of us. I have interacted with agencies where information was requested and not given, even after multiple attempts. The Office of the Inspector General would have the ability to go in and ensure dollars granted by the Legislature are used for their intended purposes. We talk about the need for dollars in classrooms. This office would have the ability to ensure the dollars we set forth to ensure our students succeed are delivered to the classroom and used in the way they were intended. During the last session, I believe this bill did not make it through due to time, unfortunately. I think it was a victim of sine die. However, it would have been good policy then, and I believe it would be good policy now.

Chairman Flores:

Is there anyone wishing to testify as neutral to the bill?

Alexis Motarex, Government Affairs Coordinator, Nevada Chapter, The Associated General Contractors of America, Inc.:

We have a few concerns in sections 25 and 26. Section 25, subsection 1, says a public body cannot accept a bid, contract, or award from someone ". . . who has entered into a contract that was terminated" A contract could be terminated for lack of funding or convenience, so we would like that to be defined more clearly. It goes on to say, ". . . has been ordered to repay public money or who has entered into a contract which was terminated pursuant to subsection 4 or 5 of section 11" We would like to clarify that the contractor participated in the fraud, waste, or corruption—not just that it was a public body—before the contractor is blacklisted.

Steve Weinberger, CPA, Administrator, Division of Internal Audits, Office of Finance, Office of the Governor:

I am here in a neutral position and to answer any questions you may have about what we do now. I also have a bit of information about the fiscal note we prepared for this bill.

Chairman Flores:

Is there anyone wishing to testify in opposition to the bill?

David Cherry, Communications and Intergovernmental Relations Manager, City of Henderson:

We recognize the obligation to be prudent stewards of our financial resources and certainly the importance of safeguards to ensure that policies, regulations, and laws are being followed. However, we have concerns about the extremely broad powers this bill would cede in creating the Office of the Inspector General. We appreciate both the opportunity to have met with the sponsor of the bill and his willingness to discuss the issues I will share with you this morning.

Under this legislation, the Inspector General would be able to direct the types of audits the City of Henderson performs, how they are to be performed, and would be empowered to take over direction of the city's staff—who in essence would be working for the Inspector General in an internal audit function. We are also concerned by the lack of an "intent standard" tied to the actions of staff when it comes to allegations of waste, fraud, or abuse. There is a lack of definition in the bill for the terms "waste," "fraud," and "abuse." What constitutes waste? Is it a waste of materials or resources, or could it be a subjective judgment that a program is "wasteful" because in the eyes of some it is not needed?

A similar issue comes up with the term "abuse." Is that specific authority, and what are the standards? With no intent standards such as "willful" or "malicious" present in the legislation, we feel the law would open the door to potentially inadvertent violations subject to interpretation on a case-by-case basis. Finally, the ability for an Inspector General to shut down a contract midterm could be costly to the city in terms of project delays and increased costs due to having to rebid a contract.

John Fudenberg, representing Clark County:
Ditto.

Chairman Flores:
Assemblyman Edwards, will you come back up and make your final comments?

Assemblyman Edwards:
Whenever you try to set up a watchdog organization, there is always going to be fear and trepidation about what could go wrong, what might not go wrong, and how people and agencies might not have a good day. There is an extensive amount of authority that would be given to the Inspector General for a reason. Something has gone wrong, and we have to protect the public interest. That is what this does. It would also allow us to do our job and meet the needs of our citizens by having the resources to do so. I understand the concerns of some cities. I want to reemphasize that this is looking at the agencies that have significant funding and staffing attached to them.

This is not looking to go down to Henderson and control their staff, unless we get a call from someone saying, We have a situation here that is not being handled internally. The Office of the Inspector General staff would have enough professional experience to know the appropriate action to take in order to protect the public interest. I have an amendment I plan to add to this. I would be happy to add Henderson's to it. Frankly, I would consider it a friendly amendment.

Chairman Flores:
I will close the hearing on A.B. 201. We will open the hearing for Assembly Bill 373.

Assembly Bill 373: Revises provisions relating to certain boards and commissions of the Executive Department of the State Government. (BDR 18-192)

Assemblywoman Heidi Swank, Assembly District No. 16:

I am here to present Assembly Bill 373, which reapportions seats on several statewide boards and commissions. This is the second go-around for this bill. We did this in 2015, and we worked out some kinks. We reapportioned the Real Estate Commission within the Real Estate Division of the Department of Business and Industry, which I will talk about later. It has been working pretty well under this system since 2015. This came out of the Southern Nevada Forum in the interim and was one of their priority bills in the Forum's Good Governance Committee.

This bill is quite different from what came out of drafting. There are a lot of moving pieces in here. I will talk it through on the PowerPoint so we can do the rework together ([Exhibit E](#)). More on the PowerPoint is correct than what is in the bill. One other note is that at this point, Clark County is so big that it is almost impossible to get proportionate representation while having other counties in the state get seats on these boards. This bill ensures that every area in the state has at least one seat on these boards and commissions. We want to ensure everyone has representation.

These are the boards and commissions that would be reapportioned under this bill. We have the Commission on Tourism, Department of Tourism and Cultural Affairs; the State Public Works Board, State Public Works Division, Department of Administration; the Nevada Tax Commission, Department of Taxation; the voting members of the State Board of Education; the Board of Directors of the Department of Transportation; and the Board of Wildlife Commissioners, Department of Wildlife, commonly called the Wildlife Commission. Many of these were selected out of discussions we had with the Brookings Institution in Las Vegas to determine which ones should be included.

What is currently happening with statewide boards and commissions is that they are apportioned by different means. I grouped them in ways to clarify how we are apportioning seats on these commissions. They are apportioned by field. It could be an area of expertise. This is what is used for determining who fills seats on the Tax Commission, the State Public Works Board, the Commission on Tourism, and the Wildlife Commission. It could be apportioned by population caps, or what is called "highway districts." The Department of Transportation uses highway districts to apportion seats.

It could also be apportioned by who appoints them—the Governor, the Majority Leader in the Senate, or the Speaker of the Assembly. This is what happens for the voting members of the State Board of Education, the State Public Works Board, and the Commission on Tourism.

One problem is that this often results in disproportionate representation across the state. Clark County is most often underrepresented, and there is at least one instance here—the voting members on the Board of Education—where the rural areas have no representation. I am sorry to the people in Washoe County, but you often have overrepresentation just because of the shifts in demographics. That gets us to the thing I believe is most powerful about this bill and why I am doing it for a second time—it allows us to reapportion seats on these statewide boards and commissions as the population distribution changes.

In the 1950s or 1960s, there were four seats on the Real Estate Commission. Two were in the north and two were in the south. At that time, it was great for Clark County. The county was tiny, so it had great representation. But we saw an explosion in Clark County. The representation was not as good for Clark County, but it was good for Washoe County. The rural areas had no representation. Last session, by using this system, we were able to reapportion those seats and get better representation for all areas.

This was set up in the 1950s and has never changed. But as I will talk about at the end, section 2, subsection 5 of this bill sets it up so every ten years the seats are reevaluated to ensure we are keeping up with the population distribution. If Elko becomes a big population center like Clark County did, this would allow for our boards and commissions to have that flexibility going forward.

There are three geographic groups. I am not totally happy having geographic groups, but I am not sure how else to do this. How I apportioned them is that Clark County has about 1.9 million people in it. They would have to be on their own. I tried to group in other counties, but they would not get good representation. I linked together Washoe, Lyon, and Storey Counties and Carson City into a bit over 500,000 people. All the other rural areas are aggregated into a bit more than 200,000 people. I used these as a guide to try and find proportionate representation across these boards and commissions.

I will start with the first one. Section 1 of A.B. 373 revises the apportionment for the Commission on Tourism. On the left is the current apportionment and on the right is the proposed apportionment [page 6, ([Exhibit E](#))]. We are going to be placing geography as the primary determinate on who gets appointed to statewide boards and commissions. But you want to make sure each entity has people who know something about tourism. Instead of saying the area of expertise is how to apportion them, we are saying we would like the people doing the appointing to keep an eye out for an even geographic distribution for these fields.

For instance, on the Commission on Tourism, Clark County would get five seats, the Washoe area would get two, and the rural areas would get one. The people who do the appointing would have to ensure they appoint members who are informed on and have experience in travel and tourism, including gaming and ecotourism. Ecotourism is in green because that is a new field we would like people to consider for the Commission on Tourism.

Section 3 of A.B. 373 addresses the State Public Works Board. We did our best guess as to where the current members are from [page 7, ([Exhibit E](#))]. My apologies if some of these are off. We see that Clark County would shift from five members to three, Washoe would get an extra member, and the rural areas would get one. The primary determinate is geography, but we want people to keep an eye towards people with an education or experience in engineering and architecture. We want members with experience in sustainable architecture or adaptive reuse, a license in construction law, or who are building or general contractors. The Governor, the Senate Majority Leader, and the Speaker of the Assembly would, as feasible, not appoint more than three members from each area. We are trying to make the field area more flexible, which was our problem last time.

Sections 4 and 5 deal with the Tax Commission. We would shift to five members from Clark County, two from Washoe, and one from the rural counties. We would be adding in that three members must have at least ten years of experience in property taxation. We have the same fields that exist now and added "to extent practicable, not more than one from each field." We are flexible with the language from section 5, subsection 2, which states that no more than five commissioners can be from any one county [page 8, ([Exhibit E](#))].

Section 6 deals with the voting members on the Board of Education. This would add one member. We are too big of a state to have good representation with a three-member board. We would add a member appointed by the Governor for the rural areas [page 9 ([Exhibit E](#))]. We would add enabling language encouraging people to conduct meetings via videoconference in order to keep down travel costs.

The Department of Transportation makes no changes. Their current distribution fits the new plan. As feasible, appointments of more than two members with the same qualification set will be avoided. The Wildlife Commission is a new one. It would change some of the seats. Clark County would get five members, Washoe would remain with two, and the rural areas would change to two members. We would add one other area. We were trying to capture the idea of a conservationist. Mirroring the requirement that a member should have a license to fish or hunt at least two of the last four years, we are proposing that members have held a Nevada state or national park pass at least two of the last four years. As is feasible, no more than four members should be from any of these three areas, and no fewer than two should have the same qualification set.

I will go back to section 2, because that is where the plan is laid out. This is what we are using for the Real Estate Commission, and it seems to be working so far. These are all apportioned by an area. Let us say you want to appoint a member from Clark County, but you cannot find anyone. There is a certain roll-around that happens. If you cannot find someone from Clark County, that seat rolls to the rural counties. If you cannot find someone from the rural counties, that seat rolls to Washoe. If you cannot find someone from Washoe, then the seat sits vacant for that term, which we do not anticipate happening. If it is difficult finding someone from the rural counties, we want to ensure there is still representation. We want to give first crack to the people who geographically should have that representation. That is in section 2, subsection 3.

Section 2, subsection 4 clarifies that members only get replaced at the end of their current term. No one is getting kicked off their board or commission. The seats are reevaluated at the end of the current person's term. If they meet all the requirements of the new position, they can stay. If not, we need to find someone from the correct geographic location. Section 2, subsection 5 outlines the ten-year review of the distribution. This would be two years after the federal census. This is when you would shift in which numbers you are using to reevaluate those seats.

Assemblyman Ellison:

The Real Estate Commission is supposed to vote on who they want as board members, do they not? We are going away from what they proposed for many, many years. Can you hit on that one? Then I will jump straight to the Wildlife Commission.

Assemblywoman Swank:

The Real Estate Commission is the board we changed last session. That one is done. I worked with the Real Estate Commission, and they were happy about that restructuring. The positions on these boards are appointed by members of this body and the Governor—not anyone who is elected. This is specifically about Legislature and Governor appointees.

Assemblyman Ellison:

The apportionment for the Wildlife Commission gives Clark County five positions, Washoe County two positions, and the rural areas two positions. However, 90 percent of the wildlife is in the rural areas. You are taking away representation from people who actually own the ground. I have a real problem with that one. There are 17 counties out there, and we are focusing on 2. Maybe we should look at how the state is shaped and do something different, but we keep seeing rural counties ignored. We are not giving the right representation to the people out in rural Nevada. Where do the deer come from? Where do the elk come from? Where are the sage grouse and the chukars? In the rural areas. Maybe we need to look at the state as a whole. I do not mean to be disrespectful, but this should be Nevada. It should not be divided by population. We have too many of these divisions in bills. I have a problem with that. If I am here next year, we can address this issue. I will put a bill in.

Assemblywoman Swank:

I agree. I am not comfortable with regionalism, either. But we are looking at ways to ensure everyone has some kind of representation. I will refer back to the voting members on the Board of Education. Right now, the rural areas have no representation on that. I find that very disturbing. I think that is not a good policy for our state. We cannot leave a board like this without representation from one area. The wildlife does exist in rural Nevada, but it is not only people in rural Nevada who enjoy that wildlife and travel out to those areas. We are open to talking through this and ensuring it works for people. I am always open to working with people. I think we need to have better representation on the Wildlife Commission. I know from living in southern Nevada, there is a concern there that people do not feel their voices are being heard, yet they spend a significant amount of time in rural Nevada, too. I know it is a tension, and I get it. I am happy to sit down and talk to you about it.

Assemblyman Ellison:

I appreciate that. I got tons of letters from people all over the state, but these are not the ones hunting—they are there year-round. Washoe has many people out there constantly, but if you look at Winnemucca, Ely, and Eureka, the people live there 12 months out of the year. They see how the wildlife is distributed and what they need to protect it. Those are the people we have to focus on. They live there day after day.

Assemblywoman Swank:

I agree. This does not eliminate their voice at all. It does not take them out of the process at all. As I said, I am happy to sit down with you.

Assemblyman Daly:

I want to follow up on some of this stuff. I know you were trying to hit a population number when you subdivided the state, but you isolated Douglas County—which probably has more in common with the Carson and Washoe area than the other rural counties. The Governor appoints these members, and people can apply. There is a process. We have these three areas of the state, whether we like it or not. We are one Nevada, and I like to focus on that. But we do have southern Nevada nature. We have a hearing tomorrow morning on something that is of particular interest to people in the south, but it is a state issue. Lake Tahoe is of more interest to people in the north, but it is a state issue. I like to shy away from this mentality of the north against the south or the south against the rural areas.

We have the three regions represented, but we also look at qualifications. I think qualifications are more important than where a person may live, which is why I would not want to come away from that. Right now, the Governor can choose to take the best person instead of having to choose based on regionalism. Now we are taking that away. We will be picking people based on where they live.

Assemblywoman Swank:

This bill does not take away qualifications; it just loosens which qualifications you need. You have to have one or more qualifications currently in there. It only just gives the primary decision to the geographic distribution. I understand the concerns, but there is also a history of how things have worked, and that is why this came out of the Southern Nevada Forum. There has been a concern of not having representatives from the south. I am not big on doing any southern grab, but I do think there are valid concerns about the distribution of members.

Having done this twice now, the only commission that has met this geographic distribution consistently has been the Board of Directors of the Department of Transportation. That is the only one that does not shift in this bill. However, I would argue that there has been a preference for people who do not meet the distribution of the state. I understand that this does create regionalism that I am not terribly comfortable with, but I also feel like we have to address the history.

Assemblyman Daly:

I know the Department of Transportation does their selection on a vastly different model than you have. There are regional, urban, and rural areas in the Department of Transportation districts.

But I will move on to my next question. I saw your definition for ecotourism. You are going to have 25 percent of the eight people on the Tourism Commission be experts on ecotourism. We have other tourism, too. We have medical tourism, for example. I am sure my colleague from the other house will say there will be marijuana tourism too. Your definition of ecotourism explains that the tourism is nonconsumptive. I think you will start a competition about having other kinds of tourism on the board. I am not sure that is a good idea.

And for the Wildlife Commission, you have written in section 9, subsection 2, paragraph (b) that someone needs to have a state park pass. What kind of pass are we talking about? A day pass? A year pass? I thought being a citizen gave you a pass to go to those parks. I am not sure that is the right direction, either. I agree with my colleague from Elko that most of the issues and resources are from those rural counties. They are the experts on it. That is why they get more members.

Assemblywoman Swank:

As far as the ecotourism, there is an eye toward getting people out of our urban areas. I want to get a better voice on that commission to pull people out of our urban areas and into our great outdoors. Ecotourism brings in a significant amount of money every year. I think it is one of our areas that we need to be promoting. We can bring a lot more tourism to our small towns. Having a voice for ecotourism on the Tourism Commission is a good way to get people pulled out into those areas. I represent people near the Strip, but those people are also looking for new things to do. The parks pass would be an annual parks pass.

Assemblywoman Neal:

I have a question about section 4, where you are adjusting the Tax Commission. I wanted more explanation around the ten years of experience in the field. What is currently happening now? I understand this bill is about equity, but how is the membership on the board currently? How are the members set up regionally?

Assemblywoman Swank:

The current apportionment for the Tax Commission is Clark County has four members, Washoe has three, and the rural areas have one. It would move one seat from Washoe to Clark County. The requirement for ten years of experience was taken from another area that I believe was deleted. I have to look and get back to you on that. My apologies, that has fallen out of my head. I will get that answer to you.

Chairman Flores:

Are there any other questions from the Committee? [There were none.] Is there anyone wishing to testify in favor of the bill?

Justin Harrison, Director, Government Affairs, Las Vegas Metro Chamber of Commerce:

We would like to thank Assemblywoman Swank for bringing A.B. 373 forward. It is something we have worked on in conjunction with her over the past number of years. She brought a similar bill forward, Assembly Bill 410 of the 78th Session. Obviously we are here today in support as we worked with her through the interim. This was brought forward during a Southern Nevada Forum. We had hundreds of community members who participated in those discussions. We believe this brings more equity to the process, not just for southern Nevada and Clark County but also to our rural communities.

[([Exhibit F](#)) was submitted but not discussed and will become part of the record.]

Chairman Flores:

Is there anyone wishing to testify in opposition to the bill?

Jeremy Drew, Commissioner, Board of Wildlife Commissioners, Department of Wildlife:

Our commission has adopted a legislative platform in opposition to any changes to the current composition of the Wildlife Commission. My comments today will be specific to section 9 of the bill.

The Wildlife Commission is responsible for setting broad policies and regulations that pertain to wildlife management, hunting, fishing, and boating. Our decisions are made after considering the scientific, biological, or otherwise technical input from the Department of Wildlife, as well as input by county advisory boards and the public. We take public input on every action item in excess of what is required by the Open Meeting Law.

The current structure provides geographic diversity, which is critical given the diversity of Nevada's wildlife habitat, populations, and associated recreational opportunities. This structure also allows us to hear a variety of viewpoints. People with licenses have critical knowledge and experience with rules and regulations that we develop. Farmers and ranchers have distinctly different and unique perspectives of wildlife interactions as well as public lands. The conservation and public representatives provide unique perspectives on wildlife diversity and recreation such as bird watching.

The sponsor made a note that we need a better definition of "conservationist" on the Wildlife Commission. I would submit to you that of the nine members on our commission, all nine are conservationists. In closing, I would classify the Wildlife Commission as the intersection between biological and social sciences. People have strong opinions when it comes to wildlife. As legislators, you are well aware of the difference between not listening and simply not agreeing on an issue. Our commission is very receptive to all input, and prides itself on making objective decisions on controversial issues.

Assemblyman Daly:

Do you have any jurisdiction over the national or state parks, or just the wildlife?

Jeremy Drew:

I cannot think of any direct jurisdiction we have over state or federal parks outside of whatever recreation may occur. For example, the South Fork State Recreation Area has boating and fishing.

Assemblyman Daly:

You do not regulate the parks? Activities may happen in the parks, but it is not your jurisdiction. I am just trying to understand the section requiring that a person purchase a parks pass. That is not relevant to what you do, is it?

Jeremy Drew:

Correct.

K. Neena Laxalt, representing Nevada Cattlemen's Association:

I know other people will comment on section 9, so I will keep this short and sweet. I want to comment on two things that were voiced. One, qualifications have been taken into consideration, and two, it does not eliminate a voice. In fact, in section 9, this bill has combined farming and ranching. Only one member can be represented on this commission. Farming and ranching are two different things; they are not the same thing. We would, in fact, lose a voice on that. Again, I would reiterate what Assemblyman Ellison said. Ninety percent of wildlife issues are the concern of the rural communities. We would like to keep those numbers as they are.

Robert Uithoven, representing National Rifle Association:

We would echo the comments you have heard here in opposition regarding section 9. There is also a letter of opposition from the Nevada Firearms Coalition ([Exhibit G](#)). We echo those concerns, as well as those made by Assemblyman Ellison and Assemblyman Daly. We believe the Wildlife Commissioners should be made up of a majority of hunting and fishing licensees. It should be the Governor's discretion to determine the expertise and where they may find those, regardless of region. In its current form, we oppose A.B. 373 specific to section 9. We will be happy to work with the sponsor. We have not had that opportunity yet. We will reach out and work through those issues.

Assemblyman Ellison:

I apologize for not hitting on the difference between ranching and farming. Ninety percent of rural Nevada is either ranching or farming. It is two different worlds. Many farmers are feeding the elk and deer, but the ranchers are building the watershed and the ecosystem. I am glad you brought that up, thank you.

Greg Smith, Private Citizen, Sparks, Nevada:

I am here representing myself as a sportsman. This bill came to my attention. I like to think I am a conservationist. I am concerned about the sponsor's definition of a conservationist in the bill by requiring a parks pass or hunting license. I have spent my entire life hunting, fishing, and volunteering for projects across the state. That is my definition of a conservationist. I disagree about the bill's definition. I also worry about qualifications on

the recruitment of people throughout the state. The idea that most of the hunting population comes to Las Vegas, I will not argue that; but as far as experiencing or coming into contact with nature and things in nature, I would almost bet that the high majority of people coming from Clark County to northern Nevada visit it for maybe a week. That is their level of involvement. I am sure they want more, but that is all they can afford. They can take a week off, get a deer tag, and go hunting in Elko County. I am concerned that it is not really what conservation is about. They want to be involved, but they are not able to because of location. That concerns me. Most of the conservation that goes on today happens in the north because people live and breathe it here. I am concerned that urban Las Vegas would not experience that, but we would have more representatives from that area.

William Molini, Director, Coalition for Nevada's Wildlife, Inc.:

I am a third-generation Nevadan, and president of the Nevada Waterfowl Association. I worked for the Department of Wildlife for 30 years. I worked as the Director for 16.5 years. That was eight legislative sessions, which were always enjoyable. I fail to see any demonstrated need at all for the change in the Wildlife Commission. During my tenure, we had two chairs of that commission from Clark County. Clark County was always well represented. But what I really want to get to is that we enjoy abundant wildlife resources, including deer, elk, bighorn sheep, antelope, black bears, mountain lions, and an array of other wildlife. That is due to the North American Wildlife Conservation Model. It is recognized worldwide as the model for wildlife management. The Department of Wildlife has delivered an excellent wildlife management program. Basic elements of that model are that wildlife belongs to the people, wildlife is managed in public trust, wildlife is managed under scientific principles, and that users pay. In fact, sportsmen pay the bulk of wildlife management costs.

I submit that the current structure of the commission has worked very well. I can remember back in 1979 when they added a farmer and a rancher, I was worried. As it turned out, they have been excellent commissioners. I think the current structure of the commission is excellent. It has been very successful. I see no need for a change.

Tina Nappe, Private Citizen, Reno, Nevada:

I was the first conservation representative on the Board of Wildlife Commissioners beginning in 1979 ([Exhibit H](#)). I would like to point out that actually the Commission on Tourism provided money to the Department of Wildlife because sportsmen, hunters, and fishermen were considered ecotourists throughout the state. The value of their going hunting and fishing throughout the state was extremely valuable.

I would like to compliment the sponsors of this legislation. It is not often that these boards get a regular review, and they do need to be updated. I support the look at the regionalization of membership. There have been times when we have had two excellent candidates from Carson City, but could only appoint one. Under this regional outlook, there could be more than one candidate from a county if that was appropriate. I am in full support of that.

However, I will speak up for the conservation position, which is in itself an ecotourism position already. There have been three people in that position, and we have all done work in promoting different programs. I put together the state's first rare and endangered species program. I did educational programs and newsletters on it. The two people who have followed me are members of the Lahontan Audubon Society. They regularly lead birding tours. We have done that.

I like the idea of the general public member because it could be a wildcard. You bring in people who are very different. Most of us buy Golden Eagle Passports by now, so we would all be eligible for this position. I really support retaining the membership, but I support looking at the regionalization of these memberships.

Larry Johnson, President, Coalition for Nevada's Wildlife, Inc.:

My opposition is multifaceted. First, regarding the state and national parks passes, the Division of State Parks, State Department of Conservation and Natural Resources, does not even have a database of their access passes. That is kind of like comparing oranges and apples as far as qualifications for the Wildlife Commission. It is akin to allowing a commuter on a freeway to be qualified to sit on the Board of Directors for the Department of Transportation simply because that person happens to use the highway. Access to a state park has absolutely nothing to do with wildlife management statewide. One-third of the revenue from sportsmen across the state comes from Clark County, one-third comes from northwestern Nevada, and one-third of it comes from the rural areas. That is reflected by license and tag holders statewide. That is adequately reflected in the composition of the present commission.

In the many decades I have been involved, Clark County has always had at least three commissioners on a nine-person board. In contrast, the great majority of wildlife resources lie in the rural counties and northwestern Nevada. For example, Elko County probably has the greatest populations of wildlife diversity. It is most heavily used for wildlife users statewide. They are, unfortunately, not even included in the teleconference and are unable to give verbal testimony today with this short notice. I think that is a disservice to all the people in that great county. I object to the elimination of the conservation interests simply because they have been extremely successful in their duties for many decades.

I object to the combining of the ranching and farming interests. Not only are they impacted by our wildlife resources, but they are also an important partner to us in the management, enhancement, and protection of our wildlife resources. Quite frankly, this bill reduces the representation of the people who fund the system to a minority. We object to that. The Wildlife Commission and our series of county advisory boards that take public input statewide, it is by far the most democratic form of any department within the state of Nevada. I urge you to reject this portion of A.B. 373.

Josh Vittori, President, Nevada Bighorns Unlimited:

I have problems with the proposed geographic, county-based approach within this bill. The current stratification is adequate. If you see the strikeouts, there are already population-based criteria, and I feel that the rural representation is appropriate on the commission. I also agree with what Mr. Johnson has said about Clark County still having a dominant representation on the commission. The conservation representative losing a seat at the table is unacceptable. A specific voice for wildlife conservation is critical in making intelligent, informed wildlife management decisions. Reduction in the number of sportsmen's seats is unacceptable. The sportsmen are the largest stakeholders and the number one group being impacted by wildlife management decisions specific to hunting, fishing, and trapping. They should not be stifled. Consolidation of agriculture and ranching to one seat is not acceptable. They each need an individual seat.

Silencing the voices of the critical stakeholders is an issue. I concur with others that having a parks pass does not qualify someone to be a conservationist. I would like to echo especially what Ms. Nappe stated on that. Overall, the reallocation is not acceptable. I would like to state that I have personally witnessed the Wildlife Commissions make decisions that did not make everyone happy, but they met in the middle. They represented exactly what a public working body with multiple stakeholders at the table should look like and how it should act. No one gets exactly what they want necessarily, but we meet in the middle and move forward in a positive, constructive way for wildlife. I would like to make it clear that the proposed changes specific to section 9 are unacceptable.

Karen Boeger, representing Coalition for Nevada's Wildlife, Inc. and Backcountry Hunters and Anglers:

I represent a coalition comprised of many different sportsmen and conservationist organizations. Our coalition is concerned and opposed to the portion of A.B. 373 dealing with the Wildlife Commission. Among our concerns, first is the lack of a clearly-justified purpose and need for this complete replacement of our current functioning model of the Wildlife Commission. If I understand correctly, the purpose is to reapportion the commission based on population distribution. The most important point to understand is that the Wildlife Commission is different from the other commissions with proposed changes. The Wildlife Commission utilizes the North American Wildlife Conservation Model. The management decisions must be based on science. That is the key plank in that model.

Population distribution really does not have relevance to the direction of the commission. These decisions are not made by a population vote for a reason—to keep to that successful model. That said, if the need is that Clark County is to have a larger or major voice on the commission, it should be noted that there is a population component to the makeup of the current commission. Our well-functioning model has three members from Clark County out of the nine total members.

There is lack of proof that this proposed model can be more successful in ensuring wildlife management. The public deserves clear, research-based evidence that such a model has been in place somewhere for some time with a proven success evidenced by healthy habitat and wildlife populations at sustainable levels. This evidence is a keystone for the North American Wildlife Conservation Model. I would really like to hear if such a model exists before replacing what we have that works right now. In conclusion, the old adage applies: If it is not broken, please, please, do not fix it.

Julius Fortuna, Conservation Division Director, Nevada Firearms Coalition:

We represent thousands of constituents who are appalled by Assembly Bill 187 and now A.B. 373. Our social media went off the charts over this. That is all of the opposition you see in front of you. I have three key objections that will take two to three minutes. I took the day off work, so please give me the time. Tony Wasley, Director of the Department of Wildlife, cites that there are 892 different species regularly occurring in Nevada, and the vast majority of financial management funding comes from only ten consumptive species. Like many things in the public right now, there is a lot of fake news about who exactly pays for wildlife. It is obvious by the majority of opposition today.

If you ask Director Wasley, he will tell you the money comes from three buckets. Two-thirds of the funding comes from sportsmen's wildlife fees, matching grants, and hunting and fishing activities. The other buckets are 11 percent for boating fees and grants, and 1 to 3 percent from the State General Fund. Sportsmen's hunting and fishing dollars makes up the chassis, the engine, the drive train, and all four tires. There may be one section in the back for the trunk. Ecotourism represents virtually nothing in the \$40 million annual wildlife-funding vehicle.

The current and totally unbroken law requires that the majority of members of the Wildlife Commission be represented by hunters and fishers. They do this by simply requiring five commissioners to represent people who hunt and fish. That is fair representation for the 85 percent of self-imposed taxation. Having four to five members of the Wildlife Commission potentially needing nothing more than a parks pass, when other commissions require ten years of experience, will have the same effect as asking them to have membership to People for the Ethical Treatment of Animals (PETA), the Humane Society, or the Sierra Club. That is exactly what some of the proponents of this bill would applaud. I just wish they would be honest about it.

This law changes a working model of successful, historic dynamics that has determined the expenditure of sportsmen's funds and management of wildlife regulations. Finally, the legislators from rural Nevada particularly should be outraged by this bill. It is subjecting the Wildlife Commission to regional representation. The Wildlife Commission should not be stacked as Franklin D. Roosevelt tried to do in 1937 with the Supreme Court. Two population bases in the state does not make up the state, as the Founding Fathers' wisdom showed in developing the Electoral College mandate.

We urge you to reject this bill as written, or at a minimum pull out section 9. We should not try to fix something that is not broken. From the perspective of the Nevada Firearms Coalition, this is exactly a southern Nevada grab. Critical to all of you in this room, the majority of constituents will view it that way. If you need any confirmation of that, just look at the opposition that came out for this bill versus the support.

Assemblyman Ellison:

If you look at the screens, you do not see Elko. Here is one of the largest areas that will be affected, and they do not even have a voice at the table right now. I have a ton of letters here in opposition. I have seen the Wildlife Commission all over the state. We do not always agree, but it is so important that they have a voice at the table. I also got an email from the Nevada Association of Counties. They had to leave, but conservation is already covered under existing law. One thing they have to consider is the sage grouse habitat and the wild horse issues. Those are rural issues. One of the things that is so important is if the sage grouse are listed and the wild horses are not managed, we will have major problems. That is what this commission has been doing. I think this is a good commission the way it is. I do not agree with them all the time, but we need a voice at the table.

Joel Blakeslee, representing Southern Nevada Wildlife Coalition:

The Wildlife Commission should be apportioned by expertise. This is a result of the North American model. That model is predicated on keeping wildlife management away from pure politics. That works all over the United States. The people who are appointed right now often come up to the county advisory boards. I have spent decades going to meetings and hearing the issues. There is a lot of expertise brought forth that way. The last thing I would leave you with is this: on other continents where they do not practice the North American Wildlife Conservation Model, basically two things happen with wildlife. One, it becomes the property of the aristocracy. Basically the king's deer, as you hear from Robin Hood. Or it is not managed at all and is often poached to the detriment of the wildlife. It has value, and it will find a black market. We support the North American model as it is.

Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation:

We are in strong support of maintaining the Wildlife Commission in its current form with its current representation. We are especially concerned with the consideration of merging the agricultural positions of farming and ranching. They represent two different constituencies in our opinion, and we strongly support continuing the present model.

Mike Cassiday, Private Citizen, Reno, Nevada:

I would like to thank everyone who has testified in opposition ahead of me. I do not have to say anything. I oppose it. The one thing I would say is that I support having ranching and farming separate. If I were to change anything, I would add a mining representative. I made my living in mining in Nevada. Wildlife and miners live together. There are wildlife corridors across mining properties. Mining is totally not represented as it is now.

Chairman Flores:

Is there anyone wishing to testify as neutral to the bill?

Steve Canavero, Ph.D., Superintendent of Public Instruction, Department of Education:

I want to speak in neutral on section 6, regarding the State Board of Education. We reserve our right to take a formal position in the next meeting. As your state superintendent, education governance will likely be a topic under other bills. I think among the boards, councils, and commissions you were reviewing today, the State Board of Education may be the most mature. It was established in 1861. In the last 38 years, it has served the state as a fully elected body. In 2011, this body changed the composition to a hybrid version of elected and appointed officials. Elected members are organized by congressional districts, and three seats are appointed. The Governor has always sought to ensure the voices on the State Board of Education reflect the geographic diversity of our state.

Assemblywoman Swank:

I want to address a few things. One, I want to address Ms. Laxalt's concern of losing a voice on the Wildlife Commission. There might be some confusion about how this will play out. This also addresses the issue many of the sportsmen have. If this should pass, the sportsmen will lose one seat. They currently have five seats on the Wildlife Commission. Good government comes out of compromise. One field of expertise has the majority. Most of the votes that come out of the Wildlife Commission are unanimous. I want to further encourage that by ensuring that no area of expertise has the majority. Yes, they would lose one seat.

As far as the ranchers and farmers, they would not lose any seats. Currently there is one rancher and one farmer appointed to the Wildlife Commission. Under this bill, there would be a minimum of two people who would be out of that category of ranching and farming, so they do not lose any seats. In fact, they could have up to four seats. They could gain more of a voice on the Wildlife Commission than they currently have. It would range from as few as two members—which is what is currently in place—and up to four members. How this shakes out depends on the appointments, but I do not anticipate anyone would lose any voice at all.

As far as a pass for national parks, we were trying to find something analogous to the hunting license. Someone mentioned that other boards require ten years of experience. We do not ask that of hunters who can sit on the Wildlife Commission, so we would not ask that of this category. We see the parks pass as a mark of conservationism. If it is better to say, "ecotourism and people associated with conservation," we are open to that.

As far as the comments that there is no need for change, I have to say I was disheartened to hear the blanket statement from the Wildlife Commission that they were not going to support any bills this session that made any changes to their commission before even considering my bill. I am hoping we can move forward from this point and work on that. I liked the idea that Ms. Nappe had. Ecotourism brings in millions and millions of dollars to this state every year. Ecotourism is dependent on many of the decisions the Wildlife Commission makes. I think not only do conservationists and ecotourists deserve a seat at this table, but I wholly support that there should be a stream of funding that goes to the Wildlife Commission. I am interested to hear more about when the Commission on Tourism gave dollars to the Wildlife Commission. I would be wholly on board for finding ways to make that happen.

I also want to say that this does not remove the apportioning by expertise at all. None of that happens. We will still have sportsmen, ranchers, farmers, et cetera. However we can capture the idea of conservation, I am more than happy to change that. There are no expertise changes, and I would never change that on this commission. I will speak with Mr. Canavero about the State Board of Education.

Chairman Flores:

Did the opposition have an opportunity to speak with you?

Assemblywoman Swank:

I spoke with Mr. Drew and Mr. Busselman. Otherwise, I have not heard from anyone since the bill was introduced.

Chairman Flores:

For those who spoke in opposition, I request that you reach out to the sponsor. Maybe we are not as opposed to each other as we believe we are. I will close the hearing on A.B. 373. I will open the hearing on Assembly Bill 279.

Assembly Bill 279: Revises provisions governing banks and other financial institutions regulated by the Commissioner of Financial Institutions. (BDR 52-1085)

Connor Cain, representing Nevada Bankers Association:

I would like to provide a general overview of the mission, funding, and operations of the Division of Financial Institutions (FID), Department of Business and Industry, and why we believe Assembly Bill 279 is necessary.

The mission of the FID is to maintain a financial institutions system for the citizens of Nevada that is safe and sound, protects consumers, defends the overall public interest, and promotes economic development through the efficient, effective and equitable licensing, examination and supervision of depository, fiduciary, and nondepository financial institutions. I will give a general overview. Commissioner Burns, who is testifying in neutral, is available to answer any technical questions you may have and speak to specific sections of the bill.

Pursuant to Assembly Bill 493 of the 72nd Legislative Session, the FID began operating as a self-funding division rather than pursuant to appropriations from the State General Fund. All money collected by the Commissioner of Financial Institutions through assessments and fees may only be used to carry out the programs and laws administered by the Commissioner and the FID and pay the expenses related to the operations of the Commissioner and the FID. Existing law authorizes the Commissioner to establish by regulation rates and fees to be paid by financial institutions for supervision and examinations by the Commissioner of Financial Institutions.

The purpose of the depository assessment and nondepository examination fees are to fund the statutorily-mandated operations of the FID. The depository assessment applies to banks, credit unions, thrifts, and savings and loans. It is established by consistent regulation for each depository institution type. Since the FID went from a General Fund agency to a fee-funded agency in 2003, the following methodology has been used to calculate the depository assessment: The depository assessment is calculated as of June of each year based upon the number of depository institutions and asset size of each as of December 31 of the previous year. The depository assessment is based on the annual expense budget approved by the Legislature for the FID minus all other revenues collected, not including reserves. Each depository institution pays a share of that amount as determined by the asset size schedule established in regulation. The nondepository examination fee applies to retail and family trust companies, *Nevada Revised Statutes* (NRS) Chapter 604A lenders, collection agencies, money transmitters, installment lenders, uniform debt managers, and paid professional guardians. It is established by regulation for each nondepository company type.

