

**MINUTES OF THE
SENATE COMMITTEE ON REVENUE AND ECONOMIC DEVELOPMENT**

**Seventy-ninth Session
March 23, 2017**

The Senate Committee on Revenue and Economic Development was called to order by Chair Julia Ratti at 3:40 p.m. on Thursday, March 23, 2017, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4404B of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Julia Ratti, Chair
Senator Aaron D. Ford, Vice Chair
Senator David R. Parks
Senator Ben Kieckhefer
Senator Michael Roberson
Senator Heidi S. Gansert
Senator Patricia Farley

GUEST LEGISLATORS PRESENT:

Senator Mark A. Manendo, Senatorial District No. 21

STAFF MEMBERS PRESENT:

Russell Guindon, Principal Deputy Fiscal Analyst
Joe Reel, Deputy Fiscal Analyst
Tina Nguyen, Committee Manager
Lex Thompson, Committee Secretary
Colleen Lennox, Committee Secretary

OTHERS PRESENT:

Patricia Lee, Women's Chamber of Commerce of Nevada
Peter Guzman, Latin Chamber of Commerce
Ken Evans, Urban Chamber of Commerce
Richard Carreon

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Paul Moradkhan, Las Vegas Metro Chamber of Commerce
Jo Cato, National Association for the Advancement of Colored People, Las Vegas
Jane Lee, Commission on Minority Affairs, Department of Business and Industry; Business Development Advisory Council, Clark County
Connor Cain, Nevada Bankers Association
Piper Overstreet
Nick Vassiliadis, Las Vegas Convention and Visitors Authority
Marlene Lockard, Nevada Women's Lobby; Human Services Network
Brian Reeder, Nevada Contractors Association
Randi Thompson, National Federation of Independent Business
Janine Hansen, Nevada Families for Freedom
Mike Randolph, Homeowner Association Services, Inc.
Leslie Ortega, Winterwood Village
Michael Buckley, Common-Interest Communities Committee, Real Property Law Section, State Bar of Nevada
Garrett Gordon, Community Associations Institute; Southern Highlands Community Association; Olympia Group
Sarah Collins, Nevada Association of Community Managers
Jennifer Gaynor, Nevada Credit Union League
Sam McMullen, Nevada Bankers Association
Alex Ortiz, Clark County
Jon Leleu, Nevada Bus and Limousine Association
Kimberly Maxson-Rushton, Livery Operators Association
Amber Howell, Director, Department of Social Services, Washoe County
Lisa Linning, Ph.D., Department of Family Services, Clark County
Kirsten Coulombe, Deputy Administrator, Administrative Services, Division of Public and Behavioral Health, Department of Health and Human Services
Joe Pollack, Deputy Administrator, Regulatory and Planning Services, Division of Public and Behavioral Health, Department of Health and Human Services

CHAIR RATTI:

We will do the work session first.

JOE REEL (Deputy Fiscal Analyst):

The first bill on the work session today is Senate Bill (S.B.) 64. I will read the work session document ([Exhibit C](#)).

SENATE BILL 64: Revises provisions relating to the distribution of the proceeds of taxes on aviation fuel and fuel for jet or turbine-powered aircraft. (BDR 32-222)

SENATOR FORD MOVED TO DO PASS S.B. 64.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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MR. REEL:

The second document in work session is Senate Joint Resolution (S.J.R.) 5. I will read the work session document (Exhibit D).

SENATE JOINT RESOLUTION 5: Urges Congress to enact the Marketplace Fairness Act. (BDR R-890)

SENATOR FORD MOVED TO DO PASS S.J.R. 5.

SENATOR KIECKHEFER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR RATTI:

We will now address Senate Bill 126.

SENATE BILL 126: Establishes a program to provide loans to certain small businesses owned by minorities and women. (BDR 18-21)

SENATOR AARON D. FORD (Senatorial District No. 11):

I am here today to introduce S.B. 126, which proposes the creation of a loan program to help small businesses, minority-owned business and women-owned businesses expand and thrive in our State. These types of businesses are often certified by accrediting agencies that refer to them with the following acronyms that I will use as well: small business enterprise (SBE), minority business

enterprise (MBE), women business enterprise (WBE) and disadvantaged business enterprise (DBE).

The bill as introduced is identical to S.B. No. 323 of the 78th Session that I sponsored. Proposed Amendment 3222 further refines this bill to establish a pilot program that has the ability to greatly assist SBEs, MBEs, WBEs and DBEs to grow and thrive. This bill is about economic gardening, a concept used successfully throughout the United States to help small businesses grow and benefit local economies.

Typically, economic development attempts to bring new business to Nevada. We need to do more to help growth for local companies and businesses that are already in our State. Senate Bill 126 is designed to do that by making loans available to local SBE, MBE, WBE and DBE. These types of businesses traditionally have more difficulty with regular bank financing. Minority- and women-owned businesses make up 25 percent of the businesses in Clark County and represent one of the fastest-growing segments. When you add in SBEs, you approach a larger percent of the businesses in our State.

It is important to note the abundance of findings and caselaw citations at the beginning of this bill, which are results of the gift clause in the Nevada Constitution and concerns about similar bills in the past. These findings explain why this bill is an appropriate means to implement a loan program for the businesses we seek to assist. I would like to read and focus upon the last finding because it summarizes one of the most important imperatives this bill seeks to accomplish. Loans increase, quantify, diversify and expand the number and types of businesses in this State. This increases employment opportunities for women and members of racial or ethnic minorities in segments of the population that traditionally experience the highest rate of unemployment and underemployment. Increased employment will benefit overall public health, safety and welfare by relieving unemployment, encouraging economic growth and helping maintain a stable economy. I would like to go quickly through the bill's operative provisions. I will read from Proposed Amendment 3222 ([Exhibit E](#)).

In conclusion, I emphasize that investment in expansion of locally owned and operated disadvantaged businesses is a good bet for Nevada. These businesses have strong ties to Nevada, such as family and friends who will keep them here and motivate them to be successful. Moreover, these businesses are already

here and have a track record. We need to help them succeed and provide a little seed money to ensure they will grow.

SENATOR GANSERT:

Is the intent for this to operate as a revolving account? You give loans and the money comes back?

SENATOR FORD:

Yes.

SENATOR GANSERT:

If there are unused funds, do they revert? I know that with some of the other funds that are similar to this, the money did not always revert because it takes time to loan out the funds. This is just a thought to give yourself more time because it takes a while to establish the regulations and organize the fund management.

PATRICIA LEE (Women's Chamber of Commerce of Nevada):

When I started at a law firm here in Vegas, it was a small- to medium-sized law firm. The employee diversity was all white, male and Mormon. I, as a woman of color, was their first entry into diversity in the firm. I am proud to say now, 15 years later, I am still with the same firm and we have grown into one of the largest firms in Nevada. We exhibit a broad array of ethnic, cultural, gender and religious diversity.

I bring this up because it mirrors the landscape of Nevada, where more women-owned businesses and minority and disadvantaged business owners are sparking the employment of women and minorities. This is a great thing for our State. According to the Small Business Administration Office of Advocacy, there are 229,570 small businesses in Nevada which include 45,324 small businesses with employees and 184,246 small businesses without employees. The 2012 Economic Census states that 30.6 percent of businesses in Nevada are owned by women.

It is important to incentivize women to expand their businesses and trigger employment opportunities in our State. Women tend to hire women, not exclusively, but when opportunities arise, it is good to have a diverse group of employers who are likely to hire people like themselves. Historically, women and minorities have been disenfranchised and denied funding to sustain their

businesses due to lack of collateral or strict banking requirements stemming from the 2008 financial crisis, perceived risk and low or negative cash flow and revenues.

June Beland founded the Women's Chamber of Commerce 15 years ago. She tells a story of herself in 1977, when she was forging her own path as an entrepreneur. She went to a large bank to get a business loan and the first question asked was "Where is your husband?" This sounds appalling today; however, that was the culture back then.

Some of those barriers of the past have now been overcome. We see a national trend that recruits women into entrepreneurship programs. For instance, Goldman Sachs has a program that partners with International Finance Corporation and other groups to set aside over \$60 million to loan to women business owners. The 7-Eleven has a contest for women entrepreneurs that gives away a 7-Eleven franchise to a female entrepreneur. It makes sense that we, as Nevadans, get on board with this trend. If we have people willing to support Nevada by helping alleviate unemployment and underemployment in traditionally disenfranchised segments of our population, then we should also support them.

PETER GUZMAN (Latin Chamber of Commerce):

I am excited to testify on this bill because I find it to be a business-friendly, entrepreneur-friendly investment in our State. As a small business owner, I recognize that those of us who have been down this road realize that access to capital is the single-largest obstacle to create jobs and economic development.

The State is investing in stadiums and things that are important. To keep going, we also need to invest in our small businesses and people who are here supporting our communities. This bill is a bold investment in our entrepreneurs and in the engine that drives not only the City of Las Vegas but also our State and Country. We support S.B. 126.

I would caution to ensure this money does reach the community and small businesses and does not become another situation, like with a bank, where they get turned down. Our Chamber sees this every day, where good businesses that are missing a point here or there cannot obtain a loan from traditional banks. The process should be as easy as possible so these dollars are put to work. That is how economic development is driven.

KEN EVANS (Urban Chamber of Commerce):

We support S.B. 126. Small business is a major part of the engine that drives the economy in Nevada. It is no secret that since 2008 we have made a great move to both expand and diversify our economy. Part of our goal at the Urban Chamber is to ensure that this expansion in diversity for our economy includes every business allowed to participate. Access to capital is difficult for any business and disproportionately so for the small business demographic represented by this bill.

RICHARD CARREON:

Two years ago, the City of North Las Vegas was given a grant to help with a transformation plan to diversify the economy, increase access to social services and improve brick-and-mortar facilities.

For the past 12 months, the City has gathered data on the population in the area within the following boundaries: Comstock Drive and Las Vegas Boulevard at the northern boundary of Carey Avenue; and the southern boundary at the City of Las Vegas and North Las Vegas divide. The data showed 35 percent of that population is unemployed. The 35- to 50-year-old age bracket of those unemployed is disproportionate to the minority community. For many, this is in midcareer range.

As a City, we decided the best way to increase economic diversification was to either increase access to small business establishment in North Las Vegas or grow the businesses currently there. When 1,000 respondents were polled, 43 percent of them favored growing small businesses in that area to increase community wealth. Many small business owners within that footprint want to take advantage of the opportunities brought by Faraday and Hyperloop through contracts. The loan proposed by S.B. 126 gives them the ability to expand and become competitive in those markets. We support S.B. 126.

PAUL MORADKHAN (Las Vegas Metro Chamber of Commerce):

The Chamber supports S.B. 126. Capital is an issue for our small business members, especially for those seeking microloans for capital improvements in their new businesses. We agree that \$2 million for this pilot project is an appropriate amount. We agree with the provisions as laid out by Senator Ford regarding the role of the Governor's Office of Economic Development (GOED) and third-party administration. The creation of the criteria and provisions of that

criteria are important to the process. The focus on Nevada businesses is appropriate.

The Reno Chamber of Commerce could not be here today, and they have asked us to express their support for S.B. 126 on behalf of Tray Abney, The Chamber.

JO CATO (National Association for the Advancement of Colored People, Las Vegas Branch):

We support S.B. 126. Small business is the backbone of the economy, and it has long been said that small business is the engine that grows our community. With the disparity in access to capital and the use of certified minority and nonminority businesses that do not have access to capital, we do not have a level playing field. New alternative online lending opportunities have recently filled this need, and this is a positive development for small business. However, alternative sources of funding such as peer-to-peer lending, merchant cