

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

**Seventy-ninth Session
April 3, 2017**

The Senate Committee on Government Affairs was called to order by Chair David R. Parks at 1:08 p.m. on Monday, April 3, 2017, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator David R. Parks, Chair
Senator Mark A. Manendo, Vice Chair
Senator Julia Ratti
Senator Joseph P. Hardy
Senator Pete Goicoechea

GUEST LEGISLATORS PRESENT:

Senator Moises Denis, Senatorial District No. 2
Senator Tick Segerblom, Senatorial District No. 3
Senator James A. Settelmeyer, Senatorial District No. 17
Assemblywoman Lisa Krasner, Assembly District No. 26

STAFF MEMBERS PRESENT:

Jennifer Ruedy, Policy Analyst
Heidi Chlarson, Counsel
Martha Barnes, Committee Secretary

OTHERS PRESENT:

Brent Buffone
Arleen Alvarez
Cory Hernandez
Janine Hansen, State President, Nevada Families for Freedom
Lynn Chapman, State Vice President, Nevada Eagle Forum

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John Wagner, Independent American Party
Nancy Woolf, Nevadans CAN
Cindy Parker, Nevadans CAN
Linda Cannon, Nevadans CAN
Julie Hereford, Nevadans CAN
Alicia Contreres
Tom Dudas
Ron Dreher, Peace Officers Research Association of Nevada
Chet Adams, City Attorney, City of Sparks
Pete Todoroff, Chair, Incline Village Crystal Bay Citizen Advisory Board
Doug Goodman
Marilyn Brainard
Jill Dickman
Karl Hall, City Attorney, City of Reno
Mark B. Jackson, District Attorney, Douglas County
Barry Penzel, Chair, Board of Commissioners, Douglas County
Steve Thaler, Vice Chair, Board of Commissioners, Douglas County
Ralph Miller, Chair, Board of Trustees, Cave Rock Estates General Improvement District
Steve Teshara, Resident, Round Hill General Improvement District
Kelly Krolicki, Tahoe Citizens Committee
Gary Richert, Chairman, Zephyr Cove General Improvement District
John Shafir, Resident, Cave Rock Estates General Improvement District
Jason Guinasso, District General Counsel, Incline Village General Improvement District
Greg Reed, District Manager, Round Hill General Improvement District
Robert Balloa
Greg Ferraro, Douglas County Sewer Improvement District
James R. Cavilia, Counsel, Douglas County Sewer Improvement District No. 1
Bill Peterson, Counsel, Minden Gardnerville Sanitation District
Cameron McKay, General Manager, Kingsbury General Improvement District
Mike Bradford, Chair, Douglas County Sewer Improvement District
Jim Durso
Wes Henderson, Nevada League of Cities and Municipalities
Paul Enos, Nevada Trucking Association
Adam Hosmer-Henner, Attorney, McDonald Carano
Paul Moradkhan, Las Vegas Metro Chamber of Commerce
Brian Walker, Retail Association of Nevada
John Leleu, NAIOP, Northern Nevada; NAIOP, Southern Nevada Chapter

Aric A. Jensen, Director, Community Development, City of Reno

Chair Parks:

I will open the hearing on Senate Bill (S.B.) 186.

SENATE BILL 186: Revises provisions relating to the provision of information and assistance to immigrants. (BDR 18-280)

SENATOR MOISES DENIS (Senatorial District No. 2):

Senate Bill 186 would create the Office of New Americans here in Nevada. I had the opportunity to serve as the Co-Chair of the National Council of State Legislators Task Force on Immigration. I have been on that Task Force since I was in the Assembly, and I had the opportunity to conduct an in-depth look at immigrants and how they help our Country. We visited the borders, met with representatives from the federal government to talk about economics and visited Washington, D.C., to talk about policies, jobs, health care and education.

Our goal is to provide input from the State level to the United States Congress. During this process, I came across what some of the states have been doing to try to bring workers to their communities. One of the states created an office of new Americans.

An article by Daniel Griswold appeared in *Insight* on February 18, 2002 ([Exhibit C](#)). I could back up 100 years and read an article that would say the same thing.

Immigration always has been controversial in the United States. More than two centuries ago, Benjamin Franklin worried that too many German immigrants would swamp America's predominantly British culture. In the mid-1800s, Irish immigrants were scorned as lazy drunks, not to mention Roman Catholics. At the turn of the century a wave of "new immigrants"—Poles, Italians, Russian Jews—were believed to be too different ever to assimilate into American life. Today the same fears are raised about immigrants from Latin America and Asia, but current critics of immigration are as wrong as their counterparts were in previous eras.

Immigration is not undermining the American experiment; it is an integral part of it. We are a nation of immigrants. Successive

waves of immigrants have kept our country demographically young, enriched our culture and added to our productive capacity as a nation, enhancing our influence in the world.

Immigration gives the United States an economic edge in the world economy. Immigrants bring innovative ideas and entrepreneurial spirit to the U.S. economy. They provide business contacts to other markets, enhancing America's ability to trade and invest profitably in the global economy. They keep our economy flexible, allowing U.S. producers to keep prices down and to respond to changing consumer demands. An authoritative 1997 study by the National Academy of Sciences concluded that immigration delivered a "significant positive gain" to the U.S. economy. In testimony before Congress last year, Federal Reserve Board Chairman Alan Greenspan said, "I've always argued that this country has benefited immensely from the fact that we draw people from all over the world."

The National Academy Sciences updated the report that came out last year, and it shows similar results in 2015.

Contrary to popular myth, immigrants do not push Americans out of jobs. Immigrants tend to fill jobs that Americans cannot or will not fill, mostly at the high and low ends of the skill spectrum. Immigrants are disproportionately represented in such high-skilled fields as medicine, physics and computer science, but also in lower-skilled sectors such as hotels and restaurants, domestic service, construction and light manufacturing.

Immigrants also raise demand for goods as well as the supply. During the long boom of the 1990s, and especially in the second half of the decade, the national unemployment rate fell below 4 percent and real wages rose up and down the income scale during a time of relatively high immigration.

Nowhere is the contribution of immigrants more apparent than in the high-technology and other knowledge-based sectors. Silicon Valley and other high-tech sectors would cease to function if we foolishly were to close our borders to skilled and educated

immigrants. These immigrants represent human capital that can make our entire economy more productive. Immigrants have developed new products, such as the Java computer language, that have created employment opportunities for millions of Americans.

Mr. Griswold continues by talking about all of the different benefits we have had by allowing immigrants to come to the U.S. I saw what different states are doing to address this issue. We want to compete for jobs in the future while diversifying our economy, and this is the reason I introduced S.B. 186 to create the Office for New Americans. The office would value immigrants coming to Nevada and would help them to get certifications and meet the requirements for them to succeed here.

Places such as Michigan, New York, California and others have created a similar office that provides a one-stop resource for immigrants. Currently, there are 529,164 immigrants in the State. Forty percent of those immigrants are naturalized citizens, 40 percent are undocumented, and the remaining 13 percent are legal residents or hold a work permit. Immigrants comprise a total of 24 percent of Nevada's workforce and are 19 percent of the State's overall population. There are many barriers that immigrants face toward gaining employment at their skill level. Many have difficulty having foreign credentials recognized, have limited English skills and may be unfamiliar with the Nevada labor market.

When my mother and father came to the United States in the early 1950s, my father had a degree from the University of Havana. Yet, the only type of work he could get was to paint pianos or work as a waiter, but he could not use the skills he received from the University of Havana. There is help in various places, but it is difficult to find. When these immigrants are trying to learn a new language and new skills, help from an office of this type would be beneficial.

I have been in many taxis where the driver is a medical doctor from Ethiopia or an engineer from Egypt. These immigrants have the skills we need. Yet, it is difficult for them to obtain the credentials they need. As a result, many immigrants work low-skilled jobs like fast food, agriculture, construction and the services industry. Some immigrants were once doctors, lawyers and teachers.

Senate Bill 186 will help provide immigrants who have high skills the proper resources to find a job. The bill will also create the Office for New Americans within the Office of the Governor. In sections 3 and 4 of the bill, the Governor will appoint a director to the Office for New Americans that will assist immigrants in different ways. As described in section 4, subsection 1, paragraph the Office (a) Assists immigrants with entrepreneurship and questions relating to professional licensing, registration, permitting or similar type of authorization issued by a regulatory body; (b) Connects immigrants to business resources that harness their skills and other workforce development programs; and (c) Assists immigrants in the areas of education, housing and health care as well as enhancing the overall quality of life for immigrants in this State.

This bill is modeled after the Michigan Office for New Americans, an executive order that Governor Rick Snyder of Michigan signed in 2014. Since then, the Michigan Office for New Americans has partnered with many existing nonprofits, community foundations and private sector services to provide support for the offices' duties.

Furthermore, 20 percent of Nevada's businesses are immigrant-owned, generating a net business income of \$1.1 billion. With the Office for New Americans, we can assist entrepreneurs in creating new jobs and growing Nevada's economy.

SENATOR GOICOECHEA:

When you use the word "immigrant," it infers documented workers. Is that the intent of the bill? Are you talking about documented workers?

SENATOR DENIS:

I do not know that the bill distinguishes between documented or undocumented workers. The important part of the bill is for an immigrant who is new to Nevada, this Office has a resource to help. The emphasis is on the type of jobs we would like to expand, such as medical, technology and others. I do not think we need to limit the bill to a specific immigrant. We need the workers here in Nevada. This bill sends a message that we want to help if they bring their skills and settle here.

Utah is losing jobs and companies because it does not have the workers necessary to complete the work. Utah has also passed laws in an attempt to have immigrants settle in the state.

We have statistics regarding the type of immigrants that are settling in Nevada.

SENATOR GOICOECHEA:

Is your intention with the bill to be for any immigrant who wants to settle in Nevada, documented or otherwise?

SENATOR DENIS:

Yes. There is a fiscal note for funding to staff this Office, but the size of the office has not been determined. The point is to have a place where immigrants could access information. All agencies would be contacted to provide their requirements for new residents and have the information assessable in one location. We would like the information to be online for immigrants who may be trying to apply for jobs and/or establish residency. In order to take advantage of this information, the immigrants would have to be able to work in the United States.

CHAIR PARKS:

I noticed there were one or two agencies that submitted fiscal notes as well as the Governor's Office that provided a detailed budget breakdown.

SENATOR DENIS:

The bill requests State agencies to provide online information, so there could be costs associated to that work being completed. Regardless of this bill, these agencies should already have this information available online if we truly want to attract workers to Nevada in order to provide a skilled workforce for new businesses. Agencies need this type of information to be easily accessible.

CHAIR PARKS:

Immigrants come in all different forms. My parents were both immigrants from Canada, so I am the first generation myself.

SENATOR DENIS:

I would imagine just about everybody in this room has a background from immigrants. There are a few people who were here in this part of the world, mostly from Mexico until that land became part of the United States. You can see throughout the Country how immigrants have impacted how we have grown as a Country.

CHAIR PARKS:

I would like to welcome those members who are here today as part of Latino Day at the Legislature.

BRENT BUFFONE:

I am speaking in favor of S.B. 186. My mother is from Nicaragua, and she studied there for her fine arts degree in dance. She came to the United States when she was an 18-year-old. Being able to access information in one location would be beneficial. My mother attempted to go back to college, but her credits were not recognized or transferred. It would be beneficial to recognize the skills of immigrants for Nevada.

ARLENE ALVAREZ:

I am a resident of Las Vegas. I am also a descendent of immigrants, first generation. I have been undocumented, a legal permanent resident and now a citizen of the United States. Immigrants have various contributions to make to this Country. My father has been a janitor, a construction worker, a dishwasher. Today my parents make a living by owning a flower shop. They are entrepreneurs, with my father having a third-grade education from Mexico and my mother not finishing high school. Community is very important to me, and services like the Office for New Americans would contribute to the fabric of our communities.

I could not get help from my parents past the second grade because they could not speak English. I relied on the community to help me make my way through school. I received a scholarship to attend Northwestern University. I am thankful for this Country and the contributions and opportunities I have received. Today I work for Mi Familia Vota in Las Vegas where I assist legal permanent residents become citizens, so they can have a voice in elections in Nevada and in this Country in order to advocate for their interests and the interests of their communities. I strongly believe S.B. 186 would greatly contribute to the State.

SENATOR MANENDO:

How long did it take you to become a citizen?

MS. ALVAREZ:

My father was granted amnesty by former President Ronald Reagan in 1996, and he came to the United States prior to my mother and younger brother. He did not file his petition until 1993. From 1993 to 2001, I was undocumented for

most of my childhood and finally received my green card. I became a citizen when I went to college.

CORY HERNANDEZ:

I migrated to Reno in 2000. I went to school in Mexico where I am from. When I came here, I started from scratch. It took me five years to figure out I could transfer the credits that I had in Mexico. I went to school for social work, and I was able to transfer some of those credits and work in early childhood education. In the meantime, I started my own business. I am able to employ 13 people with my business. I bounced around from agency to agency, trying to figure out how to survive and how to learn the language. When I heard about S.B. 186, I wanted to know why this option was not available when I came here. I am a citizen. I vote.

I have a good friend who is a legal immigrant and a psychologist in Mexico. She is working for a cleaning company when there is a need for bilingual people who can represent and help. I think she is where I was 16 years ago because there is no guidance. There is not one place immigrants can go to have their questions answered. I am in favor of the Office for New Americans because immigrants will be able to have a place to begin and become accustomed to the United States.

JANINE HANSEN (State President, Nevada Families for Freedom):

I appreciated the question asked by Senator Goicoechea because it is a critical issue whether these people are legal or illegal immigrants determined by the federal government. This is a concern because there are costs associated with illegal immigration. The Center for Immigration Studies states that households headed by immigrants in the Country illegally were estimated at 62 percent, using one or more welfare programs in 2012 compared to 30 percent of native households. Households headed by immigrants illegally in the Country have higher-use rates than native households for overall food programs, 57 percent versus 22 percent. Of illegal immigrant households with children, 87 percent access one or more welfare programs compared to 52 percent of native households.

The recent Great Recession had the greatest impact on men. There was an article in *The Atlantic* which said that it should not be called the Great Recession, it should be called the man recession. Many men lost their jobs through this recession. Economist John Williams' *Shadow Government*

Statistics relates the real unemployment rate is almost 23 percent for Americans. This rate is determined by removing people who have given up looking for jobs, people who are underemployed and people who are working several part-time jobs. We feel this is a real problem in that we should be focusing our energy on helping the citizens who are already here.

I have a friend named George who is here on a visa from Ghana, West Africa. He works at one of the mines in Elko. He had problems with his visa a year or so ago and had to return to Ghana and live there for several months without any income for his family. He has a wife and three children. We did all we could to help George under these circumstances. George is here legally. I helped him talk to Nevada's representatives in Congress. I have concerns that this bill does not distinguish between legal and illegal immigrants. We should be helping the people who already reside here.

Many of my friends who reside in Elko have lost their jobs. My one good friend is now working three jobs because her husband lost his job in the mines and is now working for half of what he used to make. When we were staying in a motel because our home was in a fire, she was doing maid work at the motel, just trying to make ends meet. There are plenty of Americans who are struggling and could use assistance in finding jobs, too. We would like the bill to differentiate between legal and illegal.

LYNN CHAPMAN (State Vice President, Nevada Eagle Forum):

I went online and was checking out a number of New American programs throughout the Country. I found a program in Maryland, wanted to know if this was the same as what is being proposed in this bill and found it to be similar. There were so many options available: English as a second language, workforce services, career and business resources, adult education, children's education, workplace certification for good-paying jobs, selective service registration, social security, equal employment rights, consumer rights and green cards. There is a huge list of resources available.

Shame on us because we should be taking care of our veterans. We should be spending time and money helping our veterans. We have had so many problems with the U.S. Department of Veterans Affairs throughout the whole United States. There are plenty of veterans who need jobs who cannot find them. My niece graduated from the University of Nevada, Las Vegas, a few years ago, and she is in the medical field. She took her test for a registered dietician. She

came out top of her class and was able to get a job, but there were plenty of other people who were trying to work as registered dieticians but there were no jobs. Talking about Americans not wanting certain jobs, there are plenty of people willing to do those jobs. We need to take care of our American citizens first.

JOHN WAGNER (Independent American Party):

Yes, we are a Nation of immigrants. I have four grandparents who came to the United States, and one was Canadian. I saw this New Americans bill and thought I have three great grandchildren who should qualify as New Americans, then I read further and found the term had to do with immigrants. I have no problem helping legal immigrants because my grandparents came over here as immigrants. What about some of the consulates we have here in Nevada? Could they be helping some of the people who come here from another country? The consulate should be able to provide some information. There is also the Department of Employment that does more than just issue unemployment checks. The universities and colleges could help too. I do not believe we need a new office, but I am concerned that the immigrants we are talking about should be legal immigrants. I support legal immigration. I have a friend who just came in from New Zealand, and I would like to help out, but I am not sure this is the way to do it.

NANCY WOOLF (Nevadans CAN):

I have some points of contention regarding S.B. 186. Senator Denis mentioned that 40 percent of the immigrants who could be helped by this new office, were undocumented. Others have spoken about the inappropriateness of aiding undocumented immigrants, especially in light of the new program advances by President Donald Trump and adjudicated by Attorney General Jeff Sessions that we are a Nation of laws and that we are trying to struggle with this problem that hurts American citizens by robbing us of jobs that truly belong to us and to our children. It also robs dignity from undocumented immigrants. To treat a whole group of people as if they cannot function and cannot compete as whole human beings or that they need aid or assistance is in fact unkind, but it is a disingenuous argument. Many of us know that it is merely the politicians who wish to make a group of people indebted to them as their own personal voting block. Those issues will be addressed by others in much greater detail.

I take issue with what Senator Denis said was a need for high-level immigrants. I know in this case he is talking about legal immigrants. I am a STEM graduate

with a Ph.D. in neuroscience. When I received my Ph.D. in 1983, few of us got jobs. To give any kind of advantage to noncitizens or nonnative-born Americans who work hard for their degrees and do much more in some cases than our foreign counterparts is a disservice, not only to the person who did not receive the job but also for the Nation. What are we trying to do with our scientific programs? Do we want the best people for the job? Sometimes, we have to face the facts that some of us are the best. To give others a hand up just because of otherness does ourselves a disservice. We have to look more toward functionality. Does our government function? Does the State want to go down the same path as California? I moved here from California, and these kinds of programs that sound as if they are doing a group of people a service are misguided and lead us down a troubled path.

CINDY PARKER (Nevadans CAN):

I am a proud taxpayer. My concern about S.B. 186 is that it is not about the immigrants. This is about the money we are spending. I have been working with veterans. If my taxpayer money is going to go somewhere, it should be toward the veterans. We can give them homes. Housing is important to them. We can give them food. We can give them insurance. I have veterans with disabilities who are from the Vietnam War, and they cannot get any help. They are unable to get disability.

Our taxpayer money that is going to go into an office is not a good idea. The immigrants have gotten along without it so far. We can take that money and invest it to help our veterans and our homeless. It is devastating to know we have people living on the streets who are Americans and we cannot help them. I see children near the county courthouse with their mother and father or at 6:30 at night under a bridge. These are the Americans we are talking about. If you want to go with me, I will show you what it looks like on the streets. It is important that we take the money and invest it some other place rather than saying we need to keep it for immigrants who are coming into the city. Let them find a way to do this on their own. As a mother, I found a way as a single mother with two children and worked all of my life. I found a way to survive. If you come to this Country, please speak English. The forms are in every different language. At least learn our language. I am proud of Las Vegas, and I serve the communities and the charities.

LINDA CANNON (Nevadans CAN):

Nevadans CAN is a grassroots organization here in Nevada. I am opposed to S.B. 186 because it is redundant and discriminatory. Millions of taxpayer dollars are already pouring into church charities to help these people when they come into this Country. The churches help them get oriented, find housing, help them get settled and provide them with job-seeking facilities. All this is taxpayer-funded. This bill creates additional taxpayer money going into programs that already exist.

I also see this bill as discriminatory. Most of the immigrants are not truly immigrants but are most likely illegal aliens in Nevada. It is discriminatory to set aside funds just to serve people who have come to this Country without respect for our laws. Now our Legislators are asking us to put up more funding to support their illegal activity. I cannot support the money, and I cannot support that the money will not be helping many legal Nevadans.

These people I am talking about, the 40 percent who are illegal, are not New Americans as they are called in S.B. 186. Neither are they immigrants as were most of our families who came to this Country. These are illegal aliens who have demonstrated a disregard for our laws and for doing things the way we do in a democratic republic. Now you are asking us to give these people priority over taxpaying Nevadans.

The fact that these illegals are cheap labor for the casinos and a boon to Democratic voter rolls is not a good reason for Nevada taxpayers to fund this bill. I urge you to oppose the bill. I agree with the previous speaker that these monies could better be used for veteran services. We have a large population of dis-served veterans in our city, and I would rather see the funds go to them.

JULIE HEREFORD (Nevadans CAN):

I do not disagree with Senator Denis's reasoning in terms that America is a Country of immigrants and their contributions. The issue I have is for him to propose to waste more taxpayer money to create another government agency. I urge you to vote no on yet another political pandering bill with no benefit to the real hard-working immigrants except more financial burden on the taxpayers for an office that will serve little purpose. I would much rather see those additional funds go to the Education Savings Accounts to help immigrant families give their children more options for a better education. As an immigrant, we adopted the United States as our new homeland 47 years ago. Our family and children

did not have or need the government's help to become successful in the new America, the land of opportunity.

We had the benefit of freedom and free market which gave a solid base to build our new and prosperous lives. Throughout the years, we followed the immigration law and regulations that helped us to sponsor dozens of families and skilled workers to come to America to build a successful life for each of them.

During our early professional years in Pittsburgh, Pennsylvania, we lived in a neighborhood of immigrants from all over the world. Every family thrived through their hard work and their love for the new homeland while they stayed proud of their heritage and cultures.

We were all Americans. No one depended on the government to help us assimilate, and no one demanded the rest of us help pay for their hard time. There were hard times when the steel mills were all shut down, but people had pride and integrity. They learned new skills and transformed their livelihood to new economic opportunities. Nevada, a state we call home, is truly a melting pot. I have worked with many immigrants from all over the world since we retired here almost 20 years ago. Most are self-reliant and pursued opportunities on their own without the help or interference of the government. I urge you to represent the voice of the hard-working immigrants from all walks of life in Nevada and vote no on this bill.

ALICIA CONTRERES:

I am here in support of Latino Lobby Day at the Legislature and Mi Familia Vota. In regard to S.B. 186, this is a great opportunity for support. As a previous English innovation instructor for students and immigrants, both New Americans and immigrants are attaining their second language. I have a student named Fidel; he is here with his family and was an educator in Mexico. When Fidel came here, he was only able to transfer his documents from Mexico into the equivalent of a high school diploma. He is now driving a school bus and taking students in and around rather than educating them. I see this bill as an opportunity for him to continue his profession and give back to the community as a new American for our community to continue to grow. I am in support of S.B. 186.

SENATOR DENIS:

I want to address some of the issues brought up by the testifiers. I heard a testifier say political pandering, but I did not bring this bill forward for political reasons. It would be easier not to bring this kind of a bill forward. We as a State are trying to become the kind of state where people want to work, where businesses want to relocate and educate their children. We want veterans to be here. There are many bills this Session that provide benefits for veterans, and it is important to support them.

Somebody spoke about jobs being lost to immigrants. If you look at where the losses are coming from, it is not from the immigrants but from technology. Technology is the future. When McDonalds can create an automatic robot that can make a hamburger, jobs will be lost. Businesses are going to automate no matter what we do, and we will need people who know how to handle the technology for these robots. We do not have enough people in this area of expertise. We have invested billions of dollars into education. We are investing millions of dollars on economic development. This bill will make a statement that we want to bring all kinds of people and skills to Nevada.

Somebody mentioned talking to the consulate, office of employment or the universities, I agree this needs to be done. This new office will pull all of those requirements into one area for easier access. Right now, if you are an immigrant trying to gather this information, you have to visit all of these different places. If we want to attract people and skills to Nevada, we need to make it easier for them to obtain the information to assist them.

We are seeing companies go out of the Country. Microsoft cannot get enough workers to fill their technology needs, so they built a facility across the border in Canada where it is easier to get immigrants to fill the workforce needs. We want these immigrants to stay in this Country and fill the needs of our companies in the United States. These are high-skilled jobs. Everyone in Nevada pays taxes because it is based on sales and property. No one asks if you are an immigrant when you buy clothing or a car. We are all paying taxes. The higher-skilled workers who earn more will spend more.

Somebody mentioned the homeless. I have the largest-homeless population in Nevada in my Senate District. I live a mile from most of the homeless shelters. I see these people every day. We need to provide help there, and we are trying to do the best that we can. I am doing everything I can do to work with the city

and others to provide help for the homeless to find jobs and provide mental health assistance. Some people have mental health issues, and we want to provide additional support for them.

Somebody mentioned the churches being funded by federal dollars. I work with churches to provide some of this information for immigrants. While the government may help to pay some of the expenses, the immigrants are carrying the load. Creating this Office for New Americans can be positive for Nevada, rather than turning it into a political issue, because we do not know how to handle immigration. We can try something positive to bring immigrants to our State with the skills needed to keep jobs and businesses in Nevada. These workers can help our economy.

CHAIR PARKS:

With the fiscal note attached to this bill, it would be prudent for this Committee to refer S.B. 186 to Senate Finance for a hearing.

SENATOR DENIS:

I have anticipated that being the path for this bill and a good place to discuss the financial part of the bill.

CHAIR PARKS:

Has the bill been declared exempt?

SENATOR DENIS:

It is eligible for exempt status.

CHAIR PARKS:

I will close the hearing on S.B. 186 and open the hearing on S.B. 434.

SENATE BILL 434: Requires certain city attorneys to be appointed rather than elected. (BDR S-1046)

SENATOR TICK SEGERBLOM (Senatorial District No. 3):

Senate Bill 434 proposes to allow the City of Reno and the City of Sparks to hire their city attorneys rather than have those city attorneys elected. Without casting aspersions about anyone or anything, the recent events in the City of Reno have confirmed the need for this change. It is important that the attorney for the city be someone who works for the city council and not be someone

who is elected and may have a personal agenda. The city could end up with an attorney who is not qualified and opposed to what is best for the city. As we saw in Reno, this situation could result in enormous legal fees and a semifiasco, whether it be intentional or unintentional. There are only two cities left in the Nevada that have this form of government.

Speaking as an attorney, it is important the attorney work for the client whereas an elected city attorney is the client. It is important to change the way we are currently doing business. Oftentimes, city attorneys are asked for opinions. It is important for the city council and the mayor to know that it is a legal opinion as opposed to a political opinion. When the city attorney is also a politician, it can create conflict.

I have nothing personal against the current city attorneys, but it is time to move on. It is not proper form to have these positions elected as opposed to the city council hiring the best person for the job. If the attorney does not work out for the council, it has the right to fire him or her and hire someone else. If the city attorney is elected, the city council does not have this option.

SENATOR HARDY:

Did this change come from the city councils or charter committees?

SENATOR SEGERBLOM:

No. I went rogue because this is good policy and good government.

SENATOR HARDY:

Did you receive input from the city councils or charter committees?

SENATOR SEGERBLOM:

No one has contacted me. I asked Senator Parks to bring this change forward as a Committee bill. The city councils and charter committees may not have known I was the sponsor of the bill.

SENATOR HARDY:

Has there been a meeting for this issue to be on the agenda?

SENATOR SEGERBLOM:

It could be on the agenda between now and June.

CHAIR PARKS:

Having worked at the City of Las Vegas at a time when there was an elected city attorney and subsequently with an appointed city attorney, things changed quite a bit and operated much more smoothly following the transition to an appointed attorney. There is a lot to be said for an attorney who provides legal counsel and is nonpartisan, just as we have legal counsel in this building who provides us with fair and impartial counsel.

SENATOR GOICOECHEA:

I would like to hear input from the City of Sparks and the City of Reno prior to moving this bill. I know many people in Reno who prefer the city attorney to be an elected official. We need to respond to the voters at some point.

SENATOR SEGERBLOM:

The idea stands on its own merit and is an issue we need to discuss.

TOM DUDAS:

Senator Segerblom is my representative here in southern Nevada, but I also own property in northern Nevada. My concern is certainly the expense for elections that amount to one or two candidates. We have elections in southern Nevada where there are only two candidates, and the expense looks ridiculous. I do not want to see bureaucrats continuously being appointed, but it is very costly to the State.

SENATOR HARDY:

Are the small elections you referenced in conjunction with other elections at the same time?

MR. DUDAS:

There are other offices in other parts of Clark County. Henderson has a mayoral candidate, but we only have two candidates in our district for open judgeships. I have a wife who is in the legal profession who I rely on for information about the candidates. The large population does not have any clue about these people.

SENATOR HARDY:

Are you against elections?

MR. DUDAS:

I am not against elections at all. You might get a turnout for the presidential election ballots, but the Interim periods can be expensive. There is an election in Montana that contends mailing might be more economical for the smaller candidate races.

RON DREHER (Peace Officers Research Association of Nevada):

I oppose S.B. 434 because of the nature of elected versus appointed officials. I ran for office in the City of Reno a couple of times. Over my experience, the City of Reno has a really good system. Seeing the supporting documents submitted by the current Sparks City Attorney ([Exhibit D](#)), this idea has been voted on in the past to have elected versus appointed officials. Especially for the city attorney's office, the check and balances of having an elected official is crucial. I watched the Reno-Tahoe Airport Authority when it went from being run by the Reno City Council to an appointed board where we have no say over who these people are. I believe it is important that citizens have a voice in electing people for these positions.

For example, the City of Sparks has had their City Attorney in place for a number of years, and he is reelected time and time again. If the people did not want him in office, they would not continue to elect him to the position. Because he has been there forever, he should be able to stay there if there are no term limits for his office. It is a good system. I request the Committee oppose S.B. 434.

CHET ADAMS (City Attorney, City of Sparks):

I am here to speak in opposition to S.B. 434. I am appearing today in my capacity as the elected City Attorney for Sparks, representing the citizens of Sparks whose voting rights are being put in jeopardy by S.B. 434.

Senate Bill 434 seeks to unilaterally amend Sparks Constitution, which is our City Charter, and repeal our citizens' right to vote for their nonpartisan-elected representative in the executive branch of Sparks government, the city attorney.

Senate Bill 434 disregards the City Charter Committee amendment process traditionally employed to amend the Sparks Charter and ignores the voice of Sparks citizens who have already voted twice to retain their right to vote for their city attorney. Prior to the adoption of the Sparks City Charter by the Nevada Legislature in 1975, Sparks citizens voted for their city attorney. Sparks

citizens were asked, through a ballot question in 1974, whether they still wanted the right to vote for their city attorney and whether that right should be included in their City Charter. Voters responded with a vote of 10 to 1 in favor of retaining their right to vote for their city attorney.

Fifteen years later, pursuant to a 1991 advisory question, Sparks citizens were again asked whether they wanted to retain their right to vote for the city attorney. Once again, Sparks citizens voted, overwhelmingly, to keep their right to vote for the City Attorney. Senate Bill 434 now seeks to repeal that voting right.

This is not the first time this legislation has been presented to the Nevada Legislature, proposing to repeal Reno and Sparks' right to vote for their city attorneys. Ten years ago, A.B. No. 570 of the 74th Session was introduced containing similar language. Ultimately, and in recognition of Sparks citizens prior votes in 1974 and 1991, the unilateral charter amendment language was stricken from the bill. If you take a look at the supporting documents I provided to the Committee, [Exhibit D](#), you will see the Assemblyman who moved to strike that language was then-Assemblyman Tick Segerblom.

Only 4 of the 12 charter cities in Nevada use a charter committee for charter amendments, Reno, Sparks, Henderson and Carson City. The charter of the City of Sparks should not be unilaterally amended by S.B. 434 without input from the Sparks Charter Committee, especially when such an amendment repeals a voting right of Sparks citizens.

The Sparks Charter Committee provides a fair, open, transparent and democratic process for amending Sparks City Charter. The Open Meeting Law allows public notice and opportunity to be heard by Sparks citizens during all Charter Committee Meetings which are conducted in Sparks, making it easy for our citizens to attend and participate in those meetings.

The Charter Committee must deliberate in an open, public forum before arriving at a Charter amendment recommendation. Charter Committee votes are recorded and become a matter of public record. The Charter Committee recommendations are then forwarded to the Nevada Legislature for consideration before amending the Sparks City Charter. Using all of these processes, our Charter Committee considered and rejected the idea of an appointed city attorney in 2006, based largely on the loss of voter rights.

It has been proven in the past, that neither the Nevada Assembly, the Sparks citizens nor the Sparks Charter Committee wants the Sparks Charter unilaterally amended to take away Sparks citizens' right to vote for their city attorney.

The decision to amend the Sparks Charter, especially when that decision concerns a repeal of our citizens' voting rights, is certainly neither a decision that I can make nor should it be made by the Nevada Legislature. The decision concerning the voting rights of Sparks citizens should be left to Sparks voters and the Sparks Charter Committee.

Voters are pretty smart people. If a city attorney is not doing the job by creating more problems than he is solving or providing legal advice to clients that is tainted by political influence, that will come out very quickly in a state or federal courtroom.

SENATOR RATTI:

Because this issue will most likely come out later today, I would like to give you the opportunity to talk about the Open Meeting Law violation that happened in late February with the Sparks City Council. Can you walk us through that violation?

MR. ADAMS:

We have known for quite some time that this type of legislation would be drafted in one form or another. That knowledge came from a conversation between Senator Ratti and our City Manager. The Mayor expressed his concerns about this issue and asked me to prepare a resolution opposing this legislation. The resolution would be a joint resolution from both the Mayor and the City Council. I prepared the resolution, and the City Council unanimously opposed what was soon to be S.B. 434. They opposed the principle of amending the Sparks Charter unilaterally without input from Sparks citizens. The Mayor and City Council also unanimously supported the idea of maintaining the citizens' right to vote by allowing them to elect their city attorney. The Mayor and City Council also asked Governor Brian Sandoval to veto this legislation if it made it to his desk.

I sent this resolution out to all parties for review ahead of time, asking does anyone have any concerns or have I misstated anything? I received four responses almost immediately, supporting the resolution. When I sent the email out to the City Council members, everybody was copied. When I received the

responses back from the members, they had pressed "reply all." Consequently, all the City Council members got to see how everyone was voting. I had created an electronic forum without the majority of council members present.

I called the Attorney General's Office. They did not see anything intentional by me trying to circumvent Nevada's Open Meeting Law. They suggested I self-report by putting this on the agenda and admit that I had made an error. I fessed up to the mistake during the City Council meeting. Consequently, I do not have a document before you today setting out the formal opposition to S.B. 434. I do have a statement from our Mayor Pro Tempore who strongly objects to S.B. 434 and has also asked Governor Sandoval for his veto should the bill make it to his desk. This is the saga of the Open Meeting Law violation.

PETE TODOROFF (Chair, Incline Village Crystal Bay Citizen Advisory Board):

I am representing Incline Village and Crystal Bay within Washoe County. To me, this is a bill that takes away our rights to vote for who we want to represent us in the city attorney's office. I take voting seriously, and this takes away my right to vote and I oppose the bill.

DOUG GOODMAN:

Mr. Adams supplied the information regarding the voting history of the residents of Sparks regarding this matter. The process has not been followed. I respect the Legislature's authority over city charters, but the process to amend the Sparks City Charter and the Reno City Charter has not been followed. Looking at the Charter Committee meetings of last year, the Sparks Charter Committee met on April 12, 2016, and this topic was not on the agenda. The only two items were ward-only voting that was being driven by a Ninth Circuit Court opinion. There was also a requirement for municipal judges to be members of the Nevada Bar Association.

In the Reno Charter Committee meeting of June 6, 2016, this subject did come up. The city attorney made some comments, but there was no action taken. In the Reno City Council and Reno City Charter Committee Joint Meeting on August 10, 2016, this measure was not mentioned as a recommendation going forward. The only two recommendations moved from the Reno City Charter Committee Meeting were the ward-only voting and the addition of a sixth ward, eliminating the member-at-large ward. If the Legislature is intent on having Sparks and Reno appoint their city attorneys, the right thing to do is to refer these items back to the cities to hold another advisory question. The last

advisory question happened 26 years ago. The Sparks citizens could weigh in then to determine if they want the city attorney elected or appointed. If they choose to have the city attorney appointed, they could come back before this Body in 2019.

MARILYN BRAINARD:

I chose to live in Sparks 19 years ago. I was shocked this bill had been proposed. We value the ability of our citizens in Sparks to be able to vote on important issues. One of the most important is to look at the separation of powers and not submit our legal expert to the political process or whims of the City Council. I chose to live in Sparks rather than Reno and am glad I did. I am disappointed about what is going on in Reno, and I feel sorry for their citizens. Our legal system should not be comingled with the political arena. The independence of Sparks is vital. Our citizens of that past have validated that with their votes. If important to move this bill forward, it should not be passed. This matter should be put before the citizens in the next regular election.

My husband served for many years on the Sparks Charter Committee and also chaired the Committee. He is appalled at the overreach of the bill and comingling of responsibilities. In this day and age, why would we want to remove the ability of the citizens of the City of Sparks to have input to select and elect our city attorney. Mr. Adams has done an excellent job, and he has saved the city lots of money by his effective defense of the City in numerous legal actions. He has proven his merit. I am disappointed this bill was brought forward and hope it does not go forward.

JILL DICKMAN:

The Sparks residents are quite engaged and informed because a number of them have contacted me to ask what they can do to ensure their right to vote for the city attorney. In order to properly perform his or her duties, the city attorney needs to be independent and not beholden to the City Council. It is a nonpartisan position that would almost certainly become politicized. If the attorney serves at the whim of the City Council, he then becomes a tool of the Council. He or she must be accountable to the people.

As you heard, this goes against the Sparks Charter and circumvents the open process of the Sparks Charter Committee. The legislation goes against the will of the people as expressed overwhelmingly in two elections. Senator Segerblom mentioned this idea has come up many times, but it has failed each time. There

is a reason the legislation has failed. The people in Sparks want to elect this person to the City Attorney's office and the person should be accountable to the people. I agree with the Sparks Mayor and the Sparks Mayor Pro Tempore in opposing this bill. I hope you all will honor the wishes of the people and oppose S.B. 434.

MS. CHAPMAN:

I am a resident of Sparks and have been for 32 years. Does the City Attorney work for the City Council or the citizens of Sparks? We pay him so he is the employee of the citizens. We have indicated a number of times that we want to vote for our City Attorney. We had judges, school boards and now city attorneys scrutinized for appointment rather than letting the people make decisions for them and their families. This is wrong. If other cities around Nevada have had problems or changed the way they do things that is fine, but Sparks and Reno do not want to change. We want the right to elect our City Attorney. We like accountability, and we lose that if the people for these positions are appointed.

MR. WAGNER:

I am representing the three new Americans whose parents signed a contract to purchase a house in Sparks yesterday, and the others want to move to Sparks as soon as possible. On behalf of these new residents, I oppose S.B. 434.

KARL HALL (City Attorney, City of Reno):

I do agree with many of the comments made by those in opposition to S.B. 434. I was there during the Charter Committee's consideration of whether or not the City Attorney should be appointed or elected. It was discussed and determined the change should not be added to our Charter bill. The issue also went before our City Council and the Council chose not to address it. It would not be appropriate for this Committee to push this bill on the City of Reno.

If there is criticism of my office, it would be nice to have it brought to my attention. We send out a survey throughout our entire organization to determine job satisfaction. Satisfaction with our performance under my administration has been over 90 percent throughout the whole organization. The voters do have a chance to evaluate the candidates. We are also evaluated regularly by the *Reno Gazette-Journal* and everyone in the City of Reno. The citizens will determine if I am doing a good job or not. Taking away their right to vote for this position would be a mistake.

ASSEMBLYWOMAN LISA KRASNER (Assembly District No. 26):

Today I am here as a citizen. A citizen who feels fortunate to live in a Country that lives under a Constitution, a Constitution that our Founding Fathers intended to be for the people. These people get to elect who they want to represent them in their government. We live under a Constitution which is a series of laws, the same Constitution that says all citizens have equal rights whether they are black or white, rich or poor, male or female and gay or straight. This is the same Constitution that is a representative democracy as dictated by our Founding Fathers that says all the people get to choose who they want to represent them in their government. I would ask you to oppose this bill.

CHAIR PARKS:

I will close the hearing on S.B. 434 and open the hearing on S.B. 462.

SENATE BILL 462: Authorizes a board of county commissioners to create a committee to review general improvement districts. (BDR 20-496)

SENATOR JAMES A. SETTELMAYER (Senatorial District No. 17):

Senate Bill 462 is a result of the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System. This bill came about through some of the discussions related to problems occurring within the Tahoe Basin regarding general improvement districts (GID) and other districts. There was discussion during these meetings that the GIDs needed to be reviewed. As the person who chaired the Sunset Subcommittee of the Legislative Commission, I and many of the members felt it was a good idea to review the GIDs. I believe any government entity should have the ability to withstand scrutiny to ensure it is productive. If the entity cannot withstand scrutiny, it should not exist.

However, there were concerns from individuals that the county might try to take over some of the GIDs. The proposal is for the committee to be set up so the Senator for the particular county is the chair and the Assembly person for the county is the vice chair to ensure buy-in from the elected officials. The language provides if the entities are not happy with how the elected officials handle these reviews, they can be replaced during the next election process.

We have had many emails from individuals who have concerns regarding S.B. 462. I stand behind bringing this bill forward. There are some smaller GIDs that used to be active but are not active now. The GIDs should be reviewed.

The Sunset Subcommittee of the Legislative Commission contacted the representatives of GIDs to request information. As stated in the bill, a general improvement district has the burden of proving there is a public need for its continued existence. The information will be utilized to determine if the GIDs should continue without modification or if they should be eliminated. Maybe the GID needs assistance and the committee can attempt to assist them.

SENATOR GOICOECHEA:

Following the review, would the committee come back to the Board of County Commissioners with a recommendation for each GID in Douglas County?

SENATOR SETTELMAYER:

Yes. The committee would not review the GIDs in Douglas County only, but they would serve any county that requests a review. There are more GIDs in Douglas County than any other county in Nevada. Part of the formation of Douglas County pertained to individuals constructing housing developments or subdivisions and forming a GID.

Since people are not favorable of government in Douglas County, they would form a GID to govern any issues within the subdivision. Over time, things have changed. The GID did submit their report to the Board of Commissioners. I do not believe we can review all of the GIDs in Douglas County during one Interim period. The process will be time-consuming due to the number of GIDs in the County.

Even on the Sunset Subcommittee of the Legislative Commission we can make it through about 20 GIDs, and there are more than that in Douglas County alone.

SENATOR GOICOECHEA:

Is there any compensation for serving on the committee? Will there be any reimbursement for travel?

SENATOR SETTELMAYER:

There is no compensation for serving on the committee, and there will be no reimbursement for travel.

SENATOR RATTI:

Who makes the final decision? Are the commissioners authorized to make the final decision, or will they bring a recommendation to the next Legislature?

SENATOR SETTELMAYER:

This recommendation would be made to the county commissioners who have the authority to dissolve the GID under *Nevada Revised Statutes* (NRS) 318 if they see fit. Some of the GIDs have existed for a very long time, and some things are not occurring. Once someone tries to eliminate a GID, people find their voices. There has been a lack of political will within counties to review their GIDs to ensure they are providing the best service for the constituents. It is difficult to contact the representatives for GIDs, and it is hard to find people who are willing to serve in this capacity. Some GIDs have a common practice of appointment because no one else will run for the position. Some GIDs will reappoint the same people to the positions which gets outside of the term limits issue.

SENATOR RATTI:

This is an interesting concept and probably looks different in every county depending on how many GIDs exist in each county. You compared this new committee to the Sunset Subcommittee of the Legislative Commission that does all of its work during the Interim and brings recommendations back to the Legislature.

SENATOR SETTELMAYER:

Yes. The Committee does its work during the Interim and takes any recommendations to the Legislative Commission that takes a vote on whether to forward the recommendations to the full Body. This committee would be similar with any recommendations taken back to the county commissioners who will review the committee's findings. If a Legislator disagrees with the governing body, he or she can bring forward legislation to counter the recommendation.

SENATOR RATTI:

Were all of these GIDs created through statute?

SENATOR SETTELMAYER:

The authority existed for the creation of the GIDs. In Douglas County, many individuals would bring a project forward; for instance, we want Douglas County to maintain a road. The County Commissioners would say they should do it themselves and a GID would be formed to manage that service.

SENATOR RATTI:

If the GIDs were authorized by statute, do we want to allow the county commissioners to deauthorize some of these entities?

SENATOR SETTELMAYER:

The county commissioners already have the right to dissolve entities under NRS 318, which is specific to general improvement districts.

SENATOR RATTI:

If the county commissioners already have the right to dissolve these entities, why do we need this committee?

SENATOR SETTELMAYER:

Sometimes these entities need assistance in conducting a vetting process.

SENATOR RATTI:

Does our legal counsel agree that the county commissioners already have the right to dissolve these GIDs?

SENATOR SETTELMAYER:

It comes down to the type of GID. Sun Valley has the ability to exist by only doing one thing, and they cannot be dissolved no matter what. There are other GIDs throughout the State that must support sewer and water and then get a vote from the people they represent. If the county commissioners want to dissolve a GID, they may need a vote from the people in their GID. Other GIDs can be dissolved solely by the county commissioners.

HEIDI CHLARSON (Counsel):

Senator Settelmeyer is correct. Generally speaking, each board of county commissioners has the authority to create a GID, and they also have the authority to dissolve, consolidate or merge GIDs. There are a few exceptions under statute for particular types of GIDs. The bill does not change the mechanism for a county to dissolve, merge or consolidate a GID. It provides a

mechanism for the board of county commissioners to appoint a committee to study whether or not the GID should continue and make a recommendation to the county commissioners. However, if a recommendation is made, the board of county commissioners is not required to take any action under this bill with regard to the continuation or elimination of the GID.

SENATOR RATTI:

Is there anything in this bill that changes the status of the GIDs that cannot be unilaterally dissolved by the board of commissioners?

Ms. CHLARSON:

No.

SENATOR SETTELMAYER:

The next bill on your agenda, S.B. 471, has a clause to ensure some of the GIDs cannot be easily dissolved. If you are so inclined, you could take that segment out of S.B. 471 and add it to S.B. 462.

SENATE BILL 471: Revises provisions related to improvement districts.
(BDR 25-495)

CHAIR PARKS:

Regarding the composition of this committee, there are two members of the Legislature and three additional members chosen by the board of commissioners. Was there any thought given to how the three additional members will be chosen?

SENATOR SETTELMAYER:

No. We just thought there should be elected officials on the committee to oversee the issues in these areas. The other three members were left up to the county commissioners who may know someone who would be well-suited for the committee.

In Douglas County there is one County Commissioner who oversees Lake Tahoe issues, and that person may run toward or away from the committee as fast as possible. If the Senate Committee on Government Affairs would like to change who serves on the proposed committee, you are welcome to do so. It might be interesting to look at someone with a background in accounting to serve on the proposed committee.

The idea is to obtain information from the GIDs to determine if they should continue to exist. Because this proposed committee is created by the Legislature, they will operate under Mason's Manual. If the chair of the proposed committee decides it is not a good idea to dissolve a certain GID because it is operating well and providing good service, he has that ability.

SENATOR RATTI:

Is there anything in the law that prevents this committee from being created now?

Ms. CHLARSON:

There will not be any limitation on a board of commissioners studying whether or not a GID should continue operating or making recommendations. However, because this bill specifically requires a member of the Senate and a member of the Assembly to be appointed to the committee, without the authority in this bill, a board of county commissioners could not require a Senator or Assemblyman to serve.

SENATOR SETTELMAYER:

Senate Bill 462 establishes a framework in order to analyze these issues by identifying them. We had some issues occur in Douglas County pertaining to GIDs and districts of that nature, and people provided their concerns. A couple of county commissioners expressed concerns about GIDs which came to my attention through phone calls. I submitted this bill in order to review the issue again. If a GID cannot stand up to scrutiny to determine if the entity should continue, the entity should be dissolved, merged or consolidated.

MARK B. JACKSON (District Attorney, Douglas County):

I would like to provide this Committee with more detail regarding NRS 318 that covers general improvement districts. Ms. Chlarson and Senator Settelmeyer are correct that the GIDs are created by the board of county commissioners pursuant to an ordinance. It is a multistep process from the introduction of the ordinance, and then a second hearing is held. I do not consider this a Douglas County bill because it will affect all GIDs across the State.

There are currently 24 GIDs governing under NRS 318 in Douglas County. Fourteen of these GIDs are located within the Lake Tahoe Basin of Douglas County. Some GIDs are much better off financially than others. Once a board of county commissioners creates a GID, there is no oversight by the

commissioners. If there is an issue within the GID, that is when the county commissioners are forced to address an issue.

The statutes to be reviewed are NRS 318.490 and NRS 318.495. Under NRS 318.490 it states if the board of county commissioners deems that it is in the best interest of the county and of the district, the board of county commissioners can dissolve, merge or consolidate that district. If there are specific findings that need to be made, part of that is creating a record as to why it is in the best interest of the county and of the district to dissolve, merge or consolidate the district.

Nevada Revised Statutes 318.490 was amended by A.B. No. 475 of the 73rd Session. The bill was introduced by Fred Hillerby, who was representing the Sun Valley General Improvement District. There were several aspects of the bill, but one of the things was to amend the language to say if the board of county commissioners deemed it was in the best interests of the county and of the district, they could dissolve, merge or consolidate. As of October 1, 2005, if the district was exercising three specific powers of water facility, sewer facility and garbage collection, it was considered a large GID. There were two GIDs located in Washoe County, Incline Village GID and Sun Valley GID. Another one was Lockwood Canyon GID located in Storey County. The change was made for these three general improvement districts that provided all three services.

Under NRS 318, the language has been amended to add power to these GIDs. Within the ordinance, the board of county commissioners will decide which powers are given to these particular districts. There are currently 21 powers that can be given to a district. Sometimes these districts are given powers pursuant to the ordinance but do not actually exercise those powers. As of that date of October 1, 2005, there were only three GIDs in the State exercising these powers. The amendment stated it would require affirmative action. The request had to be presented to the board of trustees of the district. The district had 90 days in which to respond. If there was no agreement, the board of county commissioners would be barred from dissolving, merging or consolidating the district.

Notwithstanding that act, within NRS 318.495, if a majority of the district wanted to protest the dissolution, merger or consolidation, they could overcome the board of county commissioners. The county commissioners have the power

to create and the limited power to dissolve, merge or consolidate a district. There is no oversight built into the process. This particular bill creates the ability for a board of county commissioners to create a committee. The bill does not require them to create this committee, but they have the ability if they want to.

If there is information the board of county commissioners is unable to obtain from representatives of the district throughout the State, this committee would have the ability to ensure the information is being provided. Recommendations could be brought forward from the proposed committee to the board of county commissioners to create a better record in the event the board of county commissioners decides to dissolve, merge or consolidate a district.

BARRY PENZEL (Chair, Board of County Commissioners, Douglas County):

I am appearing as a member of the community. I support this bill and testified in front of the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System. I believe in the bill. As Mr. Jackson just pointed out, there is an ability to create and a limited ability to dissolve, merge and consolidate, but there is no function in between. If things were to get out of hand or a GID needed assistance, there is no mechanism for the commissioners to help provide a solution.

Douglas County is not growing and the population is decreasing. Part of the reason is that we have a much older population than most counties. As we get smaller in size, the cost for each resident of delivering services increases. If there are 14 GIDs in the Lake Tahoe Basin, their chances of increasing in population are very small due to the specific limitations of growth by the Tahoe Regional Planning Agency. The net result, each individual in the county is required to pay more because the cost of delivering services is not decreasing. We have one GID with 300 people, and the cost of their water service is extraordinary. We have to take the number of people who can pay and divide that into the expenses to determine what should be paid per person. That process is onerous to the residents. The only way this could be helped is if there are more people in the denominator. One way is to spread the cost of service that could be improved by consolidating or merging some of the GIDs.

I would like to address one of the questions Senator Ratti asked earlier. How many GIDs have we dissolved? I have been on the board for five years, and we have only dissolved those GIDs that asked to be dissolved. We even took extra steps not to dissolve the GID district because the residents wanted to hear more

about the next bill on the agenda, S.B. 471, by being part of the discussion. We have not used the power to dissolve a district unless it was requested.

SENATOR HARDY:

When you consolidate, are you going to increase people's rates a little rather than a lot based on the number of people within the GID?

MR. PENZEL:

If your question is about consolidation, we really have only consolidated one district, and that was because it was leaving the system. That included more people in the district to spread the cost of the service.

SENATOR HARDY:

Are the people paying more once the consolidation is complete?

MR. PENZEL:

Hopefully, the people are paying less because there are more people for the distribution of expenses, unless the expenses went above the previous expenses.

SENATOR GOICOECHEA:

I was a county commissioner for a number of years, and we created GIDs. The board of county commissioners was the board for the GID. Even when we relinquished that power, it seems as if we still approved their budgets.

MR. PENZEL:

We get no financial reports from the GIDs in Douglas County. When I saw the list of reports the proposed committee can request, it is great. I personally have tried to get all of the GIDs in Douglas County together. We cannot find out who the representatives are for the district. That does not hold true for all of the GIDs. Some are forthright and some are not. We have brought this subject up for discussion in the commissioners meeting, and the problem has always been political will. By using a Senator, an Assemblyman and three members of the public, we might have a process that people will believe in. The bill does not require the county commissioners to take action.

STEVE THALER (Vice Chair, Board of Commissioners, Douglas County):

I am here to support S.B. 462. This is enabling legislation. The first part of the text says "a board of county commissioners may create," but it does not mean

we have to or are being forced to create this proposed committee. The counties will only follow this legislation if they want to have reporting by the GIDs in their counties.

Senator Settlemeyer is trying to provide the Board of Commissioners in Douglas County oversight over the GIDs through a proposed committee. We should have a look from the outside into these GIDs. Any GID should be periodically reviewed. It is a great idea to get that outside look. Rather than looking at this negatively, the process also gives the GIDs a chance to show how well they are functioning.

Regardless, NRS 318.495 gives the ability to 51 percent of the electorate to protest the county commissioners dissolving a GID. In a small GID, 51 percent is not a large number of people. It may make more of an impact in larger GIDs. We approve unincorporated towns, and we have the ability to look at their budgets but not at districts under NRS 318.

RALPH MILLER (Chair, Board of Trustees, Cave Rock Estates General Improvement District):

I can see the Committee members are not experts regarding GIDs, but what you have not been told is what is important. We would have no objection to the idea of scrutiny and occasional review. I look forward to having an opportunity for the Cave Rock GID to present details of our operation to the Board of Commissioners in Douglas County. Everyone would learn a great deal from the presentation.

As you heard from the Douglas County District Attorney, NRS 318 provides criteria under which a GID can be dissolved. It requires that the commissioners demonstrate those criteria have been violated. It also provides an override if 51 percent of the residents want to keep the GID. This bill tramples all of that.

Senate Bill 462 states the burden of proof shall be on the GID to demonstrate that its continued existence is necessary for the public interest. Instead of specific criteria and a burden of proof on the commissioners, we now have a generalized burden of proof on the GID with no criteria. The commission can listen and decide, no matter what the GID says, that it wants to recommend dissolution. The bill does not reaffirm the 51 percent override which is in NRS 318. It is unclear to me whether this bill would not override the 51 percent override as well. What is worse is that the bill provides the means and the

incentive for the county to dissolve all GIDs. The county appoints a voting majority of the commission, which means that the county is solely in charge of whether it passes or not.

The GIDs have substantial capital reserves which have been contributed for projects that occur only infrequently; the most common role of a GID is road maintenance. Our GID currently has about \$650,000 because the roads do not need resurfacing yet. There is a preliminary engineering report being conducted by Douglas County on the water infrastructure which will require tearing up the roads. There is no point in resurfacing the roads when they are going to be torn up.

Multiply \$650,000 times 24 GIDs and you can see there is a significant amount of revenue being made available to the County. What happens when a GID is dissolved? The bill does not address this issue, but it goes back into the county general fund. Now you have a unilateral mechanism on the part of the county commissioners to dissolve the GIDs and put their funding into the general fund and rededicate money that has been contributed by the residents of a community to whatever the purpose the county wants. I am not surprised that the county commissioners support this bill.

We would have absolutely no issue with what Senator Settlemeyer says is the intent of the bill, asking for a report for review to determine if there is a better way of doing things under a set of criteria and having the burden of proof on the commission to ensure there is a problem. What problem is this bill solving? Commissioner Penzel referred to one district that does water, and its bills are outrageous. That is the Round Hill GID up at the Lake. The outrageous water bills are substantially lower than our bills in Cave Rock as charged by the County for the water it is providing to us. The citizens of Round Hill have said we want to continue providing our water service. The County is not paying a nickel, the residents are paying for the service. The residents are saying we do not want the County to serve us, we want to do this ourselves.

Up at Lake Tahoe, we have 2,000 residents which breaks down to a couple of thousand votes. The county has 47,000 residents, and 45,000 of them live in Carson Valley. I know you have received emails from people at the Lake, and we do not feel fairly served by our Board of Commissioners in Douglas County. It knows where the votes are. We contribute 40 percent of the County's revenue, and we receive 20 percent of the County's services. It is not that we

object to that, our homes are generally larger, and we all feel privileged and happy to pay our fair share of the taxes. The short shrift we feel we get when we bring issues to the county commission leaves us feeling dissatisfied.

The notion of putting our capital reserves at risk of being diverted into the general fund leaves us terrified. This is not a meaningful bill. This is a one-sided, irresponsible overturn of the entire concept of NRS 318. It gets rid of all the protections. It transfers the burden of proof. It makes capital reserves available to the general fund. This is not a direction that you want to move.

SENATOR GOICOECHEA:

I do not believe this bill takes away the 51 percent requirement of the vote of the property tax owners to dissolve or to maintain a GID.

MS. CHLARSON:

Nevada Revised Statutes 318.495 sets forth a process where any person who owns property which is located within the district may protest against the dissolution, merger or consolidation. If at or before the time fixed by ordinance for the hearing, written protest is filed and signed by a majority of the owners of property within the district, the district shall not be dissolved, merged or consolidated. The bill does not change that provision of law. Reading this bill in coordination with the existing provisions of chapter 318 of NRS, the provisions are not changed. Fifty-one percent of the property owners could protest, and nothing in the bill would allow the board of commissioners to circumvent the process as the language is already in NRS 318.

STEVE TESHARA (Resident, Round Hill General Improvement District):

Mr. Miller did an excellent job describing our concerns precisely as many of us feel at Lake Tahoe. This is nothing more than a thinly veiled attempt to get at our money that the local residents have contributed to our own neighborhoods and the provision of utility services, whatever the services are that are provided by our neighborhoods.

Earlier today on another bill, you heard several people passionately plea with you not to overturn the opportunity for local residents to have a say in their matters. In this case, it is the election of the city attorneys in Sparks and Reno. We feel similarly passionate that S.B. 462 should not allow any upset of local control at Lake Tahoe. The statistics cited by Mr. Miller are all accurate and if nothing else, I oppose this bill wholeheartedly. If nothing else, the bill should

reaffirm the language that Counsel just read that is in NRS 318. We want to know that the 51 percent majority of property owners in any one of these districts could overturn the county commission decision to consolidate. I am all for information being made available, and I live in Round Hill. It is a professionally run district. We have great services. I have the opportunity to serve as an elected member of that board for 12 years, and I am proud of what we do. I am concerned that it could be swept away by this kind of bill. I have the utmost respect for my State Senator, and I know he is trying to provide a mechanism to deal with some complex issues. I cannot support this bill as written.

KELLY KROLICKI (Tahoe Citizens' Committee):

You may remember the Tahoe Citizens' Committee as we came before this Body in 1997 with an issue regarding Tahoe county. We had a compelling argument as to why Lake Tahoe should be protected as an entity. We were unsuccessful, but I want to share some statistics about what has been going on in the Douglas County portion of the Lake Tahoe Basin then and now.

One issue needing to be addressed in its entirety is the Tahoe portion of Douglas County which we refer to as the Tahoe Township. Douglas County only provides maintenance for less than three miles of road. Another utility provided by Douglas County is a water system. All other services such as sewer, water, roads and snow removal are provided by the Tahoe Township or these general improvement districts. We are self-sufficient.

When we came before this Body in 1997, we made up 21 percent of the population; we now make up 9 percent of the population of Douglas County. At that time, we were generating about 46 percent of the ad valorem tax and we now generate 37 percent of the ad valorem tax; we generated 92 percent of the transient occupancy tax, and today we generate 87 percent. Today we provide 85 percent of the gaming tax for Douglas County. You can imagine that Lake Tahoe is a very important part of Douglas County. We only have one representative on the County Commission. One of the concerns in 1997 was that we would have taxation without proper representation. If the County decides to do what it wants, we have very few votes and are often at the mercy of the County. Yet, we are huge contributors. I have submitted some of these statistics to the Committee for review ([Exhibit E](#)).

GARY RICHERT (Chairman, Zephyr Cove General Improvement District):

The Zephyr Cove General Improvement District exists to provide services Douglas County cannot adequately provide. The County does not have the equipment, staff or facilities at Lake Tahoe to effectively provide services. The formation of our NRS 318 GID has been at the wishes of the County.

Referencing the two Douglas County Commissioners who testified in support of this bill, we do provide information to Douglas County on an annual basis. A recent County Manager sent out a lengthy questionnaire asking for responses for responsibilities and reporting. I personally completed the questionnaire and returned it to the County Manager.

Annually, the County Clerk receives a list of our officers with their contact information and the length of their term. Our certified public accountant prepares an annual budget which is submitted to the State as well as the County. I cannot identify each department where the County Commissioners could obtain this information, but the County Manager could probably assist them if requested. There is some oversight. I do not see the need to create this committee when the County Commissioners can request the information through the County Manager's Office.

Some of the services we provide are very specific because each and every neighborhood is unique and has specific requirements. The GID I represent happens to be a lakefront community. Our largest focus is the inspection and maintenance of storm drainage systems to help regain the clarity of Lake Tahoe. We keep the County informed as to the emphasis. There are reports for sediment levels as well as the pumping and cleaning of those vaults in different systems. I do not think there is anyone who could complete our neighborhood job better than residents within the neighborhood. Our residents can report a burned-out streetlight, and it will be rectified quickly. I do not think the County will have a staff member driving through my neighborhood to ensure my streetlights are burning. I strongly oppose the formation of the committee proposed in S.B. 462.

JOHN SHAFIR (Resident, Cave Rock Estates General Improvement District):

I am speaking in opposition to S.B. 462. Douglas County has been responsible for the Cave Rock water system for the past 25 years. Last week we received a preliminary engineering report stating the Skyland GID and Cave Rock GID will be responsible for \$25 million in improvements because the water system is not

up to code and the infrastructure of the water supply system is deteriorating. I cannot see any reason in the world why we would want to turn any more responsibility over to Douglas County when it has been inept at taking care of the infrastructure and code requirements associated with the water supply in these communities.

JASON GUINASSO (District General Counsel, Incline Village General Improvement District):

Our law firm Reese Kintz Guinasso serves general improvement districts, special districts and fire protection districts. We do not support or oppose this bill. As attorneys who provide legal services to these specialized districts, I want to provide some additional information. It is important to understand these general improvement districts widely vary based on the jurisdiction where they exist. Some of the GIDs operate as super homeowners' associations while others operate as quasi-municipal governments that are highly functioning. Some do not operate well, and others operate at a very, very high level.

I cannot speak to the Douglas County jurisdiction because none of our clients are in Douglas County. We know there are issues with Douglas County GIDs. With regard to the information that is being requested, it seems the bill is creating a fact-finding committee. The information being requested is all a matter of public record. For the Incline Village General Improvement District, all of the information is available on the District's Website and easily accessible.

This may speak to the relationship the Douglas County Commissioners may have with their GIDs. We are fortunate in Washoe County to have a constructive relationship with our county commissioner. When citizens complain about the performance of the GID or have other concerns, that county commissioner or the general manager will send us a letter or an email or make a phone call to explain the issue that was raised and can we provide a response. We have been good at having a constructive and collaborative relationship with the County. Our staff and County staff meet on a biennial basis to talk about common issues so we can deliver the best service to our portion of Lake Tahoe. Our finances are heavily scrutinized by the State, and most GIDs withstand that scrutiny. I wish there was a triggering mechanism in the bill. Right now the bill gives discretion to the county commissioners about when they can create this committee. It would alleviate many concerns from the GIDs if some trigger said if a GID is not responsive or committed some sort of violation, so those criteria would be a condition precedent for creating this committee. Because the

committee is a fact-finding committee that gives recommendations without the ability to shut down a GID, our position is neutral. For some jurisdictions it would be constructive, and for others it would be redundant.

SENATOR RATTI:

There was earlier testimony indicating the bill shifts the burden of proof from the county commissioners to the GIDs. Can you provide us with your thoughts.

MR. GUINASSO:

The provision that shifts the burden would be more of a concern if it were shifting the burden relative to a merger, dissolution or other adverse action. The burden-shifting here is probably appropriate in that who has the information about a GID's well-being other than the GID itself. In the case of the Incline Village GID, all information is online. When someone requests information from the GID, we are able to provide that person with a link to the information. The burden-shifting that is occurring here is not the kind that would jeopardize the GID relative to a dissolution, merger or consolidation. It is appropriate because the GID has the information, and that is the only way a committee like this could obtain it. I did not see this as a problem relative to the clients I serve, but I can understand some of the trepidation. GIDs that are performing well should not be subject to the same type of scrutiny as the GID that does not have board members or is not fulfilling its statutory obligations.

GREG REED (District Manager, Round Hill General Improvement District):

The Round Hill General Improvement District provides services for water, sewer, roads, street lighting, storm drains and erosion control within our neighborhood. We do that based on an ordinance created in 1964 by Douglas County. The front of S.B. 462 says that there will be no effect on local government. I believe there will be an impact on local government with costs associated with defending ourselves in front of this committee because the burden of proof has been shifted to the GID.

One of the Douglas County managers and our GID have been getting together for the past five years to exchange information in an open format where anything is on the table. We continue to participate in these meetings. For Douglas County to say it does not have any oversight, I find that to be problematic. Our rates are \$57 a month currently for water, and I do not believe that falls under the outrageous category.

ROBERT BALLOA:

When Ms. Krolicki provides the Committee with additional information, I hope she includes the cost of law enforcement and judicial services.

SENATOR SETTELMAYER:

The bill will not change the NRS relative to dissolution. Regarding some of the testimony today, I am fine with members of existing GIDs being members of the proposed committee from S.B. 462. If this Senate Committee wants to change the makeup of the proposed committee, I would include all of the GID Presidents who are willing to serve on this committee and pick three. Regarding the triggering mechanism, we have only had issues with some of the smaller GIDs. You could make the trigger apply only to GIDs with \$1 million or less in revenue. We need to start somewhere to determine if some of these GIDs need to exist.

CHAIR PARKS:

I will close the hearing on S.B. 462 and open the hearing on S.B. 471.

SENATOR JAMES A. SETTELMAYER (Senatorial District No. 17):

Senate Bill 471 is also a result of the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System (TRPA). The bill deals with Douglas County Sewer Improvement District No. 1, specifically NRS 309 relative to local improvement districts. There is currently only one district that exists under NRS 309, and that is Sewer Improvement District No. 1. The bill is rather lengthy as it must amend the TRPA contract because the contract mentions Sewer Improvement District No. 1.

The original statutes creating Sewer Improvement District No. 1 go back to 1928, which is part of the reason for this bill. The District has changed over time. Lake Tahoe used to be a large driver of the economy in Douglas County. Over time there have been more retail sales in the northern part of the County, and the ratio of income has changed.

The population at Lake Tahoe used to represent a larger percentage of Douglas County, but we have housing in the Ranchos that now dwarfs the number of residents at Lake Tahoe. The population numbers have changed, and more people have retirement homes at Lake Tahoe because of the expense of homes and property. The community no longer has a thriving population. Every

one of the schools at Lake Tahoe has a declining student population. A middle class no longer exists in the Lake Tahoe area; people are well-to-do or low income. These are just some of the changes that have driven the need to propose S.B. 471.

During the Interim Committee meeting, discussions relative to NRS 309 concerned elections. If you tried to do an overlay of the old voting districts, there are no residents within the district to represent the district because the person has to live in the district. A clause in NRS 309 allows corporations to actually be a voting member of the district which does not exist very often if at all.

Term limits became an issue and when often not finding residents to serve on the board, some members were reappointed from the previous term. Complaints came in about someone not standing for election, but no one could stand for election because no one lives there. This created some legal arguments. This bill seeks to delete all of NRS 309 and provide the option to create its own district through a special act. Sun Valley and some areas in Clark County have been created through special acts. We are seeking to create transparency and accountability.

Some problems have been identified regarding the special district in existence now. We suggested putting some nonvoting members on the board from other ex officio members of GIDs in order to increase transparency. Everyone agreed with the proposed changes. Everyone also agreed that the Sewer Improvement District No. 1 has done a phenomenal job at Lake Tahoe.

There were some discussions regarding the importance of the GIDs and whether they should continue or not. There are some protections in the bill to address the GIDs. There is some language making it more difficult for a county to dissolve a district. I have no problem amending the language with input from the residents of existing GIDs. When we are talking about large, functioning GIDs, there should be triggers and protections in the law so the county cannot dissolve a GID for no reason. Maybe we should amend the language to make the GID have a \$1 million in revenue or something of that nature.

Section 26 establishes what members will make up the board of trustees. Most of these GID board members are acting as ex officio voting members of the NRS 309 questions for Sewer Improvement District No. 1. We noted a

discrepancy in section 30 regarding eminent domain that highlights some of the problems with NRS 309 we want to eliminate.

The legal staff we work with here at the Legislative Counsel Bureau is phenomenal, but I would like to talk to the people who wrote the language in 1928. Some of the things they included in NRS 309.400 regarding eminent domain power exist for that NRS 309 discussion. The language states they have eminent domain powers constructed for the improvement of any lands within the district and all lands required therefor. Does that mean you can only have eminent domain powers within the district or does it provide power to take eminent domain out of the district that you will use in the district? If it was up to me, I would only allow the eminent domain powers to exist for lands within that district. You could make an argument that they allowed powers in and out of the district, but we are trying to eliminate NRS 309.400 because it is impossible to enforce.

When the Secretary of State's Office was reviewing the language pertaining to elections, they also had problems trying to interpret the language. What is done if someone does not live in the district? Does a person have to live in the district to serve in the district? This is how NRS 309 came to our attention with a need to address the language.

CHAIR PARKS:

There was some discussion about turning a district created under NRS 309 into a district covered under NRS 318. Can you provide additional information on that discussion?

SENATOR SETTELMAYER:

We had some discussions about taking the entities under NRS 309 and placing them under NRS 318. We had concerns about members elected from one general improvement district serving on the board of another. We then spoke with our legal staff to try to balance things. This is where the special district process seemed like an easier way to deal with the problem. The issue is to have special districts so we do not have two sets of elections. The representatives would come from other GIDs. After looking at the map, turning Douglas County Sewer Improvement District No. 1 into a general improvement district was almost impossible because no one lives there. One district is really helping other GIDs by processing their sewer needs.

After having these discussions, we provided a map overlay and it was brought back to me because the representatives of the GID could not figure it out. One district has had no one living there for at least 20 years. That was in the Casino Corridor district we discussed within the Interim Committee. There were 120 residents in one district; when the area was reviewed, the residents all had different addresses because these were vacation homes. Converting the districts to be covered by NRS 318 was a problem because there were not enough people in the district for an election. If someone is found in a district, would that individual be willing to serve on the board of a general improvement district?

GREG FERRARO (Douglas County Sewer Improvement District):

We will walk you through the Proposed Amendment 3413 ([Exhibit F](#)) to Senate Bill 471. In addition to the Douglas County Sewer Improvement District, I also represent Minden Gardnerville Sanitation District, Indian Hills General Improvement District, Round Hill General Improvement District and Kingsbury General Improvement District.

JAMES R. CAVILIA (Counsel, Douglas County Sewer Improvement District No. 1):

We all know the natural beauty of the Lake Tahoe Basin has special treatment under both state and federal law. One of those unique Lake Tahoe statutory schemes involves Douglas County Sewer Improvement District No. 1 (DCSID). Part of what makes DCSID unique, aside from its purpose of collecting, treating, and disposing of sewage generated within the Lake Tahoe Basin, is that DCSID was organized and operates pursuant to NRS 309. The DCSID is the only existing sewer improvement district and, to our knowledge, the only one that has ever existed.

A sewer improvement district is not like the general improvement districts you have been talking about today, organized under NRS 318. The GIDs often have broad authority over various services and functions. The districts organized under NRS 309 receive no tax revenue. The DCSID's authority in this case is exclusively and explicitly to the collection, treatment and disposal of sewage. Its revenues are derived solely by the fees paid by those who receive the services provided by the District. The collection, treatment and disposal of sewage is not the most glamorous of missions, but it is a very important function, only recognized when it is not done well. This is especially the case when operating a sewage treatment facility within the Lake Tahoe Basin.

Lake Tahoe is a true national treasure, and the protection of that environment is a priority of Nevada, California and the Country. The individuals who have served on the board of DCSIS have appreciated this fact and have taken many actions over the years to create redundancies and efficiencies to protect the Lake Tahoe environment. Because the Sewer Improvement District is not a typical political subdivision, the structure and makeup of its board of directors is also not typical. Specifically, NRS 309.110 provides that not only residents of the district are electors but, additionally, individuals or corporations holding title to land in the district are also considered electors. This sort of voting right, based on property ownership, is obviously not usual but is somewhat analogous to irrigation districts recognized under other Nevada chapters.

Based on the language in NRS 309 and the three geographic divisions that make up DCSID, the board of the Douglas County Sewer Improvement District has historically been made up of executives of the commercial corridor of Stateline or what we call the Casino Corridor. Historically, there have been very few residential properties within these geographic boundaries. Even today, DCSID itself contains relatively few residential properties and even fewer full-time residents. This is the reason we determined a general improvement district would not work in this circumstance. There are not enough residents.

The DCSID provides treatment and disposal services to the general improvement districts that it serves pursuant to written agreements. There is a long-standing relationship with these general improvement districts, and it has been positive and cooperative. This cooperation has resulted in DCSID's residential sewer rates being substantially lower than other residential rates in the Lake Tahoe Basin. The rates are even lower than most residential rates in the Carson Valley despite the fact that after treating the sewage in the Lake Tahoe Basin, DCSID must then pump the treated effluent over Kingsbury Grade to be disposed of in the Carson Valley. No one is permitted to dispose of treated effluent within the Lake Tahoe Basin.

With that basic understanding, you may be asking yourself why we are proposing to alter the existing governance of DCSID. A few months ago, the Douglas County Board of Commissioners considered the introduction of an ordinance to dissolve DCSID, which they have the right to do under NRS 309. After a number of hours of public testimony from Lake Tahoe residents about retaining control of the sewer facilities at Lake Tahoe, the County Commission declined to introduce the ordinance. At the suggestion of Assemblyman

Jim Wheeler and with the cooperation of Senator James Settelmeyer, the County Commission agreed to participate in a discussion with the District and other interests at Lake Tahoe about possible legislative changes.

Based on that action, we introduced S.B. 471. As a result of the discussions and in large part through the efforts of Senator Settelmeyer, the bill before you is being proposed to create the Douglas County Lake Tahoe Sewer Authority and do away with NRS 309 in its entirety.

One of the concerns about the governance of DCSID is the lack of representation from residents within the DCSID area. The proposal before you to establish the Douglas County Lake Tahoe Sewer Authority will expand the board from three to five seats with three of the five seats to be filled by residential customers of the services DCSID provides. Specifically, the proposal provides for one director coming from the elected trustees of each of the three-largest GIDs served by the District, one county commissioner and the one member who is appointed by the other four members to represent the Stateline business community.

Most of the changes are to repeal every reference to the Douglas County Sewer Improvement District covered under NRS 309. Section 1 and section 2 of S.B. 471 do just that.

MR. FERRARO:

Section 3 will be held back because we heard previous testimony relative to GIDs and concerns about a county takeover.

MR. CAVILIA:

Sections 4 and 5 of the bill require the deletion of references to the sewer improvement district. Section 6 removes a reference to Douglas County Sewer Improvement District in the Tahoe Regional Planning Compact. Whether that requires concurrence of the California Legislature and/or Congress, we will leave that up to Legislative Counsel Brenda Erdos and her capable staff.

Sections 7 through 11 of the bill involve deletions of statutory references to NRS 309. The substantive portions of the bill begin in section 12. This bill was modeled after other special acts in Nevada including the Carson Water Subconservancy District Act, Southern Nevada Water Authority Act and Western Regional Water Commission Act.

Section 12 simply names a new authority.

Section 13 acknowledges the existing district covered by NRS 309 and the unique environment that is the Lake Tahoe Basin.

Sections 14 through 21 of the bill are basic definitions.

Section 22 describes the service areas covered by the new sewer authority which include all of Douglas County that lies within the Lake Tahoe Basin. This is consistent with the area currently and historically served by the DCSID.

Section 23 formally creates the Douglas County Lake Tahoe Sewer Authority and generally describes the purpose of the Authority as the collection, treatment and disposal of wastewater.

Section 24 specifically allows the new Authority to enter into cooperative agreements with other entities.

Section 25 provides that the Authority is a public employer.

Section 26 sets forth the makeup of the board of trustees as previously discussed.

Section 27 provides for an oath of office and the bond for each trustee.

Section 28 provides for the selection of a chair for staggered terms of office and other housekeeping matters.

Section 29 provides for regular meetings of the board and what will be a quorum.

Section 30 establishes that the board has perpetual succession and lists some specific authorities.

Section 30, subsection 3 has proposed language changes as noted in Proposed Amendment 3413 to Senate Bill 471, [Exhibit F](#). The language makes it clear this new entity will have no taxing authority and therefore will not require two-thirds of the vote. We are also proposing to delete section 30, subsection 10, which is the eminent domain provision, at the request of Senator Settlemeyer. The

Douglas County Lake Tahoe Sewer Authority will be fine without having eminent domain. The DCSID has had this authority in place for 40 years but has not used it.

Section 31 is a general provision talking about all necessary and incidental purposes.

Section 32 requires the board to adopt an ordinance relative to its financing.

Section 33 makes it clear that as a public entity, the Authority will be exempt from Public Utility Commission regulations.

Section 34 provides for the Authority's explicit assumption of all debts, obligations, liabilities and assets of DCSID. There will be a one-to-one handoff from one entity to the other.

Section 35 provides for the abolishment of the existing Douglas County Sewer Improvement District.

The bill currently provides an effective date of July 1. Depending upon the length of this Legislative Session, that may not provide enough time for the transition or to give the GIDs time to have meetings to appoint representatives to the new board. We would request the effective date be changed to October 1.

SENATOR HARDY:

In section 30, subsection 7 of the amendment, what does it mean to hypothecate?

BILL PETERSON (Counsel, Minden Gardnerville Sanitation District):

The word hypothecate is used in everyone's deeds. It means to transfer or alienate your property.

MR. FERRARO:

We had the proposed amendment, [Exhibit F](#), and identified two conceptual changes pursuant to Senator Settelmeyer's suggestion regarding eminent domain and Mr. Cavilia's suggestion to move the effective date.

SENATOR RATTI:

Does Senate Bill 471 repeal NRS 309 in its entirety and then add new language? Almost all of the bill is brand-new.

MR. CAVILIA:

The end of the bill lists the sections being deleted, which is all of NRS 309. The special act portion beginning in section 12 of this bill is all new to create a new authority.

MS. CHLARSON:

Under our rules of drafting, when we have a special act, new language in the special act is shown as it is seen here. If this goes forward and the bill is amended, it would be shown in blue and red brackets as you are used to seeing. Since this is not going into NRS, it does not look the same.

SENATOR SETTELMAYER:

Every time there is a reference to NRS 309, it must be listed in its entirety to strike through the reference. The entire Tahoe Regional Planning Compact is also listed to delete the references to NRS 309. There is not much new language until you get to section 12, so the first 38 pages are there to strike 3 numbers.

CHAIR PARKS:

Could you refresh our memories about what we wanted to do with eminent domain for clarification?

SENATOR SETTELMAYER:

The Authority should have the power of eminent domain only within their jurisdiction. The bill says the eminent domain is within and without. It should only be within the jurisdiction. The language in NRS 309 is badly written.

MR. FERRARO:

There is a change in section 3, subsection 3, and it is directly related to the testimony you received on S.B. 462.

MR. PETERSEN:

The Minden Gardnerville Sanitation District (MGSD) is the largest general improvement district in Douglas County by operating a secondary sewer treatment plant located on the corner of State Highway 395 and Muller Lane.

The MGSD has been in existence for over 50 years. The District has assets of over \$32 million and an annual revenue in excess of \$2 million. The MGSD serves around 5,000 people and would be one of the larger, more established districts in the State. The District was created by court order prior to NRS 318 being created.

You will note the change we asked for in the statute is very simple. It changes the conjunctive "and," which is an exception in the takeover version of the statute you have heard so much about today. The exception is in the dissolution, merger or consolidation section of NRS 318 which deals with how to dissolve a general improvement district. Someone mentioned there had been an exception created for the dissolution of a GID which allows a county, if it is deemed to be in the best interest of the county and of the district, to dissolve a GID. The county is supposed to consider the best interest of the district. If the county determines it is in the best interest of the county and the district to dissolve a general improvement district, the process is relatively simple by passing an ordinance.

There is a mechanism whereby the people can speak, but it is not exactly how it was previously described. The property owners get to vote on the dissolution of the GID, not the voters. If a majority of the property owners do not want to be taken over by the county, within a 30-day period they can register their protests at a regular meeting of the county. If there are property owners protesting, they will not be taken over if 51 percent of the residents protest against it. An exception was created some years ago involving three districts that states if the district handles water, trash and sewer, the county will need consent of the GID board in order to dissolve the district. Obviously, the sewer district that I represent would not be covered by this exemption. We would not have a say if the county wanted to take us over because we only provide one service. We want to change the conjunctive "and" to a disjunctive "or" in the language so if a district performs any one of those services, they must have a say in the dissolution of the district.

Our concern is the reverse of what was mentioned previously. It is not that the members are overcharged and, therefore, someone needs to come in to fix the problem so the charges can be spread out around the county. We represent the most people in Douglas County, and we have the lowest rates at \$14 a month. The County recently wanted our district to pick up the issues it is having in the Northern Douglas County Water and Sanitation District by building some sort of

interceptor line for MGSD to treat the Northern County sewage. We have \$7 million in the bank, and that is the sinking fund used to repair and maintain our plant as well as expansion.

We detected a problem when the County wanted to use our district to subsidize the rest of the residents in the County. That is what we thought was the intent of this new district, and there was a misconception regarding finances. It is not accurate to say the GIDs are not scrutinized. Every GID must submit an audit to the State Treasurer to receive approval for its budget. We are not allowed to make line item changes without going back to the Treasurer to explain why. That budget must be balanced, and there are criminal penalties associated with the failure to adhere to these requirements. We do not want to be taken over by the County or be deprived of the opportunity to say no.

MR. FERRARO:

If language is added saying if a GID has an annual revenue of \$1 million or more as proven by their report to the Department of Taxation or the State Treasurer, it would be supported as a point of separation.

SENATOR RATTI:

If we decide not to wade into this debate about a GID providing three services, can we pinpoint this new GID as a stand-alone act?

MR. CAVILIA:

Section 3 of the bill does not apply to the Douglas County Sewer Improvement District or to the Authority being proposed under this bill. Section 3 applies to existing general improvement districts. These are separate issues, but both issues are being addressed in this bill.

SENATOR RATTI:

Is there another way to accomplish the same thing?

MR. CAVILIA:

We need to modify that section to provide if a GID has annual revenue in excess of \$1 million based upon the budget submitted to the Department of Taxation annually, it cannot be taken over by the county without consent from the GID board.

MR. FERRARO:

The GIDs that will be making up the board of the new Douglas County Lake Tahoe Sewer Authority function under NRS 318. I think the Government Affairs Committee needs to view the issues somewhat separately.

SENATOR HARDY:

Does this prevent you from taking over a GID that is not making money? Does it allow you to say no? Does it allow the GID to go somewhere else because it is not making money?

MR. FERRARO:

Is that a question regarding the composition of the board? Or is this a question of Douglas County GID performance and how the previous bill you heard would deal with that problem?

SENATOR HARDY:

Yes. And yes. The bottom line is we have a GID that is not performing well. The GID may be consolidated with another GID, but we do not want it to be consolidated with another entity that has \$7 million in the bank.

SENATOR SETTELMAYER:

The concern seems to be keeping local control in the Lake Tahoe Basin. The question is whether there are any struggling GIDs in the Lake Tahoe Basin where the residents would be better served by another GID. Probably so. There are 14 GIDs within the Lake Tahoe Basin, but this is not about them merging into the Douglas County Lake Tahoe Sewer Authority. We are just trying to solve the problems in NRS 309. To say the statute does not read well is a complete understatement.

MR. FERRARO:

The practical reality is those GID members who will be serving on the board of the new Douglas County Lake Tahoe Sewer Authority will all come from GIDs with revenues in excess of \$1 million.

SENATOR GOICOECHEA:

Section 3, subsection 3 has a reference to October 1, 2005?

MR. PETERSEN:

That is not new language. It was not eliminated because we wanted to make minimal changes.

SENATOR GOICOECHEA:

Does that mean the GID that was created after October 1, 2005, will not be included in the new language?

MR. PETERSEN:

I would read this as a requirement.

SENATOR GOICOECHEA:

Should the language be deleted?

MR. PETERSEN:

I would like to think about it, but my answer would be yes.

SENATOR GOICOECHEA:

Are you talking about a \$1 million threshold in order to have the ability to say no to the county? As long as the GID is not in debt or in default, it should have the ability to say no to a takeover.

MR. PETERSEN:

I do not speak for the MGSD board, but I believe that to be accurate. The problem with the \$1 million threshold is you could have a \$1 million operation and still be underwater.

SENATOR RATTI:

I am not sure the \$1 million makes sense as a trigger. There should be a trigger, but I am not sure whether it should be an annual operating budget. If we were not talking about NRS 318, because what you are working on has nothing to do with NRS 318, is there a way to get to what Mr. Petersen plainly explained. We want the ability to opt out tied just to this district without trying to figure out a trigger for NRS 318? Can you point to the special act and say within this special act?

MR. CAVILIA:

That portion of the bill does not apply to the special act.

SENATOR RATTI:

How do you get to the request of the GIDs having the power to say no?

MR. CAVILIA:

The request in section 3 is to create a nontakeover provision for general improvement districts, of which this new entity is not a GID. The only connection between this proposed authority and the GIDs is the members who will serve on the new board for the Douglas County Lake Tahoe Sewer Authority.

MS. CHLARSON:

The provisions of this special act do not create a general improvement district. The only way the district formed pursuant to the special act can be through legislative action.

MR. MILLER:

I am here to support S.B. 471. The reason this came about is because there were governance issues surrounding DCSID. So far as sewer collection, treatment and disposal, we have a well-working system at Lake Tahoe. It works wonderfully, our rates are reasonable, the service is good, the environmental impact is outstanding, it is well-managed and well under control. The framework this bill has laid out to solve the governance, legal, demographic and technical issues works extremely well and will allow DCSID to continue to function as it is today. This is exactly what the residents at Lake Tahoe want.

I want to highlight a couple of issues and urge you to address them in the final language of the bill. The first is in section 13, subsection 4 where it states there are several general improvement districts organized under NRS 318 that administer sewage collection services in the area which have had problems. I believe the statement is untrue, and I would strongly recommend the language "which has caused problems in administering sewage services" be deleted. It works against what we are trying to accomplish, which is to preserve the existing structure with the technical issues of governance resolved.

The bill is confusing in regard to the distinction between collection and treatment. This is an important distinction. Right now at Lake Tahoe there are four entities involved. The DCSID is the only entity that does treatment and disposal. The DCSID along with Kingsbury General Improvement District, Round Hill General Improvement District and Tahoe Douglas Sewer Improvement

District all perform collection. The DCSID performs collection only within the Stateline area and one condominium development adjacent to the Stateline area. Tahoe Douglas Sewer Improvement District performs this service for a whole series of GIDs and homeowners' associations extending further down the Lake and over to Glenbrook. One treatment and four collections and that is how we would like it to remain.

The language in section 22, subsection 2 says, "the Authority and the Board shall have jurisdiction over the treatment and disposal of sewage and wastewater in the service area." Notice collection is not mentioned, although collection is one of the functions of today's DCSID and the future Authority. I do not know why collection was omitted, but it confuses the issue. Section 23 says "the purpose of the Authority is to furnish the service area and its inhabitants with an adequate system of sewage collection and treatment and disposal of wastewater." In this context, collection is mentioned, but it is mentioned as if the Authority performs collection throughout the service area, which it does not. It only provides collection in a small portion. The largest collection is the Tahoe Douglas Sewer Improvement District that performs about 90 percent of the collection.

Section 30 confuses the situation even further by saying the board of the Authority may administer all activity and business related to the collection and treatment of sewage and wastewater in the service area. There are now three very different statements in adjacent paragraphs. There is one treatment and disposal and four collection functions.

We have once again come to the issue of takeovers. The troubling language says the Authority is overall responsible. We would like to see the language more clear to ensure the intent is not to give the Authority any right to take over the other three entities which are performing distinct services in different geographic areas and doing a marvelous job.

I would suggest there is a way to address this general issue of takeover, and I would say \$1 million is not it. The DCSID treatment plant is by far the largest with a multimillion budget. Our focus is on capital reserves. My tiny Cave Rock Estates GID has far larger reserves per capita than the DCSID, although it is a giant. It would seem that this issue needs to be addressed whether in this bill or another. One way to do that and alleviate much of the concern is to say when a GID is dissolved, any capital reserves in the possession of the GID can only be

spent within that GID. That language is akin to what this bill says about DCSIS. It says it takes over all of the obligations, revenues and everything else and has to use them within the service area. Whatever has been accumulated needs to stay within the GID no matter what the county does to reorganize how the services are performed. This is an elegant solution to a very technical problem, and it leaves the actual functions exactly as they are today. That is what should happen.

CAMERON MCKAY (General Manager, Kingsbury General Improvement District): We are one of the larger GIDs at Lake Tahoe. We have an annual budget of \$4.5 million to \$7 million per year and assets of over \$42 million pursuant to our last audit submitted to both the Department of Taxation and to Douglas County. We are in favor of S.B. 471. As one of the ongoing supporters of DCSID, we feel we need a place at the table when this is settled. We look forward to it as we have been an active participant with DCSID over the last 40 years. We also support the amendment, [Exhibit F](#). We want to protect our residents from a takeover by the County. We want to be governed by ourselves at Lake Tahoe. We look after water treatments, water distribution, sewer collections, storm water collections and treatments, snow removal and road maintenance. You must have this type of reserve in order to be able to continue. As you can imagine, the snow removal budget for this year was extreme, so we have to maintain reserves. We just built a \$20 million water treatment plant and had to go back to our reserves in order to fund the project.

There is a lot of undefined criteria that we are afraid of with Douglas County's statement about reviewing all GIDs. There is no criteria that states what they are looking for and no trigger mechanism. Because of our size, we would like the same freedom to operate as we are very efficient. We employ 12 people who do everything. I challenge anyone to match our efficiency.

The bill language says property owners have the ability to go against the county if there is a threat of a takeover. Kingsbury has over 40 percent second-home residents. Property owners are not the voters, so the electorate should be able to make that decision through the board of trustees. The board was elected, let them make the decisions. Changing that one word in the beginning provides the electorate the ability to say yes or no.

SENATOR GOICOECHEA:
What is the one word you would like changed?

MR. MCKAY:

Change "and" to "or" in section 3.

MIKE BRADFORD (Chair, Douglas County Sewer Improvement District):

The District has worked closely with the GIDs for many years. We have great GIDs. They are our neighbors and they provide the services that we use as residents, so we are closely aligned with their interests. What this bill does is to provide for their formal participation in the operation of the District. It lends the substance to this District that was formerly governed by NRS 309 that has become a vestigial structure.

This organization, as defined, was created during a period of time that is long since gone. The Tahoe area and the District were based almost completely on gaming, and the resources that came to fund the District came from the casinos. As a result, those casinos had a dominate role in the governance of NRS 309. The Tahoe Township has grown, and it is no longer just gaming. The demographics have changed within the Township and within the County. What this proposed legislation does is to reflect the change in the demographics at Lake Tahoe that shifts the governance of the District more to the local residents, through the local residents, through the representatives of the GID and away from the gaming properties. The gaming properties are still actively involved and will have influence as to how this works. It does provide for a broader representation within our community which will improve the overall quality and decisions and the amount of intellect that sits at the table.

As the Chair of the Board I welcome this and think it is a big step forward. I believe it will improve the overall performance of the District, which is really high. Our mission is very simple. We have environmental and safety responsibilities, and we try to keep the rates low. This District has been so solely focused on the rate payers. It is not about local representation but about who pays the bill and who makes the decisions about the system. That is what we want to protect at the Lake. We want to ensure the people who are paying for the services are the people who make the decisions. This bill achieves this for us, and it is a good measure for what is good for everyone.

In answer to Senator Hardy's question, hypothecation is to pledge without having to transfer title or possession.

MR. REED:

We are in favor of S.B. 471 in its entirety, including section 3, subsection 3 and any triggering mechanism that protects the existing GIDs.

MR. JACKSON:

My opposition is not toward S.B. 471 in its entirety. As the District Attorney in Douglas County, I identified several issues in connection with the Douglas County Sewer Improvement District No. 1 last year. All of these issues have been resolved but two. Until this bill was introduced, we were trying to figure out how to work through these particular issues. The two issues that have not been resolved will be resolved by this bill. One of the issues is the repeal of NRS 309. Many testifiers have mentioned how poorly written the language is in NRS 309. The language has created many of the problems Douglas County Sewer Improvement District, citizens at Lake Tahoe and Douglas County residents are facing. I offer my full support.

The other issue dealt with the composition of the current board of directors and election laws. Based upon the provisions contained within S.B. 471 of how the board will be appointed in the future, it has addressed the second issue.

The first time I saw this bill was after it was printed. What I read last week was a 48-page bill made up of 37 sections. Most of the comments are going back to section 3. My opposition is to section 3; my solution is to remove section 3 from the bill, and I will support the bill as the Douglas County District Attorney. The bill will resolve the issues I have raised. There is time for a debate of issues regarding the GIDs, but what is being offered by changing this particular language under section 3? I testified earlier about the limited oversight a board of county commissioners has under existing laws over GIDs once a GID is created pursuant to NRS 318. Senate Bill 471 will eliminate this problem.

The last statement I want to make is regarding section 26 in case there is a potential for interpretation in the future. Section 26 creates the five trustees for this particular Authority and talks about them being appointed in subsection 1. I think it is the intent for the member of the board of trustees of the Kingsbury General Improvement District to be appointed by the Kingsbury General Improvement District. The member of the board of trustees from the Round Hill General Improvement District should be appointed by the Round Hill General Improvement District. The Douglas County Board of County Commissioners

would appoint that county commissioner to serve on the new board Authority. It may not be clear in the language.

JIM DURSO:

Why is this bill being considered? A bill such as this usually means there is a problem that needs to be addressed. What is the problem? The DCSID has uniquely operated under NRS 309 since the 1960s as the only such governmental entity to do so in the State. This special status has led to irregularities such as no elections being held for directors and Open Meeting Law violations, as revealed by the Douglas County District Attorney last summer. This must be the problem that S.B. 471 purports to solve. How is S.B. 471 going to do this? By making the sewer district into another special governmental entity? To the best of my knowledge, no other sewer district in the State operates under an "authority" status.

Why create another unique designation when most districts involved with sewer treatment operate under a general improvement district without problems. If the Lake Tahoe Basin is so unique that a GID would present challenges, why does the Incline Village General Improvement District, providing sewer services at Lake Tahoe, operate as a GID?

Senate Bill 471 proposes that the board will be appointed, yet it will have the power to tax, assess liens and acquire property through eminent domain. I thought we got rid of taxation without representation over 200 years ago.

Regarding the lack of people within a district who would provide for elections, it could be addressed. Maybe the individual GIDs at Lake Tahoe that have their sewage treated by the DCSID could provide representation from these districts. This issue should not stop this entity being covered under NRS 318.

Senate Bill 471 calls for the Authority to be exempt from taxes, even extending a tax exemption for commercial enterprises that may operate on Authority property. How is this fair to State or county governments not to mention any competitors in the same endeavor? Douglas County is already a receiving county. This tax-exempt status further exacerbates the receiving problem. For the last six years, DCSID has attempted to establish a commercial gravel pit for profit on property it owns in the Carson Valley. Is this the purpose of this special interest tax exemption?

Under NRS 309, the county board of commissioners has the power to abolish DCSID. To whom will the Authority be answerable?

Curiously, why would the Authority be exempt from regulation by the Public Utility Commission of Nevada?

Senate Bill 471 is an unnecessary effort by special interests, custom designed to continue DCSID in essentially its current form. Senate Bill 471 should be defeated. The solution to the problem is already in place: DCSID should operate under NRS 318 as a general improvement district.

MR. PENZEL:

I support the testimony provided by Mr. Jackson. I also support the testimony by Mr. Durso and believe his solution could work if you include section 3 in S.B. 462. I want to make it clear, for me personally, that I have never heard any other commissioner make a remark about taking over a GID. This is not our concern. Our concern is the rate payers and sharing the expense. Douglas County is decreasing in population, and it has to be considered. It is an important issue in terms of sharing the expense. At no time and under no circumstances am I talking about the Douglas County Commissioners taking over any GIDs.

MR. BALLOA:

I and many of my fellow citizens are opposed to several aspects of this bill; the first of which is that it removes the operation of a sewer district in Douglas County from any jurisdiction by our Board of County Commissioners, our District Attorney and County ordinances, which represent the interests of all of Douglas County residents, including those at Lake Tahoe. I think we are one County, although the residents at Lake Tahoe may feel otherwise.

The Douglas County Sewer Improvement District No. 1 was established under NRS 309, a now archaic rule to serve the interests and needs of the businesses in the South Lake Casino Corridor. It has apparently done so in an illegal fashion for many years without the normal controls placed on general improvement districts, for example, not following State election and Open Meeting laws.

One cannot deny that DCSID has done a good job of serving its customers, the largest of which are the casinos, but has done so in the past at the expense of the environment, the residents of Carson Valley, who the directors refer to as

"wackos," and our County Commissioners, who it refers to as "loose cannons" and "incompetent" during DCSID closed meetings.

These disparaging terms are heard on audiotapes of DCSID meetings as trustees discuss how they are going to foist off on Carson Valley residents their plan to create a commercial open-pit mine and aggregate batch plant to offset the cost of lining their effluent storage ponds in the Valley, instead of bonding the project and having their customers pay for it like any other utility. Its Valley property is located in an otherwise tranquil residential area, and the residents there are overwhelmingly united against the proposal. We are Battle Born and fighting mad.

Giving this entity a new name and taking it out from under the jurisdiction of our Douglas County Board of County Commissioners as a State-created authority is putting lipstick on a pig. This is the wrong thing for this Legislature to do, especially as this bill is written to perpetuate the rogue way in which special interests dictate its operation. When reducing the number of trustees to pass its business from a majority of three of the five trustees to two of the three trustees comprising a quorum, you make a mockery of the democratic process.

Furthermore, the composition of the Board of Trustees being that of appointed individuals from other governing entities with their own business to tend to removes the governance of this so-called Authority one step further from the voters being served, increasing the opacity of an already opaque organization.

It does nothing to increase the efficiencies that could be secured by letting the Board of County Commissioners use its prerogative to dissolve DCSID and create a consolidated GID that could provide sewage treatment services for all the residents and businesses at Lake Tahoe in an economical and efficient way.

I respectfully request that you fail this bill and let our County Commissioners decide how best to deal with reorganizing DCSID, remembering that the best government is that which is closest to the governed.

WES HENDERSON (Nevada League of Cities and Municipalities):

I am in the neutral position because I want to lend my support for section 3 of S.B. 471. The GIDs are all represented by an elected board of trustees. We feel

the board of trustees should have the ability to say no to the County Commissioners if they want to consolidate, merge or dissolve a GID.

CHAIR PARKS:

I will close the hearing on S.B. 471 and open the hearing on S.B. 463.

SENATE BILL 463: Revises provisions relating to business license fees.
(BDR 31-93)

PAUL ENOS (Nevada Trucking Association):

An issue arose last summer with local governments taxing the gross receipts of businesses on revenue they were generating out of state, specifically for distribution centers or warehouses, so we asked for legislative assistance. We addressed the issue with an administrative solution so we still had this bill available for the Session.

The City of Reno is attempting to tax manufacturing warehouses and distribution centers on a square-footage fee of 10 cents a square foot. The fee has now been decreased to 7 cents a square foot. We have had a number of discussions with representatives of the business community and the City of Reno. We are asking for a similar nexus for the revenue similar to the gross receipts tax. We would like a nexus for the services being provided by local government to these facilities where a square-footage business license fee is being assessed. We feel it is appropriate and transparent.

ADAM HOSMER-HENNER (Attorney, McDonald Carano):

Senate Bill 463 specifies a local government may not impose or increase a business license fee based on the size of the property, unless there are public findings made that the extra fee is necessary to provide local government services to the property and that existing revenues are insufficient to provide such services. The bill does not limit or stop a local government from opposing or increasing any business license fees that are calculated on the basis of square footage. It simply asks that certain public findings be made prior to that determination.

Over the past several years, the Legislature has done a good job of making sure there is good governance and good tax policy measures put into NRS 354 in order to ensure the proper steps are taken before a business license fee is increased or opposed. Now that local governments are struggling to deal with

their own finances, they are attempting to introduce business license fees that are calculated using different methodologies than were used in the past.

Whereas a business license fee may have been set as a flat fee, or then calculated on the basis of gross receipts, we are now seeing a business license fee being calculated on other measures, such as the square footage of a building. A business license currently calculated on the basis of square footage may not fall within the other good governance measures already in NRS 354. This bill is an attempt to extend good governance measures.

We have submitted a friendly amendment ([Exhibit G](#)) to this legislation with two small changes. The first will be to clarify the definition of property to ensure it includes the square footage of the premises or the building and not just the size of the lot on which the property is located. The second change is to extend the limitation and good governance measure that is already in place with the respective gross receipts to any business license fee calculated on the basis of square footage. This pertains to the existing limitation that restricts the increase to the Consumer Price Index that is increased on an annualized basis.

SENATOR MANENDO:
Who is your client on this bill?

MR. HOSMER-HENNER:
We have been working with the Nevada Trucking Association.

SENATOR MANENDO:
Is this bill from the Nevada Trucking Association?

MR. ENOS:
The Nevada Trucking Association is one of the affected entities as our members have been impacted by this business license fee. A number of different entities that are not members of the Nevada Trucking Association are also being impacted by this fee. Just imagine a warehouse or distribution center or light manufacturing facility that has a tremendous amount of square footage but maybe not many employees and not requiring a tremendous amount of services from the City of Reno. We are wanting to have some sort of justification that there is a nexus beyond just a square-footage fee to those services being provided.

MR. HOSMER-HENNER:

As clarification, I have just received word that the Nevada Retail Association would like McDonald Carano to represent them in this matter, and they are willing to testify on this bill.

SENATOR MANENDO:

I was curious because we had conversations, and you had not divulged who you were representing. I wanted to get that information on the record.

MR. HOSMER-HENNER:

My colleague Josh Hicks is the one who has been involved in most of the client negotiations, while I am more on the legal side.

SENATOR HARDY:

As I read this bill, it pertains to one floor. If a building is skinny and tall, does that mean the square footage is per floor or is it based on the first floor?

MR. HOSMER-HENNER:

We believe the amended language will calculate the fee however the local government defines square footage in its ordinance.

SENATOR HARDY:

Could you get into the position like they do in the East where you measure the tax property based on the linear feet across the front of the building? That seems to be why they have long buildings that are very narrow. Is that the concept?

MR. HOSMER-HENNER:

Local governments can certainly choose different ways to manage square footage. Our proposed amendment tries to capture different ways that square footage could be measured for a premises or a lot.

CHAIR PARKS:

What if the building is 30 feet to the roof compared to one that is only 10 or 12 feet. A larger quantity could be stored in such a building. Nevada has always said it does not have an inventory tax. How close is this to an inventory tax?

MR. ENOS:

I do not believe this is close to an inventory tax. An inventory tax is taxing a business on the product housed in the warehouse along with the value of that product. This fee is based on the square footage of a building. I could have a large building with bulky products that does not have a lot of value versus a smaller building with product with a higher value. This fee seems far from an inventory tax.

SENATOR RATTI:

Most business licenses are calculated on gross receipts, but in statute is there an avenue to calculate your business license fee based on square footage?

MR. HOSMER-HENNER:

Various jurisdictions in Nevada already use square footage to calculate certain business license fees, and there are proposals to expand it to be an uncapped equivalent to a gross receipts tax. Whereas the existing ordinances may have a limited amount for the business license fee, certain ordinances proposed by the City of Reno could impose a couple of hundred thousand dollars per year based on the square-footage calculations.

SENATOR RATTI:

City services are paid for by a combination of Consolidated Tax Distribution, property tax and business license fees. What would be an appropriate finding that existing revenues are insufficient to provide services? At what point would you be able to say there were insufficient revenues?

MR. HOSMER-HENNER:

We have seen jurisdictions already perform these calculations, so in the City of Reno's analysis, through their staff reports, has been an analysis of potential service calls and the number of employee hours dedicated to those facilities. These findings were presented to the public in the workshop based on a particular ordinance.

SENATOR RATTI:

This is the expense side of what it costs to provide services to the facility. The business license does not bear 100 percent of providing the service because it is spread across the general fund. The cost is spread across other sources of revenue. Currently, sales tax has decreased, property taxes have decreased, and

business license fees are flat because they have not been raised. What finding could you make to determine there is insufficient revenue?

MR. HOSMER-HENNER:

It is based on the expense side. The finding under the current city budget, that business segment, whether it be warehousing or another type of business segment, creates a certain level of demand on the city services. Using that expense, it would be placed under the city budget and determined if there is a shortfall based on the expense. If it cannot be met with the existing city budget, it is not a question of transferring revenues from one segment to another or from one department to another. It would be based on the general city revenues if the business license fees were able to cover the cost of services.

SENATOR RATTI:

In a generally healthy local government where there is a healthy mix of residential and business, it is relatively well known that the business sector is subsidizing a portion of the service costs for the residential sector. If you strictly applied this calculation on every business license fee, you would have insufficient revenue because the cost of providing services citywide, particularly the fixed costs spread across multiple constituencies, is more highly absorbed by the business community, intentionally.

MR. HOSMER-HENNER:

I will certainly defer with respect to the statistic about whether it is a cross-subsidy between residential and commercial properties. Our point is not that there has to be a one-to-one finding that that amount of revenue is sufficient to cover the business license fee, only that there be a reasonable nexus so long as it is an approximation of the expenses that segment may not incur and cause to the city. That revenue would be belated.

SENATOR RATTI:

Secondarily, do you want to put a cap on it?

MR. HOSMER-HENNER:

Not a cap, only a limitation on the year-over-year increase so that the amount of revenue generated by the business fees could not increase dramatically over the course of a single year so as to minimize the disruption and impact on these businesses.

SENATOR RATTI:

You call it a limitation and I will call it a cap. Are you saying the business license fee can increase no more than the Consumer Price Index (CPI)?

MR. HOSMER-HENNER:

Based on the amendment, once the business license fee is imposed, it would be subject to the same limitation that a business license fee based on gross receipts is subject to currently.

SENATOR RATTI:

If the calculation is based on gross receipts, there is already the benefit of a cap. If it is based on square footage, there should be the benefit of a cap as well.

MR. HOSMER-HENNER:

Yes. Additionally, this will prevent circumvention of the legislative intent by calculating business license fees in a manner that is different than gross receipts so a local government could get around the existing limitation or cap that exists on gross receipts fees simply by changing their methodology to a different formula, even if it resulted in the exact same amount of revenue coming into the city.

SENATOR RATTI:

My concern with a cap on business license fees or any fees is that when we hit the recession, the business community asked us not to raise any fees. On the record, we had multiple conversations that stated if we do not raise fees now, when we recover from the recession we will have to make it up. If you cannot go up to CPI in the good times, it will not allow you to be kind during the slow times. That continues to be my concern about any kind of cap on fees. I understand requiring a stable environment for businesses, but it needs to argue both ways when it is volatile both up and down.

MR. ENOS:

Tray Abney with The Chamber asked me to put his support on the record.

PAUL MORADKHAN (Las Vegas Metro Chamber of Commerce):

We are in support of the bill. As proposed, it is a good governance bill in terms of allowing a good definition of the process that needs to occur when looking to change the calculation to square footage for a business licensing fee.

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BRIAN WALKER (Retail Association of Nevada):
We support S.B. 463.

CHAIR PARKS:

I am in receipt of a letter of support for S.B. 463 from the Nevada Manufacturers Association ([Exhibit H](#)). I also received a letter of opposition regarding S.B. 463 from the Henderson Chamber of Commerce ([Exhibit I](#)).

JOHN LELEU (NAIOP, Northern Nevada; NAIOP, Southern Nevada Chapter):
Based on discussions that are ongoing between my clients and the City of Reno and the City of Las Vegas regarding licensing fees and some of the testimony we heard today in support of the bill, we decided to remain neutral on the matter and allow the parties to work things out to possibly support this in the Assembly.

ARIC A. JENSEN (Director, Community Development, City of Reno):
We have not had a chance to review the proposed amendments in any detail so are taking a neutral position at this point. I provided a handout ([Exhibit J](#)) from the California Association of Realtors which is a primer on business licenses and the different types of licensing schemes available with the pros and cons of each one. Basically, there are six different styles, and square footage is one of them. Each one is appropriate in a different situation. Given the structure of the revenue scheme of the City of Reno, it all depends on how the City has structured its land use policy and other policies. There is no one proper business licensing scheme. Each one can be tailored to fit the appropriate community. I am providing this fact sheet as an informational item due to being a member of the Association of Realtors.

In Nevada, business licenses are not fees, they are taxes. It is very clear in NRS that we are talking about a business license tax, not a fee. Because it is a tax, there does not need to be a direct nexus between the fee structure and the service that is being provided.

The City of Reno is neutral on the bill, and we would like to work with the bill sponsors going forward. We agree that taxation is an important issue. It is important to you as Legislators and to us as representatives of the community and as local government because we are closest to the people we represent.

I have worked with business licensing both in the private and public sector, and I look forward to working with the bill sponsors.

SENATOR RATTI:

The piece about making a finding about existing revenues that are insufficient, does this only apply when it is applied to square footage or does it also apply when using the gross receipts calculation?

MR. HOSMER-HENNER:

Under the proposed amendment, that finding would only apply to square footage.

SENATOR RATTI:

Is this a new concept that has not existed in our laws before?

MR. HOSMER-HENNER:

It is actually a codification of existing caselaw, and the nexus has to be made anyway if not a public finding, but a business license fee may have to be subject to this anyway. It is not necessarily a brand-new concept in Nevada jurisprudence, but there is no requirement that a local government make a public finding concerning those things. In terms of a rationally related nexus, under certain constitutional provisions and analysis, that may already be in the law.

SENATOR RATTI:

Do you disagree with the prior speaker's assertion that this is a tax and not a fee, so there does not have to be a nexus with the cost of service?

MR. HOSMER-HENNER:

The lines blur quite frequently. Especially in the interstate commerce context, there has to be a nexus with respect to the fee and the tax in connection with what the business is actually doing. There are some gray areas.

CHAIR PARKS:

Based on the size of the property, if the property is 20 acres and the business is only 2 acres, is there a different calculation than if it were a property of 10 acres and a building on 2 acres?

MR. HOSMER-HENNER:

This is what the proposed amendment tried to address. We are not instructing the local government how to set these fees or how to make that determination based on the size of the property or the size of the building. Only that if the local government tries to set the fee based on any of those calculations you mentioned, it would at least be subject to this requirement.

MR. ENOS:

It is good to have this nexus when we are talking about fees. We have had some discussion trying to make the findings a little more solid. It seems to be fairly nebulous right now, but we are open to work on it some more. This is a good government transparent bill.

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CHAIR PARKS:

I will close the hearing on S.B. 463. As we have concluded the work of the Committee for today, we are adjourned at 5:41 p.m.

RESPECTFULLY SUBMITTED:

Martha Barnes,
Committee Secretary

APPROVED BY:

Senator David R. Parks, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	8		Attendance Roster
S.B. 186	C	6	Senator Moises Denis	Immigrants Have Enriched American Culture and Enhanced Our Influence in the World
S.B. 434	D	6	Ron Dreher / Peace Officers Research Association of Nevada	Supporting Documents from Chet Adams, Sparks City Attorney
S.B. 462	E	4	Kelly Krolicki / Tahoe Citizens' Committee	Summary of testimony in opposition
S.B. 471	F	3	Greg Ferraro / Douglas County Sewer Improvement District	Proposed Amendment 3413
S.B. 463	G	2	Adam Hosmer-Henner / McDonald Carano	Proposed Amendment
S.B. 463	H	2	Senator David R. Parks	Letter of Support, Nevada Manufacturers Association
S.B. 463	I	1	Senator David R. Parks	Letter of Opposition, Henderson Chamber of Commerce
S.B. 463	J	5	Aric A. Jensen / California Association of Realtors	Fact Sheet