The equitable amount of the depository assessment and the nondepository examination fee should be determined by the proportional utilization of FID resources relative to the annual expenditure budget approved by the Legislature. I have been told 14 work sessions would have to take place to adjust these nondepository fees. In order to avert this arduous process of revising all regulations applicable to the examination fee when costs may increase, we are proposing that the applicable statutes be amended to further define the rates charged by the Commissioner of the FID for supervision and examination, and examination fees be subject to increase based on the percentage change of the FID's annual budget approved by the Legislature, if deemed necessary by the Commissioner for any given year. The hourly examination fee amount would be published on the FID's website by December 31 of each year for the coming year.

Assemblyman Ellison:

Section 1, subsection 1 of the bill says, "The Commissioner shall charge and collect from each licensee a fee of not more than \$80 per hour" You took out ". . . of not more than \$80 per hour." That gives you an open checkbook. You also mention credit unions. Those are in a different section of NRS are they not? Would they be exempt?

Jennifer J. Gaynor, representing Nevada Credit Union League:

Credit unions are also considered financial institutions and are included in the relevant definitions. They are treated the same as other depository institutions by the FID.

Assemblyman Ellison:

Okay. Do you want to address the first question?

Jennifer Gaynor:

It is my understanding that what section 1, subsection 1 does is remove the \$80 limit. Instead, it requires the Commissioner to charge and collect the fee at the rate established for

any supervision, audit, examination, investigation, or hearing. I would defer to Commissioner Burns for the more technical questions.

Assemblyman Daly:

Thank you for the explanation because when you read the bill, you do not know the context. I know you said you used to be an agency funded from the State General Fund and now you are a fee-based agency. I understand the \$80 probably is not covering the cost. My concern comes when you want to get out of the Nevada Administrative Procedure Act. A substantial number already exists. The lowest fee is \$5,000 and goes up depending on the size of the institution. You said there were 14 sections of the *Nevada Administrative Code* (NAC) that would have to be changed in order to adjust those rates, but you are only asking for exemption in one NRS section. If you are asking for 14, that is a steeper hill for me. Is it 14 regulations or just one? Is there a disconnect on what the bill says and what your testimony was?

Connor Cain:

Fourteen was the number of work sessions required to adjust the rates for the different nondepository institutions, but I would like to defer to Commissioner Burns.

George E. Burns, Commissioner of Financial Institutions, Division of Financial Institutions, Department of Business and Industry:

I am neutral on the bill, but I am here to answer any questions the Committee may have. The first question I will address was the one regarding the \$80 cap. The \$80 cap he was referring to that is being removed in this bill is the only cap that exists for financial institution licensees. That is for payday lenders. No other licensee in our statutes has a cap. This was meant to bring equity to this and remove that cap to allow us to adjust examination rates without hitting a ceiling on this.

Recently in regulation, we redid all 14 of our regulations. There is one statute that covers the operations of the FID; however, there are 14 statutes and 14 sets of regulations that cover the promulgation of regulations to establish the fees for examinations per hour. In the recent regulatory workshops we went through, we had to change the hourly rate in each and every one of those 14 regulations.

Assemblyman Daly:

In the bill, you are only asking for exemptions specifically for NRS 658.101. That is where they got the \$5,404. That was all you asked for in the bill. Where is the disconnect on the 14 other regulations? If you go to section 2, subsection 1, paragraph (o), you are asking for one NRS exemption. If there is more than one, I would say go through the normal process. If you know you have to do it, you have to do it.

George Burns:

The section being asked for is under NRS Title 55 that addresses supervision. It is the all-encompassing statute that addresses the overall duties and responsibilities of the FID.

It crosses over to each of the individual 14 statutes established for other types of licensee as well as the associated regulations of those.

Assemblyman Daly:

You need this exemption to make the adjustments in section 7, subsection 3, is that correct? You are basing that off the appropriation you may get from the state in the budget process, so if yours goes up, you want to increase the fee proportionally. If the state cuts you, will you cut your fee to those people as well? Probably not, but I am curious.

George Burns:

The FID receives a \$100 allotment from the State General Fund in order to ensure we are associated with the legislative process. It is tacit for all intents and purposes. All other operations of the FID are funded by renewal license fees and examination fees. Over 75 percent of FID's expenses are salaries. That particular expense of the FID goes up on average of 5 percent a year based on merit increases. That means in order to maintain a proportional division between the amount of the assessment to depositories and the amount we charge per hour to other licensees, we would have to change it every year. I agree with Assemblyman Daly that if our costs go down, then the fee amount could come down as well. However, as most people are aware, the cost of things rarely ever comes down; they just continue to increase.

Assemblywoman Neal:

I have a question about section 2, but it also applies to section 7. Section 2, subsection 1, paragraph (o) provides the exemption of the Commissioner from the Nevada Administrative Procedure Act [NRS Chapter 233B]. I was trying to understand why that was needed for the adjustment of rates. If you are currently in, why is there a need to be out? Just to let you know, I am a fan of yours.

George Burns:

Thank you. The exception that we are asking for there is only with regards to increasing the per-hour examination fee. It is not an exemption to the Administrative Procedure Act with regard to any other regulations that are applicable to the FID. It is just in this particular instance we are asking to do this. After an annual assessment of the apportionment of examination fee and resource uses, it took us about six months to draft all of the regulations to put them through the workshop process and get them approved. I am running behind and we will have to make up a difference in revenues from examination fees in the assessment that the depositories will have to pick up.

The main issue is that through the financial crisis, we lost over 50 percent of our state charter depository institutions. However, the amount of work the FID has to do did not change, so the apportionment of the amount of the assessment was on fewer institutions. We went from 37 institutions to 22 institutions. That resulted in an over 50 percent increase in the apportionment to the banks, credit unions, and thrifts in the state. At the same time, the growth in nondepository institutions—specifically payday lenders—increased dramatically, and were using over 75 percent of our resources. The banks were paying over 50 percent of

our costs when they were only utilizing 25 percent of our resources, and the opposite was true for our nondepository institutions. We brought the examination fee up to \$75 by regulation last year.

In accordance with the budget we are putting forward in this biennium, it is already behind by \$7 per hour to maintain an equitable balance between the examination fees. It should be about \$82 per hour. I am asking that we be allowed for it to go up by the amount calculated in the Nevada Executive Budget System after you approve my budget.

As I put in my fiscal note, it was over 1 percent in 2016 and under 2 percent in 2017. The actual impact of that to the nondepository industries is pretty minimum. A 1 percent increase, without having to go through all of the soft dollar costs of regulatory workshops, would be a total of \$0.75 an hour. A 2 percent increase would be a \$1.50 an hour and taking it up to \$76.50 an hour. These incremental changes I need to make to the NAC to maintain equity between the assessment and examination fees costs more than what I can recoup.

Assemblywoman Neal:

That was a great explanation. You are trying to relax what the banks are paying and capture money from other financial institutions like payday lending. You want a balance.

George Burns:

You are correct. It is not really to relax it for the depository institutions, but to maintain an equitable balance. We will reassess that every year. If Nevada has tremendous growth in banks and credit unions and they begin to use more than 25 percent of my resources, that will drive down the amount or keep even the amount the nondepositories are paying in exam fees and increase the amount of the assessment the banks will have to do. The system we have here is the envy of every one of my colleagues in other states. The fact that we are able to take our revenues and backfill the difference between our expenses with an assessment is a system I have shared with multiple states. They are trying to get that approved in their states. It gives them that flexibility to charge those industries utilizing the division's resources proportionately.

Chairman Flores:

Are there any other questions from the Committee? [There were none.] Is there anyone wishing to testify in favor of the bill?

Jennifer Gaynor:

As of December 31, 2015, depository institutions chartered in Nevada accounted for 28.5 percent of the FID's total exam hours, where nondepository institutions accounted for 71.5 percent of those hours ([Exhibit I](#)). We really appreciate that this bill provides needed discretion to the Commissioner when it comes to setting fair fees for examinations, supervision, audits, investigations, and hearings by the FID without caps for certain regulated entities to create more parity. It is reasonable and appropriate that depository and nondepository institutions alike pay their fair share toward the FID's expense budget based on the resources they consume.

Phyllis Gurgevich, President and Chief Executive Officer, Nevada Bankers Association:

We have provided some written testimony ([Exhibit J](#)). The reason we got involved in this process is because our members, the depository institutions such as banks and credit unions, do not have workshops or hearings every year. They are just assigned the assessment they will pay for their regulation and supervision from the FID. Our members are always willing and ready to pay their fair share for this supervision. Over the years, the nondepository institutions—those that are billed at an hourly rate—have not been covering their fair share. The assessments banks and credit unions are paying are subsidizing the supervision of other entities. We have numbers from the banking community. They can tell you the fees, converted to an hourly rate, associated with their banks. We do support [A.B. 279](#). We believe that by removing the statutory caps and the requirement of the regulatory workshops and hearings, it gives the Commissioner needed flexibility to fairly work his budget each year.

Raymond Specht, Vice Chairman, Toyota Financial Savings Bank:

We are based in Henderson, and we service Toyota and Lexus drivers and dealers across the country. We want to show our appreciation to Commissioner Burns and his FID staff and the annual exams we go through. We look forward to hearing the recommendations to making us a better bank. We appreciate their ethics to protect consumers. We have no problems paying our assessment fees to cover the exams. All we are asking for is a level playing field. Some of the fees have not been changed since the 1980s. The costs for the FID have probably gone up a bit since then. In the banking industry, we have no problem paying costs to cover the exams we go through. One financial entity should not be subsidized by other financial entities in other industries.

Stan Wilmoth, President and Chief Executive Officer, Heritage Bank of Nevada:

The current system forces Commissioner Burns to take his budget, take the audit hours from the nondepository institutions, assess the difference, and force the banking industry to make up the difference. The nondepository institutions have not kept up with their system. The issue is that if you take the Heritage Bank's fee and convert it to an hourly rate based on the hours in the audit, we spend about \$350 an hour. Granted, it takes more expertise, so it is higher than the \$80, but we are also paying more than \$80. If we can get parity, that is all we really want.

Chairman Flores:

Is there anyone wishing to testify in opposition to the bill? [There was no one.] Is there anyone wishing to testify as neutral to the bill?

George Burns:

I am here to testify in the neutral position, although I answered most questions in the presentation.

Assemblyman Daly:

I was trying to figure out my disconnect, so I went to NRS 658.101. I went to the regulations for that section, and I understand you had a recent regulation adopted and approved, R054-16. I see where you changed the hourly rate in several statutes. I think I have figured that out. I am not a fan of giving relief from administrative procedure. The only thing I could suggest is putting a range instead of a cap so that you would not have to do it every year. That way you could do it once every five years. Getting out from under the Nevada Administrative Procedure Act will probably lose me.

Chairman Flores:

I will close the hearing on A.B. 279. Is there any public comment? [There was none.] This meeting is adjourned [at 10:59 a.m.].

RESPECTFULLY SUBMITTED:

Isabel Youngs
Committee Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a document titled "Facility Forecast FY15/16 – FY19/20 (Pre-surcharge Use Approval)," presented by Andrew Diss, Director, Government Affairs, Grand Sierra Resort, regarding Assembly Bill 201.

[Exhibit D](#) is page 4 of the document titled "Fiscal 2016-2017 Annual Forecast and Capital Budget," authored by Brian Rivers, Director of Finance, Reno-Tahoe Convention and Visitors Authority, dated May 17, 2016, presented by Andrew Diss, Director, Government Affairs, Grand Sierra Resort, regarding Assembly Bill 201.

[Exhibit E](#) is a copy of a PowerPoint presentation titled "AB373: Boards and Commissions," presented by Assemblywoman Heidi Swank, Assembly District No. 16, regarding Assembly Bill 373.

[Exhibit F](#) is written testimony in support of Assembly Bill 373, authored and submitted by Jana Wright, Private Citizen, Clark County, Nevada.

[Exhibit G](#) is a letter dated March 29, 2017, in opposition to Assembly Bill 373, to Chairman Flores and members of the Assembly Committee on Government Affairs, authored by Don Turner, President, Nevada Firearms Coalition and referenced by Robert Uithoven, representing National Rifle Association.

[Exhibit H](#) is written testimony authored by Tina Nappe, Private Citizen, Reno, Nevada, dated March 30, 2017, regarding Assembly Bill 373.

[Exhibit I](#) is a letter dated March 12, 2017, in support of Assembly Bill 279, to Members of the Nevada State Legislature, authored and presented by Jennifer J. Gaynor, representing Nevada Credit Union League.

[Exhibit J](#) is written testimony dated March 30, 2017, in support of Assembly Bill 279, authored and presented by Phyllis Gurgevich, President and Chief Executive Officer, Nevada Bankers Association.