

**MINUTES OF THE JOINT MEETING  
OF THE  
ASSEMBLY COMMITTEE ON WAYS AND MEANS  
AND THE  
SENATE COMMITTEE ON FINANCE**

**Seventy-Ninth Session  
May 17, 2017**

The joint meeting of the Assembly Committee on Ways and Means and the Senate Committee on Finance was called to order by Chair Maggie Carlton at 6:17 p.m. on Wednesday, May 17, 2017, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4412E 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](http://www.leg.state.nv.us/App/NELIS/REL/79th2017).

**ASSEMBLY COMMITTEE MEMBERS PRESENT:**

Assemblywoman Maggie Carlton, Chair  
Assemblyman Jason Frierson, Vice Chair  
Assemblyman Paul Anderson  
Assemblyman Nelson Araujo  
Assemblywoman Teresa Benitez-Thompson  
Assemblywoman Irene Bustamante Adams  
Assemblywoman Olivia Diaz  
Assemblyman Chris Edwards  
Assemblyman John Hambrick  
Assemblyman James Oscarson  
Assemblywoman Ellen B. Spiegel  
Assemblyman Michael C. Sprinkle  
Assemblywoman Heidi Swank  
Assemblywoman Robin L. Titus

**SENATE COMMITTEE MEMBERS PRESENT:**

Senator Joyce Woodhouse, Chair  
Senator David R. Parks, Vice Chair  
Senator Moises Denis  
Senator Aaron D. Ford  
Senator Pete Goicoechea  
Senator Becky Harris  
Senator Ben Kieckhefer



**STAFF MEMBERS PRESENT:**

Cindy Jones, Assembly Fiscal Analyst  
Mark Krmpotic, Senate Fiscal Analyst  
Sarah Coffman, Principal Deputy Fiscal Analyst  
Alex Haartz, Principal Deputy Fiscal Analyst  
Brenda Erdoes, Legislative Counsel  
Janice Wright, Committee Secretary  
Lisa McAlister, Committee Assistant

After a call of the roll, Chair Carlton made opening remarks and stated that decorum would be maintained at all times during the meeting. The purpose of the meeting tonight was to hear Assembly Bill (A.B.) 513. She would open the meeting to public comment for about ten minutes. She would invite A. G. Burnett, Chair, Nevada Gaming Control Board, to make a statement limited to approximately ten minutes. The Committees would have an opportunity to ask questions after Mr. Burnett's presentation. She would invite Adam Paul Laxalt, Attorney General, Office of the Attorney General, to make a statement limited to approximately ten minutes. The Committees would have an opportunity to ask questions after Mr. Laxalt's presentation. Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, would explain each section of A.B. 513. After any questions, the Committees would hear the closing reports from various subcommittees on budget closings. Public comments could be made after the budget closings. Chair Carlton opened public comment, but no public comments were made. She invited Mr. Burnett to make his presentation.

**Assembly Bill 513: Revises provisions governing legal counsel for certain state agencies that regulate gaming. (BDR 41-1223)**

Exhibit C is a document titled "Transcript of Audio Recording of Conversation Between A.G. Burnett, Chairman of the Nevada Gaming Control Board and Adam P. Laxalt, Attorney General of the State of Nevada, Recording Made on March 25, 2016." A. G. Burnett, Chair, Nevada Gaming Control Board, presented two exhibits. Exhibit D is a document titled "Affidavit of A.G. Burnett" dated April 27, 2017, presented by A. G. Burnett, Chair, Nevada Gaming Control Board. Exhibit E is a letter dated May 17, 2017, with attached exhibits, from A. G. Burnett, Chair, Nevada Gaming Control Board, to Senator Michael Roberson.

**The following is a verbatim transcription of the presentation from Mr. Burnett.**

**A. G. Burnett, Chair, Nevada Gaming Control Board:**

Good Evening, Madam Chair. It is a pleasure to see you, and good evening to all the members of this joint Assembly and Senate meeting. For the record, my name is A. G. Burnett. I am the Chairman of the Nevada Gaming Control Board. Madam Chair, you have allotted me ten minutes; I don't intend to take that. I will be as brief as possible. I would like to note that I have to my left Jaime Black, Senior Research Specialist for the

Gaming Control Board. Mike LaBadie is the Chief of our Investigations Division. He headed up all the investigative matters that you have seen. And behind me I have Board member Shawn Reid as well. Madam Chair, I'll go right to a statement.

**Chair Carlton:**  
Thank you.

**A. G. Burnett:**

First, I must thank Governor Sandoval for his incredible support. He is a former Gaming Commission Chairman, Attorney General, and federal judge. He is an exemplary individual with an impeccable reputation. He cares so much about this state, and he has set an incredible example of character and integrity in his career. I must also thank the incredible staff at the Gaming Control Board for their hard work and dedication. My colleagues Shawn Reid and Terry Johnson have been incredible to work with on these issues over the last several months. I am proud to serve with the 400-plus dedicated persons at the Gaming Control Board, all of us public employees who have the same mindset and are always doing the right thing. As I have stated to all of you before, that is our mantra. I'm also proud to have had the chance to work with many exceptional attorneys in the Attorney General's Office.

Second, I cannot emphasize enough that my sole concern now and always is the state of Nevada and the Gaming Control Board. We have one task, and that is to protect the integrity of gaming. Nevada has the world's gold standard when it comes to gaming regulation, and we on the Gaming Control Board and our staff are zealous in our efforts to preserve that standard.

Third, I'd like to make it clear that neither I nor anyone at the GCB [Gaming Control Board] had been pushing the stories that you've read that are at the heart of this meeting. As far as we were concerned, this matter was closed almost a year ago. We did not leak the story to the press, and we have no desire to see it continue. We just want to do our jobs, day-to-day, 24/7, as we always have been, and we will continue to do so. And I do not want anyone now, or ever, to doubt the integrity of Nevada's most important industry.

Fourth, to the extent that this Committee has any questions about the details of my dealings with Attorney General Laxalt last year, I would simply say that the facts speak to themselves. I don't have much more to add other than what's already out there pursuant to your subpoena, Madam Chair.

To reiterate, we closed this matter a year ago, and I'm glad that my recording of the Attorney General was ultimately unnecessary. Not intervening in the private litigation at issue was the right call. And in the end, the Attorney General's Office supported our decision. I will never relax my commitment to protecting Nevada and the Gaming Control Board. My reputation over the last six years is proof of that. You, the Legislature, have created statutes that we are tasked with enforcing every day, and that's what we continue to do. Every day, I and the staff at the Gaming Control Board are asked to make serious and impactful decisions, and we

do our best to make those decisions as fairly and impartially as we can, without any outside influence.

Finally, since we moved on from this issue a year ago, we have worked with the Attorney General's Office on multiple issues, and we will continue to do so in a professional manner. The gaming DAGs [deputy attorneys general] that work with us day-to-day are individuals that I enjoy working with and have become part of our team over the last several years.

Finally, since we moved on from this issue a year ago, we have worked with the Attorney General's Office on multiple issues, as I said, and we will continue to do that. Madam Chair, thank you for your time and your continued bipartisan commitment to Nevada's gaming industry. I am proud to serve with the 400 persons at the Board, as I have said above.

I can discuss the BDR [bill draft request] if you'd like. I'm not sure how you would like to proceed, but it is a question that's been asked decades upon decades in the past, and it's a dialogue that I believe is healthy and appropriate, and we are happy to answer any questions you may have.

**Chair Carlton:**

Thank you very much, Mr. Burnett. I appreciate that. I think there's one question that I would like you to start off with. In reviewing the documents that you have seen posted on NELIS [Nevada Electronic Legislative Information System]—and we have made everything as public as possible so that there is as much transparency as possible—is there anything in any of those documents that you would believe inaccurate or that you feel that you would need to clarify as far as—especially the transcript. I know there's been some questions, so I'd like to know if there is anything you'd like to clarify.

**A. G. Burnett:**

To be truthful, Madam Secretary [Chair], I haven't had a lot of time today to read the press. I know there was one item that was corrected. I think I am in agreement with that, although I did not listen to the tape over and over. We turned it over immediately internally to our Technology Division, but there's nothing further to recount to what you've already heard. I don't see anything that's missing. Madam Chair, there was a letter sent to us by Senator Roberson. We are delivering that to him, in response [[Exhibit E](#)]. His letter questioned some of the dates and timelines. I am happy to go into that if you like. Other than that, there's nothing further to clarify.

**Chair Carlton:**

I believe I would like to—since I have not received a copy of that letter, I would like to—

**A. G. Burnett:**

Very good.

**Chair Carlton:**

—understand the whole conversation.

**A. G. Burnett:**

And I'll absolutely do that. I'll read that into the record.

**Chair Carlton:**

And if you would leave a copy, if that's possible—

**A. G. Burnett:**

We will.

**Chair Carlton:**

—for the record, we would appreciate that.

**A.G. Burnett:**

Absolutely. It reads—and it is dated today. He asked that we respond by 5 p.m., and I believe we have done that. It reads:

Senator Roberson:

This is in response to your letter of May 15, 2017.

And I'll just read the first two paragraphs because I think that's the most relevant to what we're talking about. And I quote:

After the conversation that is the subject of discussion took place in March 2016, I drafted notes to memorialize and record my recollection of those events while the facts were still fresh in my mind. On August 1, 2016, I converted those notes into an internal memorandum and stored it for safekeeping.

Those were my own notes. I do that often in any event that I think might be significant and I might need to recall my memory later. The next paragraph reads:

On February 16, 2017, on or about when the news broke of the March 2016 events, I emailed the August . . . 2016 memorandum to all [of] the Board's Division Chiefs to apprise them of the situation.

This is essentially when I learned that the news would break, and I wanted the chiefs of each division to be apprised of my best recollection of what occurred. That's attached as an exhibit [p. 4, [Exhibit E](#)].

Shortly thereafter, a third party complaint against [the] Attorney General . . . was filed with the Nevada Commission on Ethics. Anticipating that an investigator from that Commission might contact me, I wanted all information compiled in an appropriate fashion for potential review.

Being an investigator, the head investigator of an agency, I wanted everything clear and concise.

I therefore formalized the internal memorandum by converting it into an affidavit. After doing so, I forwarded a draft of the affidavit via email to a member of my staff (who is an attorney)—

Who just happens to be seated to my left.

—for review on March 14, 2017.

So she received it March 14, and that is when Ms. Black began her review of it. That's Exhibit B [p. 11, [Exhibit E](#) of these minutes].

Once reviewed and formatted, that staff member returned it to me via email on April 26, 2017.

And that is attached as Exhibit C [p. 13, [Exhibit E](#) of these minutes].

I signed and had notarized the affidavit the following day, April 27, 2017.

Madam Chair, correct me if I'm wrong, but I think that was a Friday, and that was the day that you called me, and I believe you've indicated that publicly, to only further on what you mentioned.

**Chair Carlton:**

That's correct.

**A. G. Burnett:**

I was out on a run, if you recall, and you called and took me quite by surprise and said, and I am paraphrasing, that you wanted the information. And I said, "Well, you'll have to do it the appropriate and legal way. Whatever that is, is up to you. I respect the Legislature, and that's what you'll have to do." And that's when, I believe, the following week we received word that we were going to receive a subpoena.

**Chair Carlton:**

Thank you very much. Any questions from the Committee at the moment? Mr. Kieckhefer—Senator Kieckhefer, sorry.

**Senator Kieckhefer:**

Thank you, Madam Chair. So the fact that the affidavit was executed—basically, was it the day before that you received the call from Madam Chair, as just purely coincidence?

**A. G. Burnett:**

Purely coincidence.

**Senator Kieckhefer:**

Okay. You talk a little bit about the news coming out. How did you find out that there was going to be media coverage of the story?

**A. G. Burnett:**

I may get my dates wrong, and you can ask him, but when the Legislature was beginning, Jon Ralston darkened my door and wanted to meet. I assumed it was about the Legislature, and perhaps naively, I assumed it was about Assembly Bill 75, the Board's bill. He came in and said, "You have no idea what I know, do you?" And I said, "No, I have no idea. What are you talking about?" And he proceeded to tell me everything that was essentially in his story.

**Senator Kieckhefer:**

If I may, Madam Chair?

**Chair Carlton:**

Yes.

**Senator Kieckhefer:**

Do you know how—if the memo was contained completely internally within your office, do you know how a member of the media found out about it?

**A. G. Burnett:**

I am confident that the memo was maintained internally in our office, and I have no idea to this day how the information got out.

**Senator Kieckhefer:**

Did you tell anyone else that it was—that there was a memo to that effect?

**A. G. Burnett:**

Yes, when—not a memo, but when the events occurred, we went to the FBI [Federal Bureau of Investigation]. We discussed the events with the FBI. As far as the memo, I don't recall telling anyone about that.

**Senator Kieckhefer:**

So if you're confident that the information was not distributed out of your office, then it should be assumed by us that it was the FBI who provided it to the media?

**A. G. Burnett:**

You know, I wouldn't make that assumption, and I don't want to make any assumptions on that. Like I said, I'm confident it didn't leak from our office. When the news of this broke and—excuse me, before the news of this broke and when the event occurred, the only individuals that we advised in turn also were the Governor's Office, the Governor's General Counsel, who had already, as you've seen by the tape, received a meeting regarding that issue. Other than that, Senator Kieckhefer, I have no idea how anything could have come out.

**Senator Kieckhefer:**

Thank you, Madam Chair.

**Chair Carlton:**

Thank you, Senator. Mr. Burnett, did you speak to anyone about the subpoena? Did you talk to anyone else about the subpoena after it was issued?

**A. G. Burnett:**

About your subpoena?

**Chair Carlton:**

Yes, sir.

**A. G. Burnett:**

When your subpoena was issued, I believe we talked with Ms. Erdoes and Kevin Powers. They called to say a subpoena is coming, and they basically want whatever you have. And I said, "Well, here is a summary of what we have." I don't recall talking to anyone else about that.

**Chair Carlton:**

And so, no one else after that?

**A. G. Burnett:**

Only internally.

**Chair Carlton:**

Just internally? Okay. Just wanted to make sure we have that on the record. I believe I have Speaker next.

**Assemblyman Frierson:**

Thank you, Mr. Burnett. A few questions I have, more about operations of your office and the process. Do you often—or do you discuss regulatory matters involving registration and licensing of gaming companies directly with the Attorney General himself?

**A. G. Burnett:**

No—

**Assemblyman Frierson:**

And is that—

**A. G. Burnett:**

—not usually.

**Assemblyman Frierson:**

—I'm sorry.

**A. G. Burnett:**

Not usually.

**Assemblyman Frierson:**

So on occasion you do or you have?

**A. G. Burnett:**

Those conversations, probably 99 percent of the time, go to the gaming DAGs, but no, not routinely. And I haven't talked to the Attorney General for the most part since these events occurred.

**Assemblyman Frierson:**

When there are interactions, either between yourself and the limited percent of the time that there may be with the Attorney General himself or with his DAGs, can you just kind of describe how that interaction occurs? Who typically initiates it under what circumstances?

**A. G. Burnett:**

Well, if I can start with the Attorney General first and just go into our relationship. I think he and I tried to forge a friendship, and it was mainly casual, but I think it's been reported that we rode bikes together. Unfortunately, he even crashed one time in front of my house and I kind of repaired him at my house. But I don't really recall what the conversations were, just general what I would call overview chitchat-type stuff. Now the conversations with the gaming DAGs are far more thorough and directly go to everything you can imagine regarding gaming licensing.

**Assemblyman Frierson:**

And when you say "go to," so is it you that typically would initiate a call or will they reach out to you?

**A. G. Burnett:**

Yeah, I'm sorry for not being more thorough. No, our staff communicates day-to-day with the AG's [Attorney General's] Office. It could be anyone within the Gaming Control Board communicating with the—I'll just call them for the record DAGs, the gaming DAGs. There is day-to-day communication.

**Assemblyman Frierson:**

And I mean, I guess what I'm getting at is do the gaming DAGs typically call the Board or you, or do you typically call the DAGs, or is it just a mix?

**A. G. Burnett:**

It's a mix. It's both, back and forth.

**Assemblyman Frierson:**

Now, I asked you about just you and the Attorney General himself. What about the interaction between the Board and the Attorney General himself and also the gaming DAGs?

**A. G. Burnett:**

Between the Board, the other two Board members, and the Attorney General, I cannot say. I don't know. They'd have to speak to those. And between staff and the Attorney General or—?

**Assemblyman Frierson:**

Yes.

**A. G. Burnett:**

I doubt there's any communications between the staff at the Board and the Attorney General himself.

**Assemblyman Frierson:**

But between staff maybe and DAGs?

**A. G. Burnett:**

Yes, constant.

**Assemblyman Frierson:**

I have had the pleasure of working across from you for several years now. The description of the interactions—or the level of interactions with the Attorney General, is that typical or did you have more interaction previously with the Attorney General's Office, as far as, you know, the regular contact directly with you and the AG himself?

**A. G. Burnett:**

No. The contacts I had with Catherine Cortez Masto were very rare. She would on occasion call me just to give me an FYI on something, but nothing further than that, and she's the only other Attorney General that I've been in this position working with.

**Assemblyman Frierson:**

Thank you. And Madam Chair, I know that there are other people that have questions. I don't want to necessarily go on. I have some more, but it may be brought out in the next few minutes.

**Chair Carlton:**

Okay, thank you. Are there other questions? Dr. Titus, did you have a question? We'll try to go back and forth. Dr. Titus.

**Assemblywoman Titus:**

Yes, thank you, Madam Chair, I appreciate the question. And thank you for being here this evening and willing to, hopefully, put some light on this. And I think it's important that everybody is at the table, so I appreciate you being here.

I'm curious in regards to the need for the outside counsel and actually regard to the bill. Is it—you've answered the Speaker's question about meeting with the Attorney General's

Office or perhaps other DAGs. Is it—have you or your office—do you meet with them outside either of your office buildings? Have you met with anybody in that department outside of the normal office buildings?

**A. G. Burnett:**

Not usually, no, except for the Attorney General when I mentioned earlier, when we would ride bikes or—

**Assemblywoman Titus:**

Okay, thank you.

**A. G. Burnett:**

—just chitchat.

**Assemblywoman Titus:**

Okay, thank you. And when you do—so you said it's not usual but it's not unheard of—were you in the habit of wearing recording equipment or recording those conversations?

**A. G. Burnett:**

No, and let me clear the air on that right now. That's the first and only time I've ever recorded a conversation like that, and I hope it's the last.

**Assemblywoman Titus:**

All right, thank you for that. So, the purpose of the recording was because?

**A. G. Burnett:**

And I did not wear a wire; it was my phone. The purpose is quite simple. We are very cautious at the Gaming Control Board. I was just using a 100 percent abundance of caution. Quite frankly, as I stated earlier, my job is to protect the state and the Board. There were a lot of things going on at the time, multiple investigations going on, a large lawsuit that had a large dollar amount attached to it, very contentious litigation. I wanted to protect the Board. I wanted to protect myself. I wasn't sure what Mr. Laxalt might have to say. I was hopeful that it was nothing, and I was just trying to be extremely careful. One of the things that we strive to do is avoid the appearance of impropriety, and under those circumstances, I was worried that someone, an outside observer or anyone, might think it was an improper type of appearance.

**Assemblywoman Titus:**

Thank you for that. So if you were uncomfortable with the meeting, why didn't you just say, I'm sorry, we can't talk about that.

**A. G. Burnett:**

I did not say that directly. I did not want to be rude. I tried to be courteous and professional. If you look at my text messages, I hope you can see that I wanted to delay it to a week after I returned from the vacation when we could have a more, I would say, formal sit-down chat.

**Assemblywoman Titus:**

Thank you.

**Chair Carlton:**

You're welcome, Dr. Titus. Ms. Diaz, I believe you had a question.

**Assemblywoman Diaz:**

Thank you, Madam Chair. And I believe Assemblywoman Titus hit on most of my questioning, which was if Mr. Burnett felt that it was kind of highly unusual to be asked to meet at a coffee shop or a car dealer to talk about this type of an issue, so I think we heard to that. But I wanted to know if you've ever felt the need to tape your conversations with the AG before.

**A. G. Burnett:**

No.

**Assemblywoman Diaz:**

And then also, Mr. Burnett, as I understand it, the Gaming Control Board has appeared and submitted amicus briefs for district court cases in the past, so why was Mr. Laxalt's request on behalf of Sands different?

**A. G. Burnett:**

Well, it was different for a multitude of reasons. What you're referring to is what's been reported in the press, and that's the Joe Asher v. Cantor Gaming case or, and I may get this wrong, Cantor Gaming v. Joe Asher many years back. In that case, quite frankly, Mr. Asher had come to the Board as a confidential informant, and in that litigation he was being asked to specifically state details regarding any conversations he had regarding the other company, which was under significant investigation at the time. At that time and in consultation with the Attorney General's Office, it was ultimately decided to file—and please forgive me if I get this wrong—I think it was an amicus.

In the case where you had Las Vegas Sands v. Jacobs, or Jacobs v. Sands, it was vastly different. There were multiple investigations going on at the time by multiple different agencies, and in that case, as I understood it, the request from the Jacobs side was for information that had also been turned over to other agencies. There were several different pieces of information that I understood were being requested. Initially, the Sands folks came to us in late—I think it was late 2015—to ask whether we would be interested in filing an amicus. My affidavit sets all this forward, so if I get anything wrong orally, I'd like to refer to that [[Exhibit D](#)]. But we declined. We formally declined throughout that process several times, and Chief LaBadie can speak to that if you have any more detailed questions on that, and the rest is as you see in my affidavit. We were never subpoenaed for that information, but importantly, to sum up the mindset of the Board, I've never said that we don't ever file anything. We do, and we will, and we would continue to if we think our interests are at stake, not someone else's. If we think the regulatory structure, if the statutes that you create,

our regulations created by the Gaming Commission, are going to be impinged on or harmed in any way, then we will think about it. Now in the Asher case, we lost at the district court level. I believe in that case, the judge reviewed that information in camera. I think we learned a little bit of a lesson there. One, we may not always be successful, and two, if the information is reviewed in camera at the district court level, it's not necessarily fatal to our jobs.

We are hesitant in doing that, as you can see by my testimony and what's written in my affidavit. We are very cautious about interfering in the judicial process and even looking like we are taking sides of any party to that litigation.

**Assemblywoman Diaz:**

Thank you, Madam Chair, for your indulgence. So I believe I heard that there was a sense of urgency to have this conversation with you, and you indicated that you tried to delay that conversation but the Attorney General didn't want to. Do you have an indication of why there was such a sense of urgency to talk to you when he needed to or when you talked to him?

**A. G. Burnett:**

I don't know for sure, but my thought at the time was—and I think I stated that the timing was not lost on me. At that time, there was a motion to remove the judge in the district court case from the bench. I knew that there was going to be a hearing within a week or so—I think it was the following week after my vacation. And I think that the thought was—and after reading the transcripts of the district court with Judge Gonzalez, who's the judge of the case—she was immediately going to start ruling after the Supreme Court hearings were over, if she stayed on the bench.

**Chair Carlton:**

Thank you. I believe I have Mr. Oscarson next.

**Assemblyman Oscarson:**

Thank you, Madam Chair. Mr. Burnett, thank you for being here. I guess my question is—and just cut to the chase here—did the Attorney General expressly ask you intervene on behalf of the Sands or was he simply discussing what an amicus might discuss were the Board to issue one?

**A. G. Burnett:**

I'll let the record speak for itself. You have the tape [[Exhibit F](#)].

**Assemblyman Oscarson:**

So is that a yes or a no?

**A. G. Burnett:**

Read the question again.

**Assemblyman Oscarson:**  
Did the Attorney General—

**A. G. Burnett:**  
That someone else wrote for you.

**Assemblyman Oscarson:**  
I'm sorry?

**A. G. Burnett:**  
Go ahead and read the question.

**Chair Carlton:**  
Mr. Burnett, if you would let the member state his question, please.

**Assemblyman Oscarson:**  
Did the Attorney General expressly ask you to intervene on behalf of the Sands or was he simply discussing what an amicus might discuss were the Board to issue one?

**A. G. Burnett:**  
He was discussing the fact that there was, I think he states, a narrow piece that was something that could be argued or stated in an amicus. I think there is a portion there where he discusses it could be a four-page brief, whatever you are comfortable with. So I would imagine it's more of the latter.

**Assemblyman Oscarson:**  
Thank you, Madam Chair.

**Chair Carlton:**  
Thank you, and we do have a number of questions. I've got a number of members who are queued up wishing to ask questions. If everyone would please try to boil them down to make sure that everyone has an opportunity to ask a question, because we do have one more person to present. So with that, I believe I have Mr. Sprinkle next.

**Assemblyman Sprinkle:**  
Thank you, Madam Chair. So in your opening statement, you talked about the reputation of the No. 1 industry in the state of Nevada. And even though the bill hasn't actually been presented yet, my question kind of goes towards that. In the time over this last year, but certainly over the last couple of months, I am assuming through [the] course of your job, you've had interactions with the industry outside of the state of Nevada. Are you concerned at all about the reputation now of what has now come to light and what, you know, is being seen from a world perspective as far as where we, as the No. 1 leading state within this world in this industry—where we go from here in regard to the job that you can do and any future legal actions that could occur?

**A. G. Burnett:**

Yes, absolutely. I think I and everyone else at the Gaming Control Board is always concerned about that. I think that as we go forward in our day-to-day jobs, that's something that we always have at the forefront of our minds.

**Chair Carlton:**

Thank you, Mr. Sprinkle. I believe I have Mr. Araujo next.

**Assemblyman Araujo:**

Thank you, Madam Chair. And my—thank you for being here, Mr. Burnett. My question was along the lines of Mr. Sprinkle[’s], but I want to dive a little bit more into the integrity of the Gaming Control Board and what the significance A.B. 513 could have potentially on the integrity of something that nationally has been—is very well recognized and is very reputable. So could you speak a little bit more into how you feel or if you feel that A.B. 513 would protect the integrity of the Gaming Control Board?

**A. G. Burnett:**

I don't think that [A.B.] 513 will change the integrity of the Gaming Control Board. As I have reviewed it, things would essentially stay the same, and I don't have much further to add in regards to that.

**Assemblyman Araujo:**

Thank you, Madam Chair, and if I may follow up with a quick—maybe if I may restate that question. I was trying to get a better understanding in terms of whether you feel that it would help protect the integrity or if—you know, and it goes back to Mr. Sprinkle's question—but I wanted to see—I wanted to get a better understanding, if you did, how you felt that would protect the integrity of the Gaming Control Board.

**A. G. Burnett:**

Well, as I said, I'm not exactly sure how to answer that because I think the integrity of the Gaming Control Board stands for itself. Part of that has been the sound legal advice that we've received from the gaming DAGs that we have which are housed in the Attorney General's Office. We went through quite a situation a year or two ago with the Daily Fantasy Sports [DFS] where we relied on their top DAG there, who gave us excellent, sound legal advice. I would anticipate that would go forward were this bill to pass.

**Chair Carlton:**

Thank you. Senator Ford?

**Senator Ford:**

Thank you, Madam Chair. Mr. Burnett, good to see you. Thank you for coming. A.B. 513 is asking us to determine whether it's appropriate to have an independent counsel or your own lawyer in view of the status of the relationship you have with the Attorney General's Office right now, and so let me ask a few additional questions about the relationship, just so that I can get a better understanding as to whether it's appropriate for [A.B.] 513 to proceed.

You've talked about bike riding with the Attorney General and social interactions outside of work, but how frequently does it happen, though, where you and the Attorney General get together and y'all just hang out socially?

**A. G. Burnett:**

It was very infrequently. After the events of March 2016 occurred, I don't think I saw too much of the Attorney General, if at all, prior to that. Again, very, very rare and occasional. Like I said earlier, maybe we'd try to get together on a weekend for a bike ride, but I probably only rode bikes with the Attorney General maybe three times, four times, to my recollection.

**Senator Ford:**

So let me ask you a question about those three or four times in particular. Did you talk business during those times?

**A. G. Burnett:**

Not really. Not serious business. Probably more just general overview of things that were going on at the time. But to the best of my recollection, not specific, you know, issues.

**Senator Ford:**

And we've already heard from Speaker Frierson's questioning that it was very seldom that you and the Attorney General would directly have interaction anyway. But tell me, in the events where that would happen, I take it, then, that it would happen during office hours, at your building via some scheduling. I know that is a compound question, but I'm trying to ultimately understand the difference between your social interactions with the Attorney General and your business interactions with the Attorney General.

**A. G. Burnett:**

And I am trying to recall the best I can, so forgive me; it has been over a year. If I can use the DFS example, I remember chatting with the Attorney General regarding that before the opinion—legal opinion that was issued. That was just a phone call where he and I, and I believe the chief DAG that wrote it, talked about it and the fact that it was going to be made public and any impacts that it might have and how it might be discussed. Aside from that, I really can't recall any other conversations per se.

**Senator Ford:**

May I continue?

**Chair Carlton:**

One more.

**Senator Ford:**

One more. Because the genesis or the basis of my question is trying to understand why you felt it appropriate, going back to the questioning earlier, to tape the interaction you were going to have with Mr. Laxalt, because clearly you didn't think it was a social call. And so

I'm trying to understand the distinction between the interaction you contemplated and what you had experienced in the past and why you felt it necessary at that point to tape record.

**A. G. Burnett:**

It was just different, the latter conversation. It appeared to be out of the ordinary and it sort of struck me as odd.

**Senator Ford:**

But what made it out of the ordinary? And I apologize, Madam Chair.

**A. G. Burnett:**

Well, first, as my affidavit states, I was made aware of the fact that I would potentially be talked to about that and that he might be calling. And sure enough, when that happened, the facts are as you see in the text messages in terms of the discussion and wanting to pick me up where I was at. You can see the time. I was just getting a vehicle lube at the car dealership, and it just struck me as a little bit odd.

**Senator Ford:**

Thank you. Thank you, Madam Chair. Thank you, Mr. Burnett.

**Chair Carlton:**

Thank you, and I know there are folks—Senator, you did want to ask another question, but I'd like to do firsts [committee member questions] before I go back to seconds if that is okay. So Madam Majority Leader, go ahead.

**Assemblywoman Benitez-Thompson:**

Thank you, Madam Chair, and thank you for the question. As I was reading the transcript, something that struck me, which causes me to think that A.B. 513 is appropriate, was comments that were made about the judge, Judge Gonzalez. And I am not a lawyer at all, far from it. And so I just didn't know if it was ordinary—if it was typical for you to be approached by an attorney general or a deputy attorney general, have them approach you talking in a derogatory manner about a judge, questioning the capacity of a judge to adjudicate, questioning the sophistication of a judge, this Judge Gonzalez, and if that was something that happened in kind of the regular course of business.

**A. G. Burnett:**

I'm sorry, I can't really comment too much on that simply because that was just the conversation and you'll have to ask others about that. I was just there.

**Assemblywoman Benitez-Thompson:**

If I could clarify, the question is specifically if it's common for you to be approached by DAGs or the AG wanting to talk to you about the quality of a judge. I didn't know if, not knowing this area at all, do people—it seemed to me to be derogatory statements about a judge's ability, but I didn't know if maybe that happens a lot—

**A. G. Burnett:**  
No.

**Assemblywoman Benitez-Thompson:**  
—maybe that’s just the way people talk about judges?

**A. G. Burnett:**  
Not for me.

**Chair Carlton:**  
Thank you. Other questions at the moment? I’ll go to Ms. Swank and then back to the Senate side of the table. Ms. Swank.

**Assemblywoman Swank:**  
Thank you, Madam Chair. I just had a quick question about the recording. I notice that it kind of starts and ends in places that don’t seem like the natural beginning and end of a conversation, so I am wondering what was said before, what was said after. I feel like we’re getting a selection of the conversation, so I am wondering how you chose this section and why we didn’t get anything before and after that.

**A. G. Burnett:**  
Sure. To the best of my recollection, it starts very much at the beginning of our conversation, when we sat down. The reason why it ends abruptly is I just felt the conversation was over, to tell you the truth, and I was nervous.

**Chair Carlton:**  
Thank you, Ms. Swank. So I have Senator Kieckhefer for a second and then Speaker Frierson for a second—but wait a minute. Senator Harris, I apologize. I will go to Senator Harris next, and we are working on limited time, so Senator Harris.

**Senator Harris:**  
Thank you, Madam Chair. And my questions are very much along the same lines as my colleague that just asked you a question with regard to the natural beginning and ending of the conversation. Because as I read your affidavit, you state in your affidavit that you were shocked, and just to kind of get to the last line, you determined that it was in your best interest and those of the state and the Gaming Control Board to record the upcoming oral conversation [[Exhibit D](#)]. And then in the text messages that you provided the Committee, it’s clear that you were awaiting Adam’s arrival—excuse me, Mr. Laxalt’s arrival—to pick you up. So why, if you knew that you had premeditation to record the phone call, or the conversation, did you not give us the full context of the conversation in terms of a direct start and a direct end? And you’ve testified to the end part, saying that you just felt the conversation was over so you ended the conversation. But at what point in time did you really determine that you needed to record it? Because based on the affidavit, it sounds like you knew before he even arrived you were going to most likely be taping the conversation.

**A. G. Burnett:**

I remember when he was pulling up and while I was waiting, and I thought that this is probably going to be an awkward conversation. As I said earlier, I wanted a record of it for everyone's protection, and I recall I got into his car and we drove. We couldn't really figure out where to go to chat, settled on a coffee shop that was nearby. And I don't remember extremely vividly at what point I—and I did it on my phone—I don't know at what point exactly I, you know, pulled it out and pressed "record," but I remember sitting down, and I set the phone right in front of me, and we started chatting. That's the best of my memory.

**Senator Harris:**

And then at what point in time did you decide that you needed to have the FBI listen to the recording to determine if there was something amiss?

**A. G. Burnett:**

Sure. Afterwards, I chatted with key staff at the Board, specifically in our Enforcement Division, and I mentioned earlier that I routinely keep the Governor's Office updated with certain large or potentially impactful issues, and let them know that this had occurred, and since it was something involving the Attorney General, how should we approach it. They don't tell us what to do, but the advice that came back—and this was a conversation between me and the General Counsel [GC]—was that, you know—and it's ironic that I say this now because my conversation with the GC at the time was we need to do whatever we can to protect the gold standard and ensure that if this all comes to light in a year's time, we can look back and say we did the right thing—and the recommendation was the FBI. And I immediately contacted a special agent in charge that we work with and after that—and I can't remember the exact timing so I apologize in advance—we met with the FBI.

**Senator Harris:**

Would you say within a month, 60 days, you know, how immediately after the conversation would you put the FBI into it?

**A. G. Burnett:**

I pulled up some calendars and tried to write things out. I believe it was around April 30 of 2016 or so. Again, to the best I can recall, the decision was contact the FBI. My Chief of Enforcement and the Deputy Chief of Enforcement at the Gaming Control Board, to the best I can recall, reached out to the FBI. I remember meeting with the FBI in Las Vegas. I apologize; I don't have a specific date, but the FBI got back to us around mid-May or so.

**Senator Harris:**

Just for record clarity, then, based on the text messages, they were taking place around the 26th of March, so within 30 days, 45 days after the conversation, that is when you decided to get the FBI involved?

**A. G. Burnett:**

I think that's correct.

**Senator Harris:**  
Thanks.

**Chair Carlton:**

Thank you, Senator. I believe I had Mr. Edwards. That will be final first round. I have two follow-ups from—Mr. Anderson, did you put your finger up also? Okay, Mr. Edwards then Mr. Anderson. We have been at this for about 45 minutes; I would hope to only give it a few more minutes so that we can move on. Mr. Edwards.

**Assemblyman Edwards:**

Thank you, Madam Chair, and good evening. A.B. 513 seeks to give you an internal legal counsel. Right now, the state provides you that in the form of the Attorney General's Office. I'm still unclear about the genesis of this need for a change. I am also not clear about why you felt so nervous on that one occasion that you had to go the unusual way of recording, rather than just taking notes afterwards as you said you would oftentimes do before. I know that you've had awkward conversations with other folks, and I'm just not quite sure why this was so awkward. But regardless of that, what I really want to know is how would an internal legal counsel really do you any better? Why would you not feel awkward with them? What benefit do you really get? What benefit does the Board get in order to have the integrity protected and the reputation prevail?

**A. G. Burnett:**  
Sure.

**Chair Carlton:**

Mr. Burnett, if I could interject just for a moment. Mr. Edwards, the bill came from me. So I'd be happy to answer any questions as far as the genesis of the bill, so I will take care of those for you when it's appropriate. Mr. Burnett, I believe he asked a question that has been asked and answered, but if you would like to go ahead and answer it again, it's up to you. Thank you.

**A. G. Burnett:**

That was actually going to be my answer. I would have to refer to the sponsor of the bill.

**Chair Carlton:**

So with that, I have Mr. Anderson.

**Assemblyman Paul Anderson:**

Madam Chair, I think I'll hold until we get to the actual details of the bill for my question, thanks.

**Chair Carlton:**

Thank you very much, Mr. Anderson. Mr. Speaker?

**Assemblyman Frierson:**

Thank you, Madam Chair. And thank you for another opportunity after a few things have been flushed out a little bit. I will be brief, best I can. Just a few things, Mr. Burnett, and I think we've touched on it. Correct me if I'm wrong, but I thought I recalled your sentiment that the text messaging was not usual. Was that a usual exchange between yourself and the Attorney General or a member of the Attorney General's Office?

**A. G. Burnett:**

Well, we had texted each other previously to that, so it wasn't unusual that we were texting back and forth.

**Assemblyman Frierson:**

And the meeting outside of the office, the exercise in getting in the car and trying to find a coffee shop, was that also typical or atypical?

**A. G. Burnett:**

That was atypical.

**Assemblyman Frierson:**

And when you say atypical, has it ever happened before?

**A.G. Burnett:**

That's never happened before.

**Assemblyman Frierson:**

I believe that Assemblyman Nelson [Araujo] had asked you a question about the bill and whether or not you saw it as a use. I recognize the bill didn't come from you, but you also spoke about the integrity of the regulatory process, in particular, gaming in Nevada. I kind of want to just get to the heart of it. You indicated that you felt nervous to the extent that you felt compelled to record the interaction and subsequently provide that recording. Considering that and the unusual nature—and I am speaking as an attorney of a client recording their attorney and providing that tape to someone else—what does that say about your comfort level with the counsel that you have and your ability to rely in an unfettered and unlimited way on counsel if you were nervous enough that you felt the need to record that conversation and provide it elsewhere?

**A. G. Burnett:**

I'll try to answer the best I can. I think the nervousness was compounded by the events that you have read about. We said no to the licensee multiple, multiple times through various and multiple channels. Chief LaBadie can speak more to that if he'd like, but in my mind, the answer had been given back to those who were requesting, that we were not going to intervene in that litigation. We had made that decision. And when I had received word, as I stated, from a very trusted source that perhaps conversations were taking place to ask the Board to do otherwise, I was alarmed. And when the phone call—or excuse me—the text came to fruition and the Attorney General wanted to pick me up, I wanted to be extremely

cautious and have a recording of that because I didn't know what was going to happen after that, essentially.

**Assemblyman Frierson:**

And just one follow-up, somewhat compound. I'll be brief. Again, speaking to the bill, would independent counsel allow you to move forward with relying on counsel without feeling nervous in seeking or being sought out for advice?

**A. G. Burnett:**

Well, I would probably have to answer with a soft no on that, simply because I think that we're skeptical by nature, and any kind of awkward conversation, whether it's from a staffer or anyone else, we're going to be hesitant on. So, you know, we want to be cautious at all times regardless of who we are talking to.

**Chair Carlton:**

Thank you. I believe I had Senator Goicoechea. Do you have a question?

**Senator Goicoechea:**

Yes, thank you, Madam Chair. And I guess my real concern is when you started recording. You know, typically when I get in the car, with a vehicle, and if I'm concerned about what's going to be said, I would have started recording right then because that's usually where the conversation starts. So, I'm little bit concerned about where it starts mid-conversation someplace, ends clearly before the end of the conversation. You know, when I get in the car with somebody, we're going to have a talk, and if it's an urgent meeting, it's probably going to happen quickly. Thank you.

**A. G. Burnett:**

To the best of my memory, the substance of the conversation didn't really start until we entered the coffee shop and sat down.

**Senator Goicoechea:**

Thank you. Thank you, Madam Chair.

**Chair Carlton:**

You're welcome. I will go to Senator Kieckhefer for a second. I will do Senator Ford for a second, and then I'd like to move on, Committee, if that's possible. Senator Kieckhefer.

**Senator Kieckhefer:**

Thank you, Madam Chair. And sort of what prompts my question is Senator Ford's suggestion that we need to look at the bill through a prism of the relationship between our current Gaming Control Board Chairman and our current Attorney General, because the bill will stand forever; we are permanently changing the structure of legal counsel for our gaming regulatory system. And so to that point, it's my understanding that Gaming Control used to have an internal attorney. I think the Governor had indicated that when he was Chairman of the Gaming Commission, that there was an in-house counsel that served for—that's what he

had indicated to me, Mr. Burnett—but that’s never existed in your tenure there, is that accurate?

**A. G. Burnett:**

No.

**Senator Kieckhefer:**

Okay. Since the time of this meeting and this incident with the Attorney General, I mean, the regulatory process has proceeded, right? We’re still investigating licensees, you’re still moving forward with licensing proceedings, and—I mean, do you feel like the service that you’re getting out of the Attorney General’s Office now has remained professional and is meeting the needs of the regulatory environment?

**A. G. Burnett:**

Yes, absolutely.

**Senator Kieckhefer:**

Okay. Thank you.

**Chair Carlton:**

Senator Ford?

**Senator Ford:**

Thank you, Madam Chair. And just real quickly and to the point of looking at this bill through the prism of the current relationship of the GCB and our Attorney General. I won’t purport to speak for the author of the bill, but I’ve been known to say in this building that most bills come out [unintelligible] first draft form, and so there are several different ways to address the current—what people would argue as a potential compromising circumstance—with sunsets and things of that sort. So as an aside, I just want to note that.

But let’s go back to your relationship. I’ve worked at several firms over the course of my career, and I’ve always had a boss, and my legal analysis sometimes could be trumped by my boss’ legal analysis. And so my question is, Why wasn’t that just your impression? I mean, you heard from his DAG that you shouldn’t intervene, but he’s the boss—he’s the Attorney General for the entire state. Maybe he’s just presenting to you what he considers to be the actual opinion of the Attorney General. Why wasn’t it that? Why do you think that was not your understanding as to what he was doing there?

**A. G. Burnett:**

Well, as I stated earlier, the day-to-day communications are with the gaming DAGs; they’re really the ones that we discuss those types of issues with. I recall Senator Cortez Masto calling me once or twice to just mention, “Hey, wanted to give you a heads-up. I have this meeting. Is there anything you’d like me to do after that?” But that was it. This was just out of the ordinary. I would say that the majority, if not all, of the advice we receive filters up to the boss—and this is my guess—in the Gaming Division, which is the chief DAG. I’m not

sure exactly how it works, but that's how it was when I was there, unless it was a huge, hugely impactful issue.

**Senator Ford:**

Okay. So if you thought—if you were nervous, as you've said, why not just say no? When he asks you to come meet him—when he was willing to come pick you up at a car dealership as you were headed out of town, and what's urgent, and you felt [unintelligible] it was going to be inappropriate? Why not just say no?

**A. G. Burnett:**

I didn't want to be rude. I then, and still do, think of the Attorney General as a friend. I wanted to have a good, friendly, cordial working relationship, and that's the gist of it.

**Senator Ford:**

So had the conversation not gone the route of what is perceived to have been trying to intervene on behalf of a gaming establishment, do you imagine that you would have had the need to tape the conversation?

**A. G. Burnett:**

No.

**Senator Ford:**

And one final question, talking about that particular lawsuit. I've heard you say that you didn't think there was an interest in the Gaming Control Board in intervening in a lawsuit. I just want to get that clear for the record. So, is it your opinion, as Chair of the GCB, that in that particular instance, and in accordance with what DAG had already indicated to you, there was no state interest or GCB interest in filing an amicus in that lawsuit?

**A. G. Burnett:**

That is correct, and also my Chief of Investigations is here. He and I chatted frequently about it during the conversations where we were requested to file something. We always felt it would not be an appropriate maneuver.

**Senator Ford:**

All right. Thank you. Thank you very much, Madam Chair.

**Chair Carlton:**

Thank you, Committee members, very much for all your thoughtful questions. I do appreciate it. Thank you very much, Mr. Burnett. Is there anything else you wish to add at this moment?

**A. G. Burnett:**

Nothing further, thank you.

**Chair Carlton:**

Thank you very much. We appreciate that. So Committee, we'll now go to Mr. Laxalt. And we spent approximately 50 minutes. If there are enough questions, I plan on giving everyone the same opportunity.

**Adam Paul Laxalt, Attorney General, Office of the Attorney General:**

Madam Chair. We do have statements to pass out if you will indulge us.

**Chair Carlton:**

You need to give them to the secretary, please. Could I have one before they are passed out, please? Thank you.

You can go ahead and pass those out. Thank you very much. Give me just a moment, Mr. Laxalt. Okay, please introduce yourself for the record and proceed, and welcome to the Committee.

Adam Paul Laxalt, Attorney General, Office of the Attorney General, presented three exhibits. [Exhibit F](#) is an audio recording of the conversation held on March 25, 2016, between A. G. Burnett, Chair, Nevada Gaming Control Board, and Adam Paul Laxalt, Attorney General, Office of the Attorney General. [Exhibit G](#) is the opening statement of Mr. Laxalt. [Exhibit H](#) is a copy of five pages of information regarding *amicus curiae* briefs from the website of the U.S. Securities and Exchange Commission, presented by Adam Paul Laxalt, Attorney General, Office of the Attorney General.

**The following is a verbatim transcription of the presentation from Mr. Laxalt.**

**Adam Paul Laxalt, Attorney General, Office of the Attorney General:**

Madam Chairman, thank you, and members of the Committee, Adam Laxalt, Attorney General of the state of Nevada. Thank you for the opportunity to come and speak to you this evening.

Allow me to start by quoting my own words when I obviously did not know anyone other than Chairman Burnett would be listening: “[W]e’ve reviewed . . .” the Sands’ “. . . broad request and most of it is absolutely not possible . . . or appropriate.” I went on to say “[O]ur brief . . . as I see it . . . would not be totally helpful . . .” to the Sands. “[I]t would be hurtful in a number of ways. . . . I mean, it actually makes the rest of the case harder for them.” Those unguarded, unimpeachable statements conclusively demonstrate how seriously I take my responsibilities to the state of Nevada, my client agencies, and protecting the laws of Nevada, including its gaming confidentiality laws. Thank you for finally releasing the transcript yesterday morning.

As you are aware, the piecemeal and selective release of materials related to the recording has resulted in multiple inaccurate and speculative stories. Despite that, I have gone to extraordinary lengths to keep silent in an effort to protect the reputation of the Gaming Control Board, its regulators, and our attorney-client privilege, where it existed.

Although I still want to do everything I can to protect the reputation of the Gaming Control Board and its regulators, now that there is so much information in the public record and a hearing is being held regarding my office's representation to the Gaming Control Board, I appreciate the opportunity this proceeding presents to ensure that you and the public have a complete and accurate picture.

This matter began in late 2015 when the Las Vegas Sands Corporation approached the Nevada Gaming Control Board asking it to consider filing an amicus brief in one of its private lawsuits with a former employee who was seeking to get documents that the Sands had provided to the Gaming Control Board. The Sands wanted the Gaming Control Board to file an amicus brief explaining the important state interest in protecting against disclosure materials turned over to the Board. In December, the Board reached out to my office asking for our legal assistance in evaluating the Sands' request. At the request of Chairman Burnett, in December, my top two gaming attorneys attended a meeting with the Sands and Board staff. During that meeting, the Sands discussed numerous documents that it sought to protect under several different theories. In the presence of the Sands, Ketan Bhirud, our then-senior attorney for gaming and head of complex litigation, expressed skepticism about filing a brief with regard to any of those theories except one, the same theory the Board had filed an amicus brief on just a few years earlier in the Cantor Gaming case. That theory is that a litigant should not be able to do an end run around NRS [*Nevada Revised Statutes*] [Chapter] 463 simply by asking someone other than the Board to turn over documents that had been produced to the Board. Allowing this would be problematic because it would nullify the protections of NRS 463. A party could get any documents that were provided to the Board simply by requesting them from the regulated entity rather than from the Board.

The documents at issue in the Sands litigation fell into multiple categories, which I'll simplify to two for purposes of this statement: first, documents that the Sands had shared with just the Gaming Control Board; second, documents that Sands shared with the Board and other federal agencies like the SEC [U.S. Securities and Exchange Commission] and the DOJ [U.S. Department of Justice]. With regard to this second category, attorneys in my office were consistently clear that they did not think those arguments had much legal support, nor were we interested in writing an amicus brief about those types of documents. My senior attorneys communicated this back in December and January to Chairman Burnett and his staff. My line-level gaming attorney repeated the same thing in a quick response to a March email from Chairman Burnett, and as is obvious from the tape transcript, I repeatedly said the same thing to Chairman Burnett myself during our March 25 conversation.

But going back to that December meeting where the Sands asked the Board and my office for an amicus brief, soon after the meeting, on January 6, my top gaming lawyers briefed Chairman Burnett and another Board employee with their legal analysis about the request. Although their legal analysis was prepared independently, I agreed with it. During that meeting, everyone agreed—my office's attorneys and the Board's representatives, including Chairman Burnett—that we had no interest in writing an amicus brief about documents shared with agencies other than the Board.

Consistent with that conclusion, nobody in the Attorney General's Office, including me, ever suggested the Board submit an amicus brief about those legal issues. Moreover, Chairman Burnett said that he had agreed with my office's legal analysis regarding the subset of documents that had only been turned over to the Board. With regard to those documents, everyone agreed that the Board did have an interest in preventing private party litigants from doing an end run around NRS 463. Nonetheless, in this case, Chairman Burnett said that he was not sure he wanted to file an amicus brief at the district court level for two reasons: first, because he was hesitant to insert the Board into private party litigation, and second, because he thought it might make more sense to wait and file an amicus brief if and when the case was appealed. Chairman Burnett said that he would think about what he wanted to do and when he wanted to do it. Indeed, after the meeting, my lawyers informed me that they believed Chairman Burnett was considering having the Board file an amicus brief, if not at the district court level, then at the appellate court level.

After that meeting, my office took follow-up calls from the Sands' general counsel. During one of those conversations, my attorneys again walked through the Sands' request. Mr. Bhirud asked the Sands' general counsel several questions during the call, including whether the Sands would want the Gaming Control Board to file an amicus brief on some, but not all, of the issues that the Sands was litigating. During one of their meetings, the Sands' general counsel explained that if the Gaming Control Board were only to file a brief regarding the narrow subset of documents that had only been turned over to the Board—that is, the type addressed in the Cantor Gaming brief—that he believed that such an amicus brief would actually be harmful to the Sands and counterproductive to their position in litigation. Following their conversation with the Sands' general counsel, my lawyers spoke to Chairman Burnett and informed him of the content of their discussions. I am now informed Chairman Burnett told the Sands' outside counsel at some point that he was not inclined to file an amicus brief at the district court level. At no time during those conversations did anyone express any concern that our attorneys were speaking to the Sands' general counsel without the presence of the Board.

During this initial period of interaction between the Board, the Sands, and my office, I had delegated this issue to my top gaming lawyers. My attorneys kept me informed of their discussions with the Board and the Sands, and I agreed with the legal analysis they were providing.

The Sands also reached out to me asking if I would be willing to meet regarding their amicus request. I met with them at the Las Vegas Sands, and the meeting included Mr. Adelson, Andy Abboud, their general counsel, and there may have been others who I cannot recall. They asked if I knew whether the Gaming Control Board had made a final decision regarding their amicus request. They also asked me to consider whether, if the Gaming Control Board decided not to file an amicus brief in their lawsuit, my office might nonetheless still file an amicus brief on behalf of the state alone. I told them that we would consider their requests with the understanding that I was highly unlikely to file without the Gaming Control Board's concurrence.

In early March, Chairman Burnett sent an email to our gaming lawyers asking about the confidentiality as related to documents shared with the SEC and the DOJ. As I mentioned earlier, my office had already advised Chairman Burnett that those documents likely would not be protected by NRS 46 [463], did not have much legal support for an amicus brief. Responding to Chairman Burnett's March email, one of our line-level gaming attorneys again provided Chairman Burnett with essentially the same advice. Chairman Burnett's March 3 email, if anything, indicated the Board was monitoring the progress of the discovery dispute and understood the changing context of the Sands' amicus request, which effectively reopened the issue.

Around that time in the litigation, the district court judge, potentially as early as April 5, was going to begin reviewing the requested documents in camera. If she ordered that they be released, as a practical matter, the issue would likely have ended up being mooted before an appeal, leaving the Board with no opportunity to weigh in and protect its interests. After I learned of the evolution of the discovery dispute—recognizing that the time to act, if the Board were going to act, would soon be gone—I took it upon myself to seek an in-person meeting with Chairman Burnett to discuss the developments in the discovery dispute and the fact that there would likely be no opportunity to address this issue on appeal. In order to make sure that the Board was not deprived of the opportunity to file an amicus brief in the case if it wanted, I had to let him know that the opportunity for the Board to file an amicus was short and to seek his direction, given this new information and these new time constraints. Up to this point, I had not yet personally discussed this issue myself with Chairman Burnett.

Accordingly, during a text message exchange with Chairman Burnett, I suggested that we meet in one of our offices in Carson on May [March] 25. When Chairman Burnett said that he was unavailable that day, I suggested we meet the following week. Chairman Burnett responded that he would be gone for several weeks if we did not meet on the 25th. As a result, given that we otherwise could not meet before April 5, the first day that this issue might become moot, I suggested we meet in Reno at one of our offices or a coffee shop towards the end of the day. Again, this was not unusual to me because I was social friends with Chairman Burnett. Chairman Burnett agreed to that meeting but later in the day texted me that he may not be able to make our end-of-the-day meeting because he had just scheduled a dinner at 5 p.m. Explaining that we needed to meet soon because he was leaving town, I offered to accommodate him by meeting wherever he was. It was not until three days after we started texting that I said the meeting was urgent, and only did so because I had then learned Chairman Burnett was going to be gone for a few weeks after that day. Chairman Burnett asked me to meet him at the dealership where he was having his car worked on even though, as Mr. Burnett acknowledged in his text, that “[m]ight be [a] weird . . .” meeting spot. I agreed to his request and met him there. [\[Exhibit D\]](#), pp. 16-20.] We then drove to a coffee shop and had the conversation he recorded.

During that same meeting, consistent with what he had been told previously by multiple lawyers in our office, I reiterated that most of what the Sands had asked for in an amicus brief was absolutely not possible or appropriate and that we would be solely interested in

writing a brief on the issue of protecting the confidentiality of documents turned over only to the Gaming Control Board. I also expressed my concern that a ruling from the district court judge might be imminent and that there would likely be no chance to file a brief on the appeal, so if we wanted to weigh in to protect confidentiality, the time to do so was now. Chairman Burnett and I discussed the pros and cons of filing an amicus brief at the district court or on appeal. I explained that since the district court judge was going to be reviewing the requested documents in camera, if she ordered they be released, as a practical matter, the issue may end up being mooted before an appeal, leaving us with no opportunity to weigh in and protect the Board's interests. I went on to explain to Chairman Burnett that, as my gaming attorneys had told me, this amicus brief would be hurtful to the Sands in a number of ways. We agreed that this was a tough request with difficult optics, because even though we'd be filing an amicus brief against the Sands' interests, it could be erroneously perceived—as indeed some have recently done—as a favor to the Sands.

Ultimately, Chairman Burnett did not make a final decision as to whether to file an amicus brief at either the district court or appellate court at that meeting. Instead, he indicated that he'd like to talk a little more about it with the Sands' general counsel. Later, past the point where the now-public transcript ends, Chairman Burnett also stated he would like to talk with Sheldon Adelson himself.

Both before and after the recorded meeting, I thought that Chairman Burnett was considering filing an amicus brief on the narrow issue that our office had discussed and that he was simply unsure of whether it made sense to file that brief at the district court level or the appellate court level. Given the fact that a district court ruling appeared imminent, I worked hard to make sure that I met with him as soon as possible to warn him that this belief that the issue could be addressed at the appellate court level might be incorrect. As it turns out, as my office predicted, the case never made its way to the appellate court.

My top two gaming lawyers attended the follow-up meeting with Mr. Adelson and Chairman Burnett on April 5. Their recollection is that Chairman Burnett told Mr. Adelson the Board was not going to be filing an amicus brief in the matter. After that meeting, my office was asked to brief another Board member on April 8 about the Sands' request for an amicus brief. That Board member noted the full Board, consisting of three appointed members, had not made a decision on the amicus brief. In any event, it's important to reiterate the obvious: Because our office deferred to the Board's decision or lack thereof, no amicus brief was ever filed.

Finally, I think it's important, for the purposes of this hearing, to emphasize that on multiple occasions, Chairman Burnett has confirmed that the attorneys in my office who represent the Board have consistently represented these clients diligently and with great integrity and skill. Since 2015 when I took office, attorneys representing the Board and Commission have performed over 20,000 hours of the highest-quality legal work. They have represented the Board in disciplinary actions against licensees resulting in over \$5.5 million in regulatory fines and penalties. Ironically, the largest of these was in May, and it was the fine against the Las Vegas Sands for \$2 million.

In all of this, my gaming lawyers have distinguished themselves and their Board and Commission clients through their unyielding commitment to maintain the reputation of Nevada's gold gaming standard. I believe the Board would agree, the Commission would agree, and the gaming industry would agree. And throughout, these attorneys have been employees of the Nevada Office of the Attorney General—my office—in the same way that the Board and Commission have been represented for over 50 years.

As a historical matter, occasional public disputes between gaming regulators and the Nevada Attorney General's Office are nothing new. Although not the norm, attorneys general and gaming regulators have argued, accused, and have even contemplated the action before you now to move the gaming lawyers representing the Board and Commission from the Office of the Attorney General. This is hardly unexpected. Any structural system that separates powers—here the legal versus the enforcement and investigatory functions, just as the case in almost any prosecutorial system in our nation, including in Nevada—will produce occasional tension or friction between those functions. Indeed, that is precisely the reason for the separation—to create checks and balances to ensure that Nevada's gold standard remains the gold standard. Because of that, even though it had been proposed before, consolidation of those functions all under one authority has never occurred for the best of reasons. Simply put, the current structure works.

It worked when my office deferred to the Board Chairman and did not file the amicus brief in the Sands litigation. It worked when the attorneys in my office represented the Board in the Sands disciplinary matter, which resulted in the Commission accepting a fine against the licensee of \$2 million just over a month after my meeting with Chairman Burnett.

The current structure provides independence to the attorneys who represent the Board and Commission. Just as most Nevada prosecutors are independent from the law enforcement investigators they work alongside, my gaming lawyers are unfettered except by their commitment to ethical rules and to what is right in deciding whether to investigate claims to meet the standards of proof required for formal disciplinary action. With such independence, these attorneys are able to provide candid and sometimes difficult advice to these powerful regulatory agencies. This independence is paramount to the integrity of the Board and the Commission, to the licensees expecting fairness and objectivity, and to the citizens of Nevada who rely upon the success and reputation of the gaming industry and its regulators to drive the success of the gaming economy, which is critical to our state.

Thank you, Madam Chair.

**Chair Carlton:**

Thank you, Mr. Laxalt. That was an extensive ten minutes. We do appreciate it, and it's in writing, so we'll be able to go back and review it. I'd like to ask you a couple of the same questions that I asked Mr. Burnett to start off with. I received some correspondence from you this afternoon regarding the transcript, and I understand that you believe there's

a correction that you would like to propose, that there was an inaccuracy in that transcript. I'd like to give you that opportunity right now if you would like to.

**Adam Paul Laxalt:**

We'd be prepared to correct it officially in the record, but just reading off the top of my head, it had been put in the transcript and reported that at one point in time I said to Mr. Burnett, "Don't go soft on me." Instead, I had said the word "Philosophically, do you agree that anything made in preparation for Gaming Control Board requests has to be protected both ways?" [[Exhibit C](#), p. 12, l. 16-17.] Thank you.

**Chair Carlton:**

Thank you, and we'll review that and go over it again. Are there any other corrections to the transcript that you would like to propose at the moment?

**Adam Paul Laxalt:**

Madam Chairman, we found many discrepancies, which of course, in the short period of time between the release of the audio—hearing the audiotape just a few hours ago, we've not had a chance to compile that.

**Chair Carlton:**

I believe, Mr. Laxalt, it was released this morning, so you've had a full day. I look forward to receiving the documents of any discrepancies that you find in it, and as soon as possible, that would be great. We would appreciate that because if there are discrepancies, we'd like to be made aware of them. So, we want everyone to have full input on this.

With that, I have one question to the transcript, and then I'll open it up to questions of the Committee. In the opening of the transcript towards the very beginning, you state, "The privilege issue. I don't know if the Governor's [bugged] . . . you about it, or Mike." Could you clarify who Mike is?

**Adam Paul Laxalt:**

Madam Chairman, I wouldn't want to hazard a guess a year and a half later.

**Chair Carlton:**

You don't remember which Mike you were talking about that would be associated with the Governor?

**Adam Paul Laxalt:**

I would have to guess Mike Slanker at this point in time, but I can't be confident of that.

**Chair Carlton:**

So, you would guess Mr. Slanker, but you're not sure? Okay. Continuing on there in the loop, "[B]ut you know, that's part of why I just want[ed] to talk to you one-on-one so there aren't so many cooks in the kitchen." Who were all the cooks in the kitchen? It seems like this was a complicated issue, and—

**Adam Paul Laxalt:**

Madam—

**Chair Carlton:**

—then your statement—

**Adam Paul Laxalt:**

Madam Chairman, I mean you have to—you can see it just as well as I. I mean, best I can tell is the cooks in the kitchen was perhaps the Governor, the Governor's office, and anyone else being involved with the Gaming Control Board.

**Chair Carlton:**

And no more precise answer than that, just that generality?

**Adam Paul Laxalt:**

That's all I recall.

**Chair Carlton:**

That's all you recall? Thank you, I appreciate that. Just wanted to make sure that I had full comprehension on that. So with that, Committee, let's go ahead and do some questions. Mr. Araujo.

**Assemblyman Araujo:**

Thank you, Madam Chair. Mr. Laxalt, do you give all of the cases that come to your attention this much personal attention and sense of urgency when handling them?

**Adam Paul Laxalt:**

Thank you for the question. Obviously, I represent many clients and we represent all the state agencies, and as issues come up, when they become a priority, sometimes I'm directly involved and sometimes I'm not. As is made clear, I've been involved off and on in this matter.

**Assemblyman Araujo:**

And if I may, Madam Chair? I am trying to get to the point of what made this case so special that it required the urgent request for a meeting and follow-ups even after you recognized that your DAG had already opined on the matter.

**Adam Paul Laxalt:**

Thank you for the question. Look, I meet with my agency heads and the heads of our state agencies as well as boards and commissions regularly when matters are significant. If those of you that remember when our system failed for the testing across the state of Nevada, that particular morning as soon as we heard of that, I walked right across the street and met with the then-superintendent, brought one of my DAGs, we sat down and met for an hour over the issue and decided to lay out how we were going to approach what ended up being that

litigation. So it's a practice that I have. I meet regularly with the sheriffs, chiefs, district attorneys across the state.

**Assemblyman Araujo:**

But Madam Chair, if I may? But, if I'm not mistaken, your sole responsibility is to represent the state of Nevada, correct? And I'm asking because you said you meet with various folks who have various levels of interest, so I am just—I'm trying to—I'm trying to understand the reason why this, in particular, was of interest to you enough and how relevant this was to the state of Nevada, which is your No. 1 obligation.

**Adam Paul Laxalt:**

Thank you for the question. Well, of course, I always represent the state of Nevada, but I do represent, as an attorney-client relationship, all of the state agencies, and those are ongoing relationships, as is the Gaming Control Board, as is Mr. Burnett, as he said in his testimony. You know, when you have a large case or something going on like the Daily Fantasy, I'll reach out to my particular client and discuss the matter with him or her.

**Assemblyman Araujo:**

Madam Chair, I know other members have questions, so I'll let them follow up on this, but I may come back and circle back with you because I still don't—I don't think you've answered the question. You haven't really gotten to the root of the point that I'm trying to get here. So, I am sure other members will highlight this, but we'll certainly circle back if they don't.

**Chair Carlton:**

Okay, so I have Mr. Edwards.

**Assemblyman Edwards:**

Thank you, Madam Chair. Mr. Attorney General, I'd like to just confirm that when you were discussing this matter with Mr. Burnett, that your intention was to get an idea of what your client was thinking and what procedures he might want to go forward with and offer him options as his legal counsel, which would be a normal procedure in any legal matter. So as I understand it, you were simply providing the service that you are supposed to and trying to discuss what was going on in the case.

**Adam Paul Laxalt:**

Thank you for the question. I think—as I said in my opening statement, I'm happy that the transcript and the tape have come out. That's exactly what transpired. I went to speak with my client, as I speak to clients regularly. We discussed a pending legal matter, and in this particular matter, a matter of statewide significance on whether confidentiality was at issue here and is something that deserved the state and the Gaming Control Board to protect.

**Assemblyman Edwards:**

It just seems as though this was just a good lawyer helping out his client with a more hands-on approach than others might, but I just don't see any problem with it. Thank you.

**Chair Carlton:**

Next, I have Ms. Benitez-Thompson. Did you raise your hand? Thank you.

**Assemblywoman Benitez-Thompson:**

Thank you, Madam Chair, thank you for the question. Thank you for being here, Attorney General Laxalt. So my question has to do with, as I read the affidavit—I'm on page 14, and I'm looking at the section that kind of runs from line 6 down through—down through probably most of the page. So I see two different things that are prompting—

**Adam Paul Laxalt:**

Do you—

**Assemblywoman Benitez-Thompson:**

—the question.

**Adam Paul Laxalt:**

Do you mean the—

**Assemblywoman Benitez-Thompson:**

I'm sorry—

**Adam Paul Laxalt:**

—transcript or the affidavit?

**Assemblywoman Benitez-Thompson:**

—the transcript [[Exhibit C](#)]. Yeah, sorry, my apologies, the transcript, thank you. So I hear you talking about the fact that coming from the Sands are multiple requests, multiple conversations about a way for there to be intervention. I see a lot of back and forth where you're participating in this. The language I see here where Mr. Burnett is talking about this—and I think it's, you know, the question that is here is, you know, why are they—the quote, “[W]hy are they [being] so adamant [about] . . . this . . . [Why are they] . . . not giving up?” We know that, as we look at the timeline, they made multiple requests of you. The one that seemed to have some stickiness to it was the argument on confidentiality, but I'm wondering if you can talk to me about the other requests they made to you, the other ways that the Sands was asking for intervention.

**Adam Paul Laxalt:**

Thank you for the question. As I tried to boil down in my opening statement, there were many areas of discovery at stake and many different sets of documents, and the space that we had continually focused on, that we felt was protectable, was information that had been provided or prepared directly for the Board. Separately, there was a number of subsets of information that had been prepared for federal agencies, and that's what it boils down to. And the question was—the Sands' request—was would the state—the Gaming Control Board and the Attorney General's Office writing the brief on behalf of the Gaming Control Board—would they be willing to protect all of these areas of document production? And as I

stated in my opening statement, that's something that no one felt the law supported and we never entertained, the Gaming Control Board never entertained. We were all on the same page on this, as was Chairman Burnett, and everyone agreed that this one narrow area of confidentiality was the type of information that should be protected and we should look at and make sure that this kind of information was not opened up.

**Assemblywoman Benitez-Thompson:**

Sorry. Thank you, Madam Chair, for the quick follow-up. You know, as I look through this, I see different kinds of behavior and kind of going back and forth, and to me, it just feels like there was such a persistent push by the licensee to find a hook and an angle by which your office could intervene or someone's office could intervene. And I just sit here wondering at some point why someone just couldn't say, Stop and That's enough. I'm not entertaining a hundred different ideas on ways for you to get an angle for intervention. Why wasn't the conversation shut down earlier? Why didn't you, Mr. Attorney General, why didn't you just end the conversation with the Sands and not continue to be acting kind of a go-between manner with the different pitches that they had?

**Adam Paul Laxalt:**

Thank you for the question. This is the way lawyers operate. This is how it works. Lawyers make as many arguments as they can to try to win a case and to approach any particular issue, and they had a large number of arguments, and from the very beginning, we continually maintained to the Las Vegas Sands that the grand majority—nine-tenths of the areas that they were approaching—were not supportable, not something that we were going to be willing to support. As I say in my—in the taped recording [[Exhibit F](#)], let them go fight that out. They've got colorful arguments. Maybe they can win that in a court. But the state and the Gaming Control Board was not going to be comfortable making those arguments.

**Chair Carlton:**

Thank you, Ms. Benitez-Thompson. Mr. Anderson.

**Assemblyman Paul Anderson:**

Thank you, Madam Chair. I appreciate the opportunity. Mr. Laxalt, thank you for being here today. I am curious if you could help. Your position in the state is pretty unique. You're an elected official, so you have constituents and constituent services that need to be addressed as well as representing the agencies and the state interests in that respect. I'm wondering if—I would assume there's often times where there's conflicts that come about—and I am wondering how you discern—you sort of discern those conflicts, how you sort of balance that out in your role as an elected official as well as your role as the state attorney.

**Adam Paul Laxalt:**

Thank you for the question. You are correct. I am the elected top lawyer for the state, and of course, I meet with businesses, we meet with general counsels, people are always able to bring things into our office or to my attention when they believe something is involved for the state and there's a state interest involved. Typically, when it involves a state agency, we would go to a state agency, see what they feel about it. Many of the times, we will go the

direction of the state agency, but certainly there are times when I, as the independent Attorney General, determine we're going to go a different direction as a state agency. And in fact, this particular case, I, as the state Attorney General, could have filed an amicus brief on this particular matter and am always free to go a different direction. But because of our respect for the Gaming Control Board, because of the significance of the gaming industry, I made it very clear directly to A. G. Burnett that we would have no intention of breaking from them on this. And again, the wild thing about all of this is we were all on the same page the entire time—that there was this narrow area of confidentiality, of information that should be protected, and the entire time, the question is district court level, appellate court level, and there was a back and forth throughout this process.

**Assemblyman Paul Anderson:**

Thank you. And just in relation to the bill that we're looking at, I'm wondering, too, how much, in relation to other agencies, does the Gaming Control Board take up more legal resources per se than maybe another agency out there or is it a big part of—I don't know what you call a percentage of the work that you do—related to the gaming industry?

**Adam Paul Laxalt:**

Thank you for the question. It's a large portion of what we do. I would say the Department of Corrections is probably more, but they're both right up there at the top, and we have nine lawyers that are working every single day to address the needs of the Gaming Control Board. And as may have been clear of what I said as well as Mr. Burnett said, I am incredibly proud of all the work they do. And they've done—everyone has said that with the change of leadership in my office and appointing new chiefs of gaming, that we provide the best legal service that they've received as far back as they can remember.

**Assemblyman Paul Anderson:**

Thank you, Madam Chair.

**Chair Carlton:**

Thank you, Mr. Anderson. Ms. Diaz?

**Assemblywoman Diaz:**

Thank you, Madam Chair. And it's refreshing to hear you, Attorney General Laxalt, that you should be representing one sole interest, and that is the interest of the state of Nevada. With that being said, I wanted to ask why you would meet with Mr. Adelson and/or his employees without a representative from the Gaming Control Board on an issue that regarded that client in particular?

**Adam Paul Laxalt:**

You know, I meet with CEOs and general counsels and regular business folks and citizens all the time on many issues, and I met with him directly on this issue. And as I've made abundantly clear, we from the very beginning said that there was only a limited area that we felt, and the Gaming Control Board felt, was actually required to protect Nevada's gaming

industry and protect confidentiality, and that's the area we focused on for these many, multiple months this went on.

**Assemblywoman Diaz:**

Okay, and I have another follow-up to that, Madam Chair. So you said you met with the heads of the Sands board to decide whether or not to try and file an amicus brief. Have you done that with any other gaming licensee?

**Adam Paul Laxalt:**

You said that I met with the Sands board—

**Assemblywoman Diaz:**

Uh-huh.

**Adam Paul Laxalt:**

—apologize?

**Assemblywoman Diaz:**

Yes.

**Adam Paul Laxalt:**

You're referring to when I met with Mr. Adelson—

**Assemblywoman Diaz:**

The Sands board, uh-huh, to decide whether—

**Adam Paul Laxalt:**

—and the general counsel?

**Assemblywoman Diaz:**

—to try and file an amicus brief. So have you done this with any other—

**Adam Paul Laxalt:**

I have met with many—

**Assemblywoman Diaz:**

—gaming licensee?

**Adam Paul Laxalt:**

—CEOs and other entities on filing private party litigation. In fact, just recently, we have been reached out to by a Nevada company involving an environmental law dispute with an insurance company, and we reached the Nevada Department of NDEP [Division of Environmental Protection] and asked if this was a matter that affected the state, and they felt so, and we filed an amicus brief on behalf of them. So, this is absolutely something that I do, and when necessary, it's part of my job.

**Assemblywoman Diaz:**

I don't feel I really got an answer, Madam Chair, but my final question would be, Did you know that the Governor's counsel was the one who recommended the Gaming Control Board to turn over the tapes to the FBI?

**Adam Paul Laxalt:**

That's the first I've heard of that.

**Chair Carlton:**

Thank you. I believe I had—Senator Goicoechea, did I see a nod from you earlier? No? I'm sorry. We're going to the Senate side for a moment, then we'll come back to the Assembly side. Senator Kieckhefer?

**Senator Kieckhefer:**

Great, thank you, Madam Chair. This relates again back to the bill a little bit. Mr. Laxalt, the—I didn't follow this case so I'm catching up in some ways. But the effort was being made to make sure that information being held by the Gaming Control Board remained confidential. That was the request from the Sands, as I understand it, right?

**Adam Paul Laxalt:**

In this case, I believe it was the reverse. They were requesting a private party—the other person, Jacobs, was asking the Sands for information that they had produced for the Gaming Control Board.

**Senator Kieckhefer:**

So my concern from a policy perspective is ensuring that the integrity of the gaming regulatory system remains the best in the world, and confidentiality at the Gaming Control Board level seems to be one of the most foundational components of that. Is there ambiguity or uncertainty in our statute as to whether any and all documents supplied to the Gaming Control Board are confidential that we may need to address?

**Adam Paul Laxalt:**

Thank you for the question. I mean, I think some of this is borne out in Mr. Burnett and I's discussion in—in our conversation. I think there's no question that when the Board is holding on to information and the Board is subpoenaed for something, in almost no circumstance would that ever get turned over. This question of what I—what we all discussed as the end round of [NRS] 463 is a little bit more open. I think we all believe that it's still protected and we would certainly fight as a state to protect it, but it's something that could always be continually tightened up.

**Senator Kieckhefer:**

Thank you, Madam Chair.

**Chair Carlton:**

And if I may, Chair's privilege, following on Senator Kieckhefer. The request from this was not coming from a court, correct? It was coming from one of the parties involved in the litigation?

**Adam Paul Laxalt:**

That's correct.

**Chair Carlton:**

And it's my understanding that the confidentiality—the difference between the privilege and the confidentiality is more about a court requesting it, not an actual party. And I am not a lawyer, I do not pretend to be, I will not be one on TV, there's too many lawyers in the room tonight. But, I just wanted to make sure that that's usually requested by a court, not by one of the folks involved in the case. Do I understand that correctly?

**Adam Paul Laxalt:**

In this particular matter, it was litigation on a discovery request, so you had one party trying to get documents from another party and the documents at issue were documents—the alleged documents at issue were documents that had been produced for the Gaming Control Board.

**Chair Carlton:**

And I believe in the citation that you have—and excuse me for reading because I do want to make sure that I say this correctly—that the definition with confidential in this particular context means that the Gaming Control Board would not share the materials with a third party unless it had in the course of its administration a lawful order of a court of competent jurisdiction. So I am just trying to understand how this request fits in with it not being requested from the court, but being requested from one of the folks involved in the case. And I may just be missing something.

**Adam Paul Laxalt:**

I think—

**Chair Carlton:**

This typically would come from a court?

**Adam Paul Laxalt:**

No, I mean, I think that private parties try to seek information in discovery all the time. More often than not, the private parties are seeking it directly from the Gaming Control Board, in which we have, you know, countless instances since I've been Attorney General where we have fought to protect that information from the private party being able to get it. In this particular case, it came—as I was trying to explain earlier—it came from a private party trying to get it from the other private party in litigation.

**Chair Carlton:**

And that's the discovery phase?

**Adam Paul Laxalt:**

This was all in discovery phase, yes.

**Chair Charlton:**

Okay. So and it was discovery from a third party? I must not be asking the question correctly. I'm just trying to make sure that I understand the involvement, how everyone was interjected into this, so we'll move on. It is something that I'll have to learn. Like I said—not a lawyer, had to learn all about this on the fly. So with that, I believe I had Dr. Titus.

**Assemblywoman Titus:**

Thank you, Madam Chair. Thank you, Attorney General Laxalt, for being here this evening. I appreciate your professionalism and your care about Nevadans and your care for the state. It seems like it was your belief that Mr. Burnett was considering the amicus despite the advice from your office and that you had—you've testified, apparently, that you have nine attorneys that work with the—are involved in the Gaming Control Board, is that not correct?

**Adam Paul Laxalt:**

Yes.

**Assemblywoman Titus:**

Is it their habit to ignore what your advice is and do their own thing and totally not pay attention to what your office offers them?

**Adam Paul Laxalt:**

Thank you for the question. I think this goes a little bit to what Senator Ford said. I mean, I am the boss. I am the elected Attorney General. If at any point in time I have a differing opinion from my lawyers, of course that's entirely appropriate. But it's important to note in this case, there was never an inch of gap between my lawyers and myself. From the very beginning, we all agreed on the same thing—and you mention despite a DAG. It's important to know that the DAG's advice was the exact advice that my gaming chief give and Mr. Bhirud gave, as well as I gave in the reported conversation. Mr. Burnett asked in that particular email in March about whether or not documents given to the DOJ or to other federal agencies should be protected. And we've been very—I don't know why he asked multiple months later because its sort of been asked and answered for many months. No one disagreed that that was not the type of information that our current laws protect.

**Assemblywoman Titus:**

Thank you very much for that clarification because I think that really needed to be brought out. Thank you.

**Chair Carlton:**

All right. I will go to Speaker Frierson.

**Assemblyman Frierson:**

Thank you, Madam Chair, and thank you, Attorney General. A few questions. I wanted to clarify first—I wasn't entirely sure about the direction from the Gaming Control Board about whether or not filing the brief was advisable, and I think that you have reflected that Mr. Burnett expressed skepticism about whether or not that was a good way to go. But it seemed to me in reading the material that it was outright advice against, it wasn't just skepticism, and looking at just a few words, even, in the transcripts from Mr. Burnett, "[T]he optics would be horrendous." [[Exhibit C](#), p. 15.] And I think that you, yourself, had expressed some concern about the optics. Can you clarify—it seemed to me the DAG represented against filing or seeking an amicus brief, and you seem to have wanted to discuss it with Mr. Burnett anyway, so I just want to be clear. Was it—was their advice to not seek an amicus brief and you just decided that you wanted to get a second opinion?

**Adam Paul Laxalt:**

You know, I think I hopefully—I tried to make clear in my opening statement. It's important to know that my top two gaming lawyers were involved in this case from December onward. And so they've given consistent advice that we'd only file on this narrow set of issues and that we would not address these joint investigations with federal agencies. Then you flash forward many months later, and Chairman Burnett sends an individual email to a line DAG below those folks asking the same question, whether or not the Board should—would protect this kind of information shared with federal agencies. And you know, as he wrote in there, I haven't researched this yet, et cetera. [[Exhibit D](#), pp. 24-25.] And he put it back that next morning that that's not the type of information that is typically protected. And as I said, that's exactly the advice we had been giving since December.

**Assemblyman Frierson:**

And I'm sorry, and I'm not, you know—I'm trying to get clarity for myself. When you met with Mr. Burnett, had you been given advice that an amicus brief was not appropriate?

**Adam Paul Laxalt:**

The advice that we gave to Chairman Burnett from December all the way through my meeting was the same advice. And so I understand that there is this selective release of information and however this came down, and so the only bit of advice you guys see is this one single email. But as I said, there had been advice from many months before, and the advice was consistent and it was never that there's no amicus. The advice was that there would be no amicus on this huge range of issues that would actually damage the Las Vegas Sands case, would make them harder to try to protect these documents, that the only issue at stake was this narrow issue of confidentiality, something that we all agreed was important for the state. And again, and I know I am repeating myself, but it's the same question. From our perspective, my senior gaming lawyers would state, "Are we filing on this narrow issue at a district court level? Are we going to file at the appellate level?" And all the way through this process, the question was whether or not we'd file at the district court or appellate level. That answer I didn't get. As you can see in the testimony, we were still discussing that at the end of March, well after that email. We agreed, as you can tell in the transcript, that there is a type of information that should be protected. Mr. Burnett said, Well, I don't know if I want

to do it now during discovery. Can't we just do it at the appellate level? [[Exhibit C](#), pp. 15-16.] I mean, it's all right there, and so it was a consistent thread throughout.

**Assemblyman Frierson:**

And I'm sorry. I'm not responsible for whatever information, part or whole, was circulated, and I may be just as concerned about wanting to make sure that I get the answers to fill in the blanks, so—

**Adam Paul Laxalt:**

No, I appreciate it.

**Assemblyman Frierson:**

—I'm asking you out of a genuine interest in the answer. And your word was "skepticism," and I'm just wanting to make sure that—my question was, Was there skepticism or was there advice not to? Because the perception seems to be the advice was not to seek an amicus brief and that the effort in meeting with Mr. Burnett was contradictory to that advice and seeking to convince him to intervene anyway. And so I'm wanting to get to the bottom of whether or not that is an accurate narrative.

**Adam Paul Laxalt:**

And I appreciate the question, Mr. Speaker. I think my statement makes it clear, as well as this 18 pages of the recording, that no, that was not our impression, my senior gaming lawyers or myself.

**Assemblyman Frierson:**

Okay, thank you. And just a couple of follow-ups, and this is one of a factual one. Mr. Attorney General, you may have the answer. You had indicated that the current model works and that there would be problems with consolidation otherwise, with in-house counsel for the Gaming Control Board, and that consolidation had never occurred and there was a reason. But I thought that earlier it was represented that the Gaming Control Board actually used to have independent counsel and at some point ceased. I don't know the answer, so I'm asking you if you do. If you don't because it predated your being in the office, you know, then I'm certain we can find out. But I was just wanting to get—because I was under the impression that at some point that was the model.

**Adam Paul Laxalt:**

When I say this, I don't mean to be snarky, but I still don't know exactly what this changes or what the intent is of trying to shift the structure. I'm just—I'll be curious to hear exactly what direction—

**Chair Carlton:**

I can answer that, Mr. Speaker.

**Adam Paul Laxalt:**

—you guys are headed.

**Chair Carlton:**

I'll be happy to put that on the record.

**Adam Paul Laxalt:**

Good.

**Chair Carlton:**

That was going to be part of my closing remarks, as when staff was ready to walk through the bill, but since it has arisen now, I will be happy to say it. I believe the relationship between a client and their lawyer is very special and has to have a higher level of trust. In reviewing the transcripts and the affidavit, I have concerns about that, and my goal is to make sure that the Gaming Control Board has the level and trust with their particular lawyer that they have. And I want to make sure I make this perfectly clear to everyone: I respect everyone in the Attorney General's Office, all the employees. I believe they do a very good job, but in the instance and reading of all these documents that I've had, it gave me concern that there might not be that level that needs to be there for a lawyer and their client, and that's why I brought the bill. So, that's on the record now, and it was my intent, and we will get to the actual bill in just a few moments. So just to make sure that you understand.

**Adam Paul Laxalt:**

Madam Chair, may I respond?

**Chair Carlton:**

It's more of a comment than a question, but if you have a statement, sure.

**Adam Paul Laxalt:**

I don't see how anyone that has read this—the conversation between Mr. Burnett and I—could come to that conclusion, that there is anything wrong. I gave routine legal advice, and it's advice we had given consistently of the office. So, suggesting that this entire thing hinges on this one interaction—as the transcript clearly shows that it was a absolutely routine attorney-client communication [[Exhibit C](#)]. Mr. Burnett has made clear that my office does an incredible job. My office continues to represent them, so shifting the entire structure over this conversation that we now all got to read and listen to, is just simply impossible to understand how that conclusion could be made. I said in the recording—that, of course, I had no concept that my client would be recording me—I said on multiple times, if we move forward with this important concept of confidentiality for the state, this direction, this narrow brief will actually undercut the Las Vegas Sands' legal argument. And yet I'm right there, with the Gaming Control Board chairman, saying, The time is now. If it's an important confidential matter for the state, we need to do it now. And I think that's just very important to clear up.

**Chair Carlton:**

And Mr. Laxalt, just because I am the sponsor of the bill, I believe there is a conflict here, and I'm concerned about it, and that's why we brought the bill. The fact that your client was

uncomfortable enough to record the conversation gives me pause. And that's where we move forward.

So with that, I'll be happy to open up to other questions. I believe I have one from—oh, Mr. Speaker, I cut you off. I apologize to Senator Ford. I'll go back to the Speaker, but we are running up against the clock.

**Assemblyman Frierson:**

Thank you, Madam Chair, and I'll try to be brief. But my question was—with that regard was really a factual one, and you may not know because apparently, I believe it was some years ago. I am a former deputy attorney general and I don't know the answer to this question. I am just asking—you said that it's never been consolidated before, but I thought there was a statement earlier that the Gaming Control Board had their own counsel before, and it wasn't with the Attorney General's Office. So that was—I was just wondering if you were aware of whether or not that was the case because I was given the impression that at some point previous, the Gaming Control Board had independent counsel.

**Adam Paul Laxalt:**

Thank you for the question. Today is the first day I'd ever heard that the Gaming Control Board may have had an independent counsel. I would say that my original statement still stands, that if the discussion of the bill today is to put all of the Attorney General's Gaming Control Board lawyers inside of the Gaming Control Board, that would be new. That would be something that would not be a good idea for the reasons I said. You can't have your prosecutors sitting with your investigators. Washoe County, Clark County—you don't have your sheriff's office and your DA's [district attorney's] office combined. Those are important to have separate. So whether or not a single lawyer is sort of there day-to-day as a general counsel, I don't know if that has been done before.

**Assemblyman Frierson:**

Thank you, and obviously we may get to that when we walk through the bill. But I want to reiterate—and I think it's important to put it out there because if we're talking about a question about why we're here and not necessarily knowing why we're having this conversation, and I think you also indicated before this that everybody was on the same page and that, you know, you were not sure why this had gotten to this point because everybody seemed to be on the same page—but the reality is an attorney's office had a client secretly record them, and that's not normal in an attorney-client relationship. Further, the client handed that recording over to law enforcement. That's not normal in an attorney-client relationship. And so I don't think it's a stretch to ask the question, Does this take the relationship to a level where the attorney-client relationship has been degraded to the extent that they warrant independent counsel? So, that's why we're here. It's not a function of today, this bill, whether there was a wrongdoing. That's not what we are here for today. Today, we're just here because there's an interaction with an agency that is very important—and I know you would agree—very important to this state and the integrity of the gaming community in the world. And so I think it's worthy of us having a conversation about whether or not that interaction gives rise to a conflict that might warrant independent

counsel. So, that's why we're here, in my opinion. And so I ask you, generally, does it not shake your confidence in your relationship with your client to have been recorded and have that recording handed over to law enforcement?

**Adam Paul Laxalt:**

Of course, I can't speak to why he made that decision, but I think that the events leading up to it, which I have explained here in my opening statement—there is nothing, from our office's perspective or my perspective, that warranted that action, and certainly, as I said, thank you for releasing the tape. I was the only person that couldn't speak over the last few months, and the tape is crystal clear that I have a normal attorney-client communication with my attorney [sic]. So my office continues to represent them, they will continue to represent them. Functionally, absolutely nothing needs to change. There is such rare—you know, I get involved in certain cases when, you know, we need answers and we need immediacy, you know, whether that's a constitutional officer, whether that's a state agency. There are times when the senior partner of a law firm has to say, Are we going to do this or not? And that's what occurred in this particular circumstance.

**Chair Carlton:**

Senator Ford.

**Senator Ford:**

Thank you, Madam Chair. Mr. General Laxalt, thank you for being here. It's good to see you, I'm sorry under these circumstances that we're having this discussion. But as I stated to Mr. Burnett, the reason why we're here is to talk about the appropriateness of this bill, and as Speaker Frierson has indicated, the real question is whether there's been a breakdown of the attorney-client relationship such that we need to protect our institution of gaming here by putting in an attorney with whom that Board can interact and can trust. If I think I have to tape somebody, clearly I think I have a level of mistrust with them, and if someone thinks they need to tape me, then I probably can't trust them either. So, that's the underlying issue here. We're trying to ascertain the appropriateness of appointing counsel under this bill.

And you know, I have to respectfully disagree with you, Mr. Laxalt. People reading this transcript—I think a reasonable person could read it and could believe that you are trying to coerce Mr. Burnett into filing an amicus brief on behalf of the Sands. I think a reasonable person can read—out of context, not being there, not seeing the interactions, not seeing the gestures—and what we're called on to do is to try to look at the totality of the circumstances and figure out whose interest is being represented here. Your client is the GCB. You have a constituent that is the Sands, clearly. I understand that and I'm not quibbling with the fact that you deal with constituents out there. But I do have to ask—or I do have to ponder out loud whose interest is being represented here, and that's part of the underlying question of whether we need to find a different counsel for the GCB. Because if, in fact, your office had already said, "If we are to file an amicus brief, it would be on narrow items and for substantial interest that the Gaming Control Board or the state has," then Mr. Burnett has already testified that he saw neither a substantial interest for the GCB nor the state and didn't want to intervene. Yet these conversations are continuing over time. So let me just ask you

point blank: Were you advocating on behalf of the Sands and asking to get an amicus brief filed? Or were you—let me stop there.

**Adam Paul Laxalt:**

I think it's crystal clear from my testimony and my opening statement as well as the tape recording that we were advocating on behalf of the state, we were advocating on behalf of our Gaming Control Board, as well as our very important industry. I mean, it's the most revealing piece of this entire episode that when we're discussing whether to file this narrow brief or not, the entire question is, Is this the confidentiality that we need to protect? Is this the type of information that the Gaming Control Board needs to protect? And by the way, this is going to extremely undercut the Las Vegas Sands' argument, and they specifically had told our lawyers, as well as, I believe, the Gaming Control Board somewhere along the way, "If you won't file an amicus on all these issues, please don't file it." And nonetheless, months later, however this thing unfolded, we're still there saying, Should we file on this narrow issue to protect the state, to protect confidentiality, to protect the gaming interest? And so, you know, we can disagree on what the transcript said, but I think the transcript speaks for itself. [[Exhibit C.](#)]

**Senator Ford:**

We're not disagreeing with what the transcript says, because you're right: The words are on the paper. Where we're disagreeing about—or not even disagreeing, frankly, because I haven't made my mind up. You presented a plausible reading and interpretation of what's in black and white. There's another plausible explanation, and we've heard the surrounding circumstances about how much of a stretch it was, typically, for you to reach out to him in such an urgent matter and talk business. And so that's part of what plays into this question of what was really going on here. And I heard your answer. I asked you if you were advocating on behalf of the Sands. You didn't answer yes or no; you just said you were advocating on behalf of the state, but that doesn't exclude you advocating on behalf of the Sands as well. But again, to use phraseology like "crystal clear" and that you don't see how anybody could read this differently, I just think belies the truth of the matter, which is there are certainly other interpretations of this interaction that could lead us to believe that we should be appointing a different counsel for the Gaming Control Board, at least for the foreseeable future, and I want to note that for the record.

**Chair Carlton:**

Thank you, Senator Ford. Did I have another question at the end? Senator Kieckhefer, did you have a question? And then I want to come back to the Assembly for just a couple. We're not going for twice; couple, and then we're going to be done. Thank you, Senator.

**Senator Kieckhefer:**

Mr. Laxalt, has the Gaming Control Board asked you to recuse yourself or asked for the ability to retain outside counsel?

**Adam Paul Laxalt:**

Yes, they have.

**Senator Kieckhefer:**

They have, okay.

**Adam Paul Laxalt:**

On this particular issue.

**Senator Kieckhefer:**

On this issue or more globally?

**Adam Paul Laxalt:**

On this—on this narrow issue.

**Senator Kieckhefer:**

Okay, thank you.

**Chair Carlton:**

So with that, I believe I had Ms. Spiegel. Is your question still pertinent with all the discussion?

**Assemblywoman Spiegel:**

I think I'm good.

**Chair Carlton:**

Okay, that's good. Ms. Swank, I believe you had a question. Is it still pertinent?

**Assemblywoman Swank:**

Very pertinent.

**Chair Carlton:**

Thank you.

**Assemblywoman Swank:**

Thank you, and I'll be very brief, Madam Chair. I just want to say that looking at this conversation—so as many of you know, I have a doctorate in linguistic anthropology. I've spent about 20 years looking at transcripts. This is not a normal conversation. This is a conversation that seems to be quite—have a lot of tension in it. I concur with what Senator Ford said. I think it brings a lot of concerns for me. I know when Mr. Burnett was up here, when I asked him about the transcript and why he stopped recording, he said it was because he was nervous. I think that there are a lot of good reasons why we need to be—why A.B. 513 needs to come forward. I think that there is definitely a—what I see in this conversation is, Mr. Attorney General, is you feeling pressure to ask questions, and Mr. Burnett trying his best to assuage and to put that off. And I feel like that relationship there is not a healthy one going forward, and I think that really A.B. 513 is going to fix that issue.

**Chair Carlton:**

I had other folks on the list, but I'm just checking to see if anyone—

**Adam Paul Laxalt:**

Am I able to respond to that, Madam Chair?

**Chair Carlton:**

Oh. Go ahead.

**Adam Paul Laxalt:**

I think—

**Chair Carlton:**

Didn't sound like a question, but go ahead.

**Adam Paul Laxalt:**

When you listen to the tape, there is absolutely zero coercion in my voice. At no point in time is there any tension. We are having a discussion back and forth. So, I imagine you can come with a different interpretation, but I encourage people to listen to the tape [[Exhibit F](#)]. We have a totally level, normal back and forth in the same routine manner I do with many clients across the state.

**Chair Carlton:**

Thank you. I apologize, Attorney General, that I cut you off. Trying to manage multiple things up here at the same time. Are there any other pertinent questions from any members of the Committee at the moment? Mr. Edwards, you had asked a question earlier. Is this imperative?

**Assemblyman Edwards:**

Yes.

**Chair Carlton:**

I think we can pass and you could probably ask the Attorney General offline. We've been through once here. So we're at—over the time limit that we had set. So, Mr. Attorney General, what I'd request from you is that if—would you please go over the transcript and the recording and share with myself—and I will share with the Committee members and we will make sure to make—that it's available to folks—any discrepancies that you do find in the transcript. I hope I can get that probably within a couple of days, maybe by the end of the week if that would be possible. If not, please let me know when it would be available.

And I did not ask this question of Mr. Burnett, but I will ask it of him. We have had a request for the fiscal notes from the Gaming Control Board and from the Attorney General's Office. I'd like to know when that fiscal note will be sent to the Fiscal staff, if you have an answer to that.

**Adam Paul Laxalt:**

We would be happy to get that to you as soon as possible. Unfortunately, our CFO [chief financial officer] is out of town, and so we will communicate with you as soon as we possibly can on that.

**Chair Carlton:**

For how long?

**Adam Paul Laxalt:**

We will communicate with you on how long it's going to take by tomorrow morning.

**Chair Carlton:**

By tomorrow morning? Thank you. I appreciate that because I know there is a time to have it submitted. And Mr. Burnett, the same request of you to make sure that that fiscal note has been submitted.

So with that ,Committee, I believe we can go ahead and go to the actual discussion on the bill. So I've already made my opening statement on that, so I don't think I need to repeat that, so Ms. Jones, if you would please just walk through the structure of the bill for us. We will not be able to discuss numbers since we have not received the fiscal notes, so we will just be basically talking about the structure of what we are looking at, as far as the legal team within the Gaming Control Board. Ms. Jones.

**End of verbatim transcription of the presentations from Mr. Burnett and Mr. Laxalt.**

Cindy Jones, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, reviewed the structure of Assembly Bill (A.B.) 513, which was sponsored by the Assembly Committee on Ways and Means. Under the Nevada Gaming Control Act, the Attorney General served as the legal counsel and advisor for the Nevada Gaming Commission (Commission) and the Nevada Gaming Control Board (Board). The Attorney General represented the Commission and the Board in any actions or proceedings. The bill created the position of General Counsel for the Board and the Commission and revised the role of the Attorney General related to the Board and the Commission.

Ms. Jones explained that section 1 of A.B. 513 provided the legislative intent of the bill. Section 7 of the bill established qualifications, requirements, and limitations for the General Counsel and his or her deputies. Section 8 of the bill sets forth the powers and duties of the General Counsel and his or her deputies and, with certain exceptions, provided that the General Counsel and his or her deputies served as the legal counsel and advisers for the Commission and Board and represented the Commission and Board in any actions or proceedings. Section 9 of the bill provided that with the approval of the Commission or Board, the General Counsel may request the Attorney General or may employ outside legal counsel to provide legal counsel, advice, and representation to the Commission or Board with regard to particular matters. If such a request was made, section 9 also provided that the

Attorney General must comply with the request and provide the necessary legal counsel, advice, and representation with regard to those particular matters. Additionally, section 9 provided for the substitution of the General Counsel if he or she was disqualified or prohibited by law or rule from acting on a particular matter or was otherwise unable to act on a particular matter.

Ms. Jones continued that section 10 of A.B. 513 provided that nothing in the bill altered, abrogated, or affected the duty of the Attorney General to provide for the defense of the Commission and Board and their officers and employees if such actions were brought against them. Sections 2-4, 11-18, and 20 of this bill made conforming changes to account for the newly created position of the General Counsel and for the revised role of the Attorney General with regard to the Commission and Board. Finally, Section 19 of the bill required the Attorney General to cooperate with the Commission and Board to ensure that the provisions of the bill were carried out in an orderly, diligent, thorough, professional, responsible, and expeditious manner. The bill would become effective upon passage and approval for the purpose of performing any preparatory administrative tasks that were necessary to carry out the provisions of the act, and on July 1, 2017, for all other purposes. Ms. Jones mentioned that fiscal notes for the bill were due by midnight on May 22, 2017, because the requests for the fiscal notes were sent on May 15, 2017.

Chair Carlton asked whether the Committee had any questions about the bill of Fiscal staff.

Assemblywoman Titus was curious about the creation of a General Counsel position for the Commission and the Board. She just heard testimony that the Chair of the Board ignored counsel from nine attorneys. The bill would create a General Counsel position within the Board's office. She questioned how A.B. 513 would maintain a separation of duties and advice if the Chair showed disrespect for a person who was not under the Chair's employment or control. She expressed concern that the Chair ignored advice from nine or ten attorneys, and creation of the General Counsel position would not resolve that problem.

Chair Carlton said that question was not a question that Fiscal staff could answer. She would answer it. She believed that the statement she made earlier about the level of confidence evident in reading the transcript and the lack of confidence that caused Mr. Burnett to record the conversation in question was the problem. The bill was a proposed solution to that problem.

Assemblyman Sprinkle had questions about sections 9 and 10 of A.B. 513. He was concerned about the language embedded in *Nevada Revised Statutes* (NRS) 41.0305 to 41.039 and at the end of section 10 of the bill. He believed that section 10 contradicted the intent of section 9. The bill allowed outside legal counsel to advise the Board. However, section 10 stated that the Attorney General had to provide defense and use his official capacity in tort actions and other actions brought against the Board pursuant to NRS 41.0305 to 41.039.

Brenda Erdoes, Legislative Counsel, Legislative Counsel Bureau, explained that section 10 of A.B. 513 applied only to tort actions that were brought under NRS 41.0305 to 41.039. The Attorney General was appointed as the official attorney to represent state employees, including staff at the Nevada Gaming Control Board, the Legislative Counsel Bureau, and all other state agencies as the official attorney for tort actions. That duty remained the same because tort was a specialized area of the law, and this process was the most cost-effective. State employees interacted directly with the counsel who defended them from the tort actions. The employee who was alleged to have committed the tort would interact directly with the counsel. Tort actions were perceived as different situations from other types of legal counsel provided by the Office of the Attorney General.

Senator Harris asked about section 9 of A.B. 513. The bill gave the Nevada Gaming Control Board the option, in addition to special independent counsel, to also use the Office of the Attorney General. Her concern was that if there was reticence on the part of the Board to rely on the Attorney General to act as its counsel, but the bill provided special independent counsel, then why would the bill include the ability to use the Office of the Attorney General for counsel on particular matters. It seemed as though the Board would want the ability to appoint an independent counsel for any conflict that arose. She understood that sometimes conflict matters arose and existing counsel was unable to serve because of a conflict of interest. She thought section 9 confused matters by allowing the Board the discretion to use the Office of the Attorney General for matters of its choosing.

Ms. Erdoes explained that the thought behind that language of section 9 was that she determined many of the uses of legal counsel at the Office of the Attorney General were related to matters such as employment law, where it was advantageous to have employment law experts deal with those matters. Matters unrelated to gaming arose in any type of office setting including contract law. Law enforcement officer positions existed at the Board and Commission. Chapter 289 of NRS dealt with law enforcement officers. There were a number of problems where it appeared advantageous to work with the staff of the Office of the Attorney General who were specialists and efficient in specific areas of the law.

Senator Harris appreciated the complexities of the various areas of law that the Board encountered. She said section 9 was too broad, and she asked for it to be refined. The language should be tailored in a manner that made it clear it related to nongaming problems and other matters that might regularly come before the Board.

Assemblyman Edwards said section 7, subsection 2 included language about the General Counsel and his or her deputies. He asked whether the intent was to create one position or several.

Chair Carlton said after the fiscal notes were received, they would have a more comprehensive view of the resources needed by the Nevada Gaming Control Board. She believed the legal team might include deputies, support staff, and operating costs. Chair Carlton envisioned a legal team within the Board.

Assemblywoman Spiegel said in two parts of the written version of the Attorney General's testimony, he spoke about his office looking at legal problems that affected either "the office" or "the state." He spoke about his dual interests of constituents and state agencies such as the Nevada Gaming Control Board. The bill addressed the very conflict that the Attorney General mentioned. She asked for clarification of section 7, subsection 7, which appeared to resolve the dual interests. Section 7, subsection 7 stated, "Except as otherwise provided in NRS 284.143, the General Counsel and his or her deputies shall devote their entire time and attention to the business of the Commission and Board and shall not pursue any other business or occupation or hold any other office of profit." She believed that language eliminated the duality and the potential conflicts. She asked whether she had read that section correctly.

Ms. Erdoes agreed that the intent of section 7, subsection 7 and section 7, subsection 8 was to eliminate the conflicts of interest. There could be no private practice of law, and all efforts of the General Counsel should be focused on the Commission and Board.

Assemblyman Anderson said he understood the intent of section 7, subsection 7 was to create an entire legal team similar to what existed in the Office of the Attorney General with nine or ten attorneys dedicated to gaming law. He asked whether the Board had the discretion or authority to contract with outside counsel currently when a need or conflict arose.

Ms. Erdoes explained that authority to hire outside counsel was an inherent power of state agencies when the need arose. The restriction was that agreement must be received from the Office of the Attorney General that a conflict existed before an agency could hire outside counsel.

Assemblyman Anderson understood that the Board had the authority to hire outside counsel only when a conflict existed, and the Office of the Attorney General agreed to allow the Board to hire outside counsel.

Ms. Erdoes confirmed that Assemblyman Anderson's understanding was correct.

Chair Carlton said outside counsel could be hired by the Board only for specific cases but not for the general day-to-day workload.

Ms. Erdoes confirmed that Chair Carlton's understanding was accurate.

Chair Carlton said that her intent was to create a legal team within the Nevada Gaming Control Board's office who would work on general day-to-day matters.

Assemblyman Anderson commented that in weighing the matter, he considered decades of precedent that had worked well and an incident that was important to address. The cost shift for either option was similar. He observed that as the Committee considered the precedent versus addressing a specific incident, it should consider whether the incident was inherent in

the Office of the Attorney General, meaning a problem of the entire office that would require an entire structure shift.

Chair Carlton agreed that she considered those same problems as she determined how best to resolve the situation.

Assemblyman Frierson clarified that the Board encountered matters other than what the proposed legal team would address. The legal team might not be made up of nine attorneys for the Board. He suggested that the Committee wait to hear back from the parties about the needs and address the costs after receipt of the fiscal notes.

Chair Carlton agreed that Assemblyman Frierson was correct. The fiscal note should be received by Fiscal staff, who would evaluate the needs and the budget. The number of staff needed would be uncertain until then.

Assemblyman Frierson asked for information about whether the Nevada Gaming Control Board had ever been represented by in-house counsel. He believed that in-house counsel was not rare. Until recently, the Colorado River Commission of Nevada had its own in-house counsel. The Public Utilities Commission of Nevada had its own in-house counsel in addition to assistance from the Office of the Attorney General and Deputy Attorneys General to address specific utility problems. This structure was not unusual. He thought it would be helpful for the Committee to know whether the Nevada Gaming Control Board had ever been represented by in-house counsel.

Chair Carlton said she would make that request and provide the information to the Committee. She asked whether there were any further questions.

Senator Kieckhefer asked whether there was currently an avenue to allow the Nevada Gaming Control Board to hire outside counsel, and if so, under what circumstances.

Ms. Erdoes responded that there was an avenue for the Board to hire outside counsel. She explained that authority to hire outside counsel was an inherent power of state agencies when the need arose. The restriction was that agreement must be received from the Office of the Attorney General that a conflict of interest existed before an agency could hire outside counsel. The Board had the authority to hire outside counsel only when a conflict existed and the Office of the Attorney General agreed to allow the Board to hire outside counsel. *Nevada Revised Statutes* contained a provision that stated that a perceived conflict between the agency and the Attorney General must be approved. When the parties agreed that a conflict existed and sufficient funds existed within the available funds of the Nevada Gaming Control Board, the Board could employ outside counsel.

Senator Kieckhefer said the Committee had talked about the dynamics and the current relationship between the Attorney General and the Chair of the Nevada Gaming Control Board. Any structural change would outlast the current officeholders. He thought the

attempt to alleviate a specific problem might be too broad an overhaul and not the correct course. He was uncertain about the best solution.

Chair Carlton added that someone suggested that the Legislature lacked the authority to take action on this matter. She referred to the Legislative Counsel's Digest of A.B. 513, which stated that:

Because the Nevada Constitution does not explicitly give the Attorney General any constitutional powers or duties, the Nevada Supreme Court has determined that "[t]he powers and duties of the attorney general, therefore, are to be found only in legislative enactment. They are not found anywhere in the Constitution of our State."

Chair Carlton wanted to ensure that information was on the record. She noted that unfortunately, the Attorney General had already left the room. She would accept any testimony in support of, in opposition to, or neutral on S.B. 513, and there was no testimony. She closed the hearing on S.B. 513.

She asked to begin the reports from the Subcommittees on the budget closings.

## **REPORTS FROM SUBCOMMITTEES ON BUDGET CLOSINGS**

### **SUBCOMMITTEES ON HUMAN SERVICES CLOSING REPORT**

#### **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

##### **Aging and Disability Services Division**

Mandi Davis, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, presented the report from the Subcommittees on Human Services.

The Subcommittees on Human Services have completed the review of the budgets for the Aging and Disability Services Division (ADSD) of the Department of Health and Human Services (DHHS). The closing actions taken by the members of the Subcommittees resulted in an increase in State General Fund appropriations of \$7.8 million in fiscal year (FY) 2018 and \$5.1 million in FY 2019 when compared with the Governor's recommended budget. The Subcommittees also decreased General Fund appropriations of \$912,843 in FY 2018 and \$1.2 million in FY 2019 in the Division of Health Care Financing and Policy because of a recommended decrease in Medicaid reimbursements in the Early Intervention Services budget. Additionally, the Subcommittees recommended the addition of \$1.4 million in General Fund appropriations in FY 2018 to the Interim Finance Committee Contingency Account to fund additional treatment services in the Autism Treatment Assistance Program if sufficient community providers are available and additional children can be served.

**Federal Programs and Administration (101-3151) DHHS-ADSD-18:** The Subcommittees recommended approval of the Governor's recommendation to provide funding of \$1.5 million for home-delivered meals programs for seniors over the upcoming biennium. In addition, the Subcommittees recommended increasing funding by an additional \$1.9 million over the biennium to provide meals for individuals currently on waitlists, at \$2.65 per meal. The Subcommittees also approved funding for three elder rights specialist positions in the Long-Term Care Ombudsman Program and to eliminate a vacant position in the Taxi Assistance Program in order to direct the position's funding to issue more taxi coupon booklets to recipients.

**Home and Community Based Services (101-3266) DHHS-ADSD-30:** The Subcommittees recommended approval of the Governor's recommendation to increase the caseload for the Autism Treatment Assistance Program. In addition, the Subcommittees recommended appropriating \$1.4 million in General Funds to the Interim Finance Committee Contingency Account in the event a sufficient number of providers become available to treat additional children beyond the budgeted caseload. The agency would be required to seek approval from the Interim Finance Committee to access these funds in the event a sufficient number of providers are available in the 2017-2019 biennium to treat additional children diagnosed with Autism Spectrum Disorder. Also within the Autism Treatment Assistance Program, the Subcommittees recommended approval of the Governor's recommendation to add 25 developmental specialist case manager state positions to replace contracted case managers and 2 developmental specialist supervisors to oversee the state positions. The Subcommittees recommended the issuance of a letter of intent directing the Division to report to the Interim Finance Committee semiannually through the 2017-2019 biennium on the status of various aspects of the Autism Treatment Assistance Program.

The Subcommittees recommended approval of the Governor's recommendation to fund caseload increases and waitlist reductions for the Home and Community Based Waiver for the Frail Elderly and the Waiver for Persons with Physical Disabilities. The recommendation includes the addition of seven social workers, two social work supervisors, and two administrative assistants to support the caseload increases and waitlist reductions within the waiver programs.

**Early Intervention Services (101-3208) DHHS-ADSD-41:** The Subcommittees recommended approval of the Governor's recommendation to increase the caseload for Early Intervention Services, including the addition of 26 positions to support the increased caseload. The Subcommittees did not recommend approval of the Governor's recommendation to change the service delivery model for Early Intervention Services and, instead, recommended

General Fund appropriations of \$12.1 million over the 2017-2019 biennium to retain the current model in which caseload management and service delivery for 50 percent of the caseload is overseen by the state and 50 percent of the caseload is overseen by community providers. The Subcommittees recommended the issuance of a letter of intent directing the agency to report to the Interim Finance Committee semiannually on the status of the Early Intervention Services program through the 2017-2019 biennium. In addition, the Subcommittees recommended the addition of back language to the 2017 Appropriations Act and 2017 Authorizations Act directing that any funding approved for the Early Intervention Services program will be expended in the same manner as approved by the Legislature. The Subcommittees also recommended approval of General Fund appropriations of \$25,251 in FY 2018 to replace audiology-testing equipment for children served in the Early Intervention Services program as recommended by the Governor.

**Family Preservation Program (101-3166) DHHS-ADSD-53:** The Subcommittees recommended approval of the Governor's recommendation to increase the caseload for the Family Preservation Program by 0.5 percent in FY 2018 and 0.9 percent in FY 2019 and to maintain the current payment per family at \$374 per month. The Subcommittees also recommended replacing \$1 million in each year of the 2017-2019 biennium in tobacco settlement funds with Temporary Assistance for Needy Families funds.

**Regional Centers Closing Issues:** The Subcommittees recommended approval of the Governor's recommendation to fund an increase in the caseloads for the Residential Support, Family Support/Respite, and Jobs and Day Training programs provided through Sierra Regional Center, Desert Regional Center, and Rural Regional Center, including the addition of 39.51 full-time-equivalent (FTE) positions to support the increased caseloads throughout the state.

The Subcommittees recommended approval of the Governor's recommendation to add two new clinical program manager positions at Sierra Regional Center and Desert Regional Center to oversee intensive care coordination services provided to children with intellectual disabilities as well as behavioral health needs. The Subcommittees also recommended approval of an enhancement of \$5.50 per hour to the reimbursement rate paid to providers of those services.

The Subcommittees recommended closing the balance of the following Aging and Disability Services Division budgets as recommended by the Governor with minor or technical adjustments:

- Senior Rx and Disability Rx (262-3156) DHHS-ADSD-12

- Tobacco Settlement Program (262-3140) DHHS-ADSD-16
- Senior Citizens Property Tax Assistance (101-2363) DHHS-ADSD-51
- Sierra Regional Center (101-3280) DHHS-ADSD-56
- Desert Regional Center (101-3279) DHHS-ADSD-64
- Rural Regional Center (101-3167) DHHS-ADSD-74

Ms. Davis concluded the closing report. Chair Carlton asked whether the Committees had any questions and, hearing none, said she would accept a motion on the closing report.

CHAIR WOODHOUSE MOVED TO ACCEPT THE CLOSING REPORT FROM THE SUBCOMMITTEES ON HUMAN SERVICES FOR THE BUDGETS OF THE AGING AND DISABILITY SERVICES DIVISION, DEPARTMENT OF HEALTH AND HUMAN SERVICES.

ASSEMBLYMAN SPRINKLE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.  
SUBCOMMITTEES ON PUBLIC SAFETY, NATURAL RESOURCES AND  
TRANSPORTATION CLOSING REPORT

DEPARTMENT OF MOTOR VEHICLES

Adam Drost, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, presented the report from the Subcommittees on Public Safety, Natural Resources and Transportation on the Department of Motor Vehicles budget closings.

The Subcommittees on Public Safety, Natural Resources and Transportation have completed the review of the budgets for the Department of Motor Vehicles (DMV). The closing actions taken by the members of the Subcommittees resulted in a decrease in State Highway Fund appropriations of \$219,650 in fiscal year (FY) 2018 and an increase in Highway Fund appropriations of \$2.9 million in FY 2019. The closing actions taken by the members of the Subcommittees resulted in an increase in State General Fund appropriations of \$1,483 in FY 2018 and an increase in General Fund appropriations of \$1,601 in FY 2019.

**Administrative Cap:** Historically, *Nevada Revised Statutes* (NRS) 408.235 limited the DMV from expending more than 22 percent of Highway Fund collections on administration, excluding gasoline tax revenue that is not subject to the limitation. The 2015 Legislature increased the administrative cap to 27 percent through FY 2020, because of the increased expenditures associated with the implementation of the system modernization project that would replace the DMV's current mainframe computer system. The Subcommittees' recommendations to close the Department's budgets allow the agency to remain within the 27 percent cap in each year of the 2017-2019

biennium. The Subcommittees' actions leave funding authority of approximately \$27.6 million in FY 2018 and \$24.8 million in FY 2019 under the cap, respectively.

**System Modernization (201-4716) DMV-14:** The Subcommittees recommended approval of the Governor's recommendation, as amended by Budget Amendment A171534716, to continue the Department's system modernization project, which is estimated to cost approximately \$115.1 million over the five and one-half year implementation period. Based on the Subcommittees' recommendations, total Highway Fund appropriations of \$37.3 million and Technology Fee revenue of \$13.3 million were approved for the System Modernization budget in the 2017-2019 biennium. The Subcommittees recommended placing Highway Fund appropriations of \$7.2 million in FY 2018 and \$15.3 million in FY 2019 in the budget's reserve category, which may be used for vendor installation costs once approved by the Interim Finance Committee.

The Subcommittees recommended a business process analyst position that is assigned to the system modernization project on a full-time basis be transferred from the Department's Management Services budget to the System Modernization budget. The Subcommittees also recommended authorizing Highway Fund appropriations to be transferred between fiscal years within the 2017-2019 biennium in the System Modernization budget, with Interim Finance Committee approval. Finally, the Subcommittees recommended the issuance of a letter of intent requiring biannual reports to the Interim Finance Committee on the status of the system modernization project.

**Administrative Services (201-4745) DMV-36:** The Subcommittees recommended approval of the Department's revised FY 2018 credit card fee projections of \$7.7 million in both FY 2018 and FY 2019 and providing the Department with authority to transfer Highway Fund appropriations up to \$2 million between each fiscal year in the 2017-2019 biennium to fund credit card fees, with Interim Finance Committee approval. The Subcommittees also recommended the issuance of a letter of intent to the Governor's Finance Office to perform a detailed study regarding credit card fees and providing the results of that study to the Interim Finance Committee no later than June 30, 2018.

**Compliance Enforcement (201-4740) DMV-42:** The Subcommittees recommended approval of the Governor's recommendation to eliminate a vacant compliance investigator position assigned to off-highway vehicle dealer compliance.

**Motor Vehicle Pollution Control (101-4722) DMV-48:** The Subcommittees recommended approval of a full-time master service agreement (MSA)

contract position that would backfill for an existing information technology professional position that supports the DMV's Vehicle Information Database system, funded by a reserve reduction of \$200,000 in FY 2019. However, the Subcommittees recommended the expenditures associated with the contract position be reflected within its own expenditure category in the System Modernization budget and funded with a transfer of \$200,000 in FY 2019 from the Motor Vehicle Pollution Control budget.

The Subcommittees recommended approval of Budget Amendment A172084722, which recommends reserve reductions of \$100,238 in FY 2018 and \$200,475 in FY 2019 for bond service payments associated with the Motor Vehicle Pollution Control budget's share of the new south Reno field office, contingent upon approval of the new building by the K-12/Higher Education/CIP Subcommittees. The Governor's Finance Office, in consultation with the Office of the State Treasurer, recommends the new south Reno DMV field office be funded with 20-year general obligation bonds with debt service payments using Highway Funds (88 percent) and fee revenue from the Motor Vehicle Pollution Control budget (12 percent). The recommended distribution reflects each program's share of the square footage in the new south Reno field office.

The Subcommittees also recommended revising the language in the 2015 Capital Improvement Program (CIP) bill allowing the Motor Vehicle Pollution Control budget to fund future bond debt service payments for the Sahara field office based on the budget's use of building space at that location.

**Central Services (201-4741) DMV-55:** The Subcommittees recommended approval of a technical adjustment to eliminate postage expenditure savings of \$85,549 in FY 2018 and \$85,555 in FY 2019 that are no longer projected to be realized, approving a technical adjustment to eliminate the Computerized Vehicle Registration expenditures of \$19,168 in FY 2018 and \$19,360 in FY 2019 that the Department indicates will no longer be required, and transferring the Electronic Dealer Report of Sale system license plate postage expenditures of \$115,777 in each year of the 2017-2019 biennium to the fee-funded License Plate Factory budget. The Subcommittees also recommended approval of the Governor's recommendation to end the mailing of registration surrender receipts and the elimination of a vacant DMV services technician position that is no longer required because of a reduction in data entry.

**License Plate Factory (201-4712) DMV-61:** The Subcommittees recommended approval of the Governor's recommendation to eliminate two vacant positions that would no longer be required based on the operation of a single extended production shift at the factory. The Subcommittees also recommended the issuance of a letter of intent directing the Department to

accelerate the repayments to the Highway Fund using reserve amounts greater than \$1 million, perform a study on the license plate fees that would be required once the repayment is complete, and provide the results of the study to the Interim Finance Committee no later than October 1, 2018.

**Field Services (201-4735) DMV-74:** The Subcommittees recommended approval of Highway Fund appropriations of \$560,911 in FY 2019 that could be used by the Department to establish one DMV express office in the Reno-Sparks area. However, the Subcommittees recommended placing the funding in this budget's reserve category and directing the Department to seek authority from the Interim Finance Committee to use these funds once it had completed its pilot project with the American Automobile Association, which would allow that organization to perform various DMV transactions. The Subcommittees also recommended approval of the Department's request for a Highway Fund appropriation of \$54,000 in FY 2018 to purchase two mobile identification card units that would be used to provide identification cards to individuals who are unable to travel to a DMV field office. Finally, the Subcommittees recommended approval of Highway Fund appropriations of \$4,474 in each year of the 2017-2019 biennium for the maintenance costs associated with the Department's recent purchase of customer queuing systems for the Laughlin, Hawthorne, and Tonopah field offices.

**Motor Carrier (201-4717) DMV-80:** The Subcommittees recommended approval of a new cost allocation that reflects the Department's projected cost to collect motor fuel and special fuel taxes for the state and county governments, which resulted in additional Highway Fund appropriations of \$1.7 million in each year of the 2017-2019 biennium in the budget when compared to the amounts reflected in The Executive Budget. The Subcommittees also recommended approval of the Governor's recommendation to eliminate a vacant deputy administrator position and a vacant auditor position in the budget.

The Subcommittees recommended closing the following DMV budgets as recommended in The Executive Budget, with minor or technical adjustments:

- Director's Office (201-4744) DMV-19
- Hearings (201-4732) DMV-25
- Automation (201-4715) DMV-29
- Verification of Insurance (201-4731) DMV-66
- Records Search (201-4711) DMV-70
- Management Services (201-4742) DMV-86

The Subcommittees also recommended approving technical adjustments noted by staff, and authorized Fiscal staff to make other technical adjustments to the DMV budgets as needed.

Mr. Drost concluded the closing report. Chair Carlton asked whether the Committees had any questions and, hearing none, said she would accept a motion on the closing report.

ASSEMBLYMAN OSCARSON MOVED TO ACCEPT THE CLOSING REPORT FROM THE SUBCOMMITTEES ON PUBLIC SAFETY, NATURAL RESOURCES AND TRANSPORTATION ON THE BUDGETS OF THE DEPARTMENT OF MOTOR VEHICLES.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

SUBCOMMITTEES ON PUBLIC SAFETY, NATURAL RESOURCES AND TRANSPORTATION CLOSING REPORT

DEPARTMENT OF PUBLIC SAFETY

(Excluding the Division of Parole and Probation and State Board of Parole Commissioners)

Kristen Kolbe, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, presented the report from the Subcommittees on Public Safety, Natural Resources and Transportation on the Department of Public Safety budget closings, excluding the Division of Parole and Probation and State Board of Parole Commissioners.

The Subcommittees on Public Safety, Natural Resources and Transportation have completed the review of the Department of Public Safety budgets (excluding the Parole and Probation and Parole Board budgets) for the 2017-2019 biennium. The closing recommendations of the Subcommittees resulted in State General Fund appropriation reductions of \$123,727 in FY 2018 and \$62,059 in FY 2019. The closing recommendations of the Subcommittees resulted in State Highway Fund appropriation reductions of \$625,590 in FY 2018 and \$639,780 in FY 2019. The following comments describe the more significant recommendations of the Joint Subcommittees.

**Office of Cyber Defense (201-4704) PUBLIC SAFETY-9:** The Subcommittees recommended approval of \$876,365 in General Fund appropriations over the 2017-2019 biennium to create the Office of Cyber Defense, composed of four new positions, contingent upon passage and approval of Assembly Bill 471. The Subcommittees also recommended a letter of intent requiring the agency to report quarterly on its progress toward establishing the Office.

**Director's Office (201-4706) PUBLIC SAFETY-12:** The Subcommittees recommended to reclassify a vacant DPS officer position to a public information officer position, resulting in reductions to cost allocation reimbursements of \$23,732 over the 2017-2019 biennium.

**Training Division (101-3775) PUBLIC SAFETY-25:** The Subcommittees recommended approving State General Fund appropriations of \$770,644 and State Highway Fund appropriations of \$1.1 million over the 2017-2019 biennium to support the continuation of a law enforcement basic training academy in Southern Nevada, as recommended by the Governor.

**Highway Patrol (201-4713) PUBLIC SAFETY-44:** The Subcommittees recommended Highway Fund appropriations of \$484,544 and transfers from the Office of Criminal Justice Assistance of \$472,288 over the 2017-2019 biennium to support access charges for body worn cameras. The Subcommittees also recommended expansion of the Driving Responsibly Includes Vehicle Education (DRIVE) program, supported with federal grant funding of \$133,188 over the 2017-2019 biennium transferred from the Office of Traffic Safety.

**Highway Safety Grants Account (201-4721) PUBLIC SAFETY-59:** As recommended by the Governor, the Subcommittees recommended approval of three new DPS officer positions for federal Motor Carrier Safety Assistance Program (MCSAP) activities supported with federal MCSAP grant funds of \$673,647 over the 2017-2019 biennium. In addition, the Subcommittees approved Highway Fund appropriations of \$94,572 over the 2017-2019 biennium to support 25 percent of three administrative assistant positions currently funded with MCSAP grant funds.

**Emergency Management (101-3673) PUBLIC SAFETY-99:** As recommended by the Governor, the Subcommittees recommended the addition of an interoperability coordinator position to provide a single point of contact for interoperability emergency communications supported with additional General Fund appropriations of \$50,591 and federal funds of \$151,769 over the 2017-2019 biennium.

**Criminal History Repository (101-4709) PUBLIC SAFETY-123:** The Subcommittees recommended to approve reserve funding of \$2 million in FY 2018 and \$2.3 million in FY 2019 for the third phase of the Nevada Criminal Justice Information System (NCJIS) Modernization Project. Additionally, reserve funding of \$113,665 in FY 2018 was recommended to support eight additional months of the Disposition Backfill Project. The Subcommittees also recommended an increase in Administrative Court Assessment revenues of \$390,683 in FY 2018 and \$425,639 in FY 2019, and a corresponding decrease in Administrative Court Assessment funds

recommended as a resource in the uncommitted balance of the General Fund by the Governor.

**General Services (101-4702) PUBLIC SAFETY-131:** The Subcommittees recommended to decommission the Elko Communications Center, the elimination of four public safety dispatch positions, and the transfer of five public safety dispatch positions to the Carson City Communications Center, and reduce cost allocation reimbursements by \$666,095 over the 2017-2019 biennium, as recommended by the Governor. The Subcommittees also recommended to transfer the Warrants Unit to the Nevada Highway Patrol budget and replace cost allocation transfers with Highway Fund appropriations of \$1.2 million over the 2017-2019 biennium.

**Fire Marshal (101-3816) PUBLIC SAFETY-149:** The Subcommittees approved additional Plan Review fees of \$27,500 in FY 2019 to support the initial phase of a licensing program upgrade. The Subcommittees also recommended replacing General Fund appropriations of \$53,404 with equal transfers from the State Emergency Response Commission and the Nevada Department of Environmental Protection–Hazardous Waste Management budgets over the 2017-2019 biennium for the State Fire Marshal’s Training Unit, as recommended by the Governor.

**Capitol Police (710-4727) PUBLIC SAFETY-161:** The Subcommittees approved the technical adjustment made by Fiscal staff to reduce portable radios from 36 to 26 to align with the number of sworn staff and approved security posts. After the budget closing, the agency requested to meet with Fiscal staff and the Governor’s Office of Finance to discuss its concerns with the reduction. The agency said that it employed sworn temporary staff who required portable radios in addition to the agency’s sworn staff authorized by the Legislature. Based on the additional information, Fiscal staff recommends restoring five of the ten portable radios reduced from decision unit E-719 at the Subcommittees’ closing to ensure officer safety. If approved, the radios would be supported with transfers from the Buildings and Grounds Section, Department of Administration, of \$22,578 in FY 2018. In total, the Capitol Police budget would be approved to purchase 31 portable radios.

Ms. Kolbe asked whether the Committees wished to restore five of the ten portable radios recommended for elimination by the Subcommittees with an increase of \$22,578 in fund transfers from the Buildings and Grounds Section in FY 2018.

Senator Parks said the Subcommittees received testimony that the staff did not share radios. Typically, radios were assigned to a single Capitol Police officer to maintain control of the radios. There were no radios available that were unassigned or “floating” radios.

Chair Carlton asked whether those radios were needed for substitute or short-term staff.

Ms. Kolbe responded that the temporary positions were assigned to a pool of officers, and most of those officers were retired law enforcement personnel who returned to fill critical positions.

Chair Carlton asked whether the Committees had any questions and, hearing none, said she would accept a motion.

ASSEMBLYMAN FRIERSON MOVED TO RESTORE FIVE OF THE TEN PORTABLE RADIOS RECOMMENDED FOR ELIMINATION BY THE SUBCOMMITTEES WITH AN INCREASE OF \$22,578 IN FUND TRANSFERS FROM THE BUILDINGS AND GROUNDS SECTION IN FY 2018.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Ms. Kolbe continued with the presentation of the budget closing report.

**Highway Safety Planning & Administration (101-4688) PUBLIC SAFETY-171:** The Subcommittees recommended Highway Fund appropriations of \$49,819 and fund transfers from the Traffic Safety budget of \$113,711 for the addition of a new administrative services officer who would be responsible for the fiscal management of the Office of Traffic Safety budgets.

**Justice Grant (101-4736) PUBLIC SAFETY-192:** The Subcommittees recommended to replace transfers from DPS Criminal Justice with additional General Fund appropriations of \$564,155 over the 2017-2019 biennium for operational support and by eliminating contract services resulting in General Fund savings of \$59,280.

The Subcommittees recommended closing the following Department of Public Safety budgets as included in The Executive Budget, with technical or no adjustments:

- Office of Professional Responsibility (201-4707) PUBLIC SAFETY-17.
- Evidence Vault (201-4701) PUBLIC SAFETY-21.
- Forfeitures-Law Enforcement (101-4703) PUBLIC SAFETY-31.
- Dignitary Protection (101-4738) PUBLIC SAFETY-35.
- NHP K-9 Program (101-4705) PUBLIC SAFETY-57.
- Division of Investigations (101-3743) PUBLIC SAFETY-88.
- Emergency Management Assistance Grants (101-3674) PUBLIC SAFETY-109.
- Office of Homeland Security (101-3675) PUBLIC SAFETY-112.

- Child Volunteer Background Checks Trust Account (101-4710) PUBLIC SAFETY-136.
- State Emergency Response Commission (201-4729) PUBLIC SAFETY-143.
- Cigarette Fire Safety Standards & Firefighter Support (101-3819) PUBLIC SAFETY-157.
- Traffic Safety (101-4687) PUBLIC SAFETY-179.
- Motorcycle Safety Program (101-4691) PUBLIC SAFETY-181.
- Justice Assistance Act (101-4708) PUBLIC SAFETY-198.
- Justice Assistance Grant Trust (101-4734) PUBLIC SAFETY-200.
- Fund for Reentry Programs (101-4737) PUBLIC SAFETY-201.

Ms. Kolbe concluded the closing report. Chair Carlton asked whether the Committees had any questions and, hearing none, said she would accept a motion on the closing report.

ASSEMBLYMAN FRIERSON MOVED TO ACCEPT THE CLOSING REPORT FROM THE SUBCOMMITTEES ON PUBLIC SAFETY, NATURAL RESOURCES AND TRANSPORTATION ON THE BUDGETS OF THE DEPARTMENT OF PUBLIC SAFETY.

SENATOR KIECKHEFER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

JOINT SUBCOMMITTEES ON PUBLIC SAFETY, NATURAL RESOURCES AND TRANSPORTATION CLOSING REPORT

DEPARTMENT OF TRANSPORTATION

Adam Drost, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, presented the report from the Subcommittees on Public Safety, Natural Resources and Transportation on the Department of Transportation budget closings.

The Subcommittees on Public Safety, Natural Resources and Transportation have completed the review of the Department of Transportation (NDOT) budgets. The closing actions taken by the members of the Subcommittees have resulted in a decrease in State Highway Fund authorizations of \$11.7 million in FY 2018 and \$12.6 million in FY 2019 when compared with the Governor's recommended budget.

**NDOT – Bond Construction (201-4663) NDOT-14:** The Subcommittees recommended approval of the Governor's recommendation for the sale of highway revenue bonds of \$180 million in FY 2018 to complete construction of Project NEON in Las Vegas to improve traffic flow in the Spaghetti Bowl area.

**NDOT – Transportation Administration (201-4660) NDOT-16:** The Department targets an unrestricted Highway Fund balance of \$124.2 million in FY 2018 and \$121.3 million in FY 2019 to provide sufficient cash to cover operating and capital expenses. Based on the recommendations of the Subcommittees, Fiscal staff estimates an unrestricted Highway Fund balance of \$383.7 million at the end of the 2017-2019 biennium.

The Subcommittees recommended not approving the Governor's recommendation for Highway Fund authorizations of \$11.7 million in each year of the 2017-2019 biennium to begin the replacement of the Nevada Shared Radio System. Instead, the Subcommittees recommended the Department approach the Interim Finance Committee for funding once it had selected a vendor and determined the actual cost to replace the system. In addition, the Subcommittees recommended the issuance of a letter of intent to the Department directing NDOT to develop a method for having the agencies that are not funded by the Highway Fund also contribute to the cost of the radio replacement project.

The Subcommittees recommended approval of the Governor's recommendation for 18 new positions for the Department, including 10 positions to establish a new maintenance crew in Southern Nevada and a new maintenance crew in Northwestern Nevada. The Subcommittees also recommended approval of the Governor's recommendation to reclassify the Department's two existing pilot positions from classified to unclassified positions, reclassify an existing custodial worker position to an unclassified pilot position, and add a new unclassified pilot position for the Department's Aviation Division.

The Subcommittees also recommended approval of the Governor's recommendation for Highway Fund authorizations of \$1.3 million in each year of the 2017-2019 biennium to upgrade the Department's electronic documentation system, which is used to manage construction contracts.

Finally, the Subcommittees recommended approval of all Other Closing Items as recommended by the Governor, with technical adjustments, and authority for Fiscal staff to make additional technical adjustments as necessary.

Mr. Drost concluded the closing report. Chair Carlton asked whether the Committees had any questions.

Senator Kieckhefer asked about the Nevada Shared Radio System replacement. The replacement would cost \$23.4 million in State Highway Funds over the 2017-2019 biennium. The Department of Transportation (NDOT) would approach the Interim Finance Committee (IFC) to get authorization to expend the funds. He was uncertain why NDOT had to come to IFC.

Mr. Drost responded that the radio replacement project was anticipated to cost between \$94.5 million and \$118.1 million over many years. The decision had not been made on the option for a purchase or a more expensive lease. The request for proposal (RFP) would be issued soon. A vendor would be chosen later in 2017, and the actual cost of the project would be known at that time. The NDOT could approach the IFC at that time to request additional Highway Fund authorizations.

Senator Kieckhefer asked whether the Legislature would authorize the expenditure and then give IFC the authority to release the funds. That was a large amount of funding to provide to IFC. He wanted to understand the mechanics.

Chair Carlton clarified that the funds were State Highway Fund dollars.

Mr. Drost confirmed that those were Highway Fund dollars. He pointed out that NDOT had access to additional Highway Fund authorizations throughout the biennium with IFC approval.

Chair Carlton said the money would not be housed at IFC, but NDOT would request IFC approval to access the Highway Fund to get the dollars.

Mr. Drost confirmed Chair Carlton's understanding was correct.

There were no further questions from the members. Chair Carlton said she would accept a motion on the closing report.

SENATOR PARKS MOVED TO ACCEPT THE CLOSING REPORT  
FROM THE SUBCOMMITTEES ON PUBLIC SAFETY, NATURAL  
RESOURCES AND TRANSPORTATION ON THE BUDGETS OF THE  
DEPARTMENT OF TRANSPORTATION.

ASSEMBLYMAN FRIERSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chair Carlton said the budget closings were concluded. She asked for public comments.

Peggy Lear Bowen, Private Citizen, Reno, Nevada, testified that she was concerned about the Office of the Attorney General and the liaison with the Board of the Public Employees' Benefits Program (PEBP). She believed public comments should be allowed even during telephonic electronic communications of the PEBP Board and PEBP meetings. Often, public comments were not allowed even though a full quorum of PEBP Board members attended meetings. The public could not present comments because no microphones were set up in Southern Nevada when meetings were held via telephone from Carson City. The PEBP Board often met at the Richard H. Bryan Building in Carson City. When a telephone conference meeting was held there, PEBP staff did not set up microphones in Southern

Nevada. Ms. Bowen asked for microphones at PEBP meetings to give individuals in Southern Nevada an opportunity to make public comments during the telephonic meetings.

Ms. Bowen said funds were limited, and PEBP no longer mailed packages of meeting materials to the public before the meetings. Citizens were unable to study the packages of materials before the meetings. The Legislature should approve funding for postage to mail the materials to the public upon request. Ms. Bowen said the public could obtain the package of meeting materials when individuals physically visited the PEBP office in Carson City before a meeting. Citizens who lacked Internet service, computers, smart phones, or printers lacked access to meeting materials to review before the meeting unless they visited the Carson City office.

Ms. Bowen stated that a former Executive Director of PEBP said, in front of witnesses, if he could find ways to shorten or end a meeting, he would do so. The PEBP Board meetings were generally closed whenever budgets, evaluations, or strategic planning for the future were discussed. More transparency was needed, especially related to the request for proposal (RFP) for Hometown Health. Five PEBP Board members at different times had voted against Hometown Health, but those five members had been quickly replaced.

Ms. Bowen explained that she tried to keep the PEBP Board transparent and open. The RFP process should be open. She wanted to receive the packets of meeting materials before the meeting. Citizens could drive to the PEBP office before the meeting and get the packet of materials or could pick up the packet during the meeting. Otherwise, packets of materials were no longer mailed to the public. Individuals were not allowed to pay the postage to have the packets mailed to them.

She was told that the Attorney General ruled that the PEBP Board meetings complied with Chapter 241 of *Nevada Revised Statutes*. She hoped the Legislature would correct any problem with the open meeting laws. The transparency needed to be protected. The open meeting laws required that even during the telephonic meetings individuals would be allowed access to those meetings throughout the state. Public comments should be allowed. Letters should not have to be submitted two weeks in advance, and citizens should be able to respond to what occurred during a meeting.

Ms. Bowen asked the Committees to approve more money for postage for the PEBP Board. She wanted the Committees to review the open meeting laws related to telephonic communication and fix whatever problem existed. The state needed a uniform computer system for purchasing. No state agency should be allowed to circumvent the requirements of the Purchasing Division, Department of Administration. During a PEBP Board meeting, the Director of the Office of Finance, Office of the Governor, stated that he was opposed to the recent conversations related to benefits and would just change the numbers. The Director of the Office of Finance, Office of the Governor, should not have the power to change the benefits voted on by the PEBP Board. It was incumbent upon everyone to be watchful that individuals in certain positions did not abuse their power. The Office of Finance should

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comply with the actions of the state boards and commissions. The PEBP Board had voted to approve the contract with Anthem Blue Cross Blue Shield rather than Hometown Health.

Chair Carlton asked whether there was any further public comment, and there was none. There being no further business before the Committees, Chair Carlton adjourned the meeting at 9:24 p.m.

RESPECTFULLY SUBMITTED:

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Janice Wright  
Committee Secretary

APPROVED BY:

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Assemblywoman Maggie Carlton, Chair

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

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Senator Joyce Woodhouse, Chair

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

## EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a document titled “Transcript of Audio Recording of Conversation Between A. G. Burnett, Chairman of the Nevada Gaming Control Board and Adam P. Laxalt, Attorney General of the State of Nevada, Recording Made on March 25, 2016,” provided by Brenda Erdoes, Legislative Counsel, Legislative Counsel Bureau.

[Exhibit D](#) is a document titled “Affidavit of A. G. Burnett,” dated April 27, 2017, provided by A. G. Burnett, Chair, Nevada Gaming Control Board.

[Exhibit E](#) is a letter dated May 17, 2017, with attached exhibits, from A. G. Burnett, Chair, Nevada Gaming Control Board, to Senator Michael Roberson, provided by Mr. Burnett.

[Exhibit F](#) is an audio recording of a March 25, 2016, conversation between A. G. Burnett, Chair, Nevada Gaming Control Board, and Adam Paul Laxalt, Attorney General, Office of the Attorney General.

[Exhibit G](#) is the opening statement of Adam Paul Laxalt, Attorney General, Nevada’s Office of the Attorney General, dated May 17, 2017, provided by Mr. Laxalt.

[Exhibit H](#) is a copy of five pages of information regarding *amicus curiae* briefs from the website of the U.S. Securities and Exchange Commission, provided by Adam Paul Laxalt, Attorney General, Nevada’s Office of the Attorney General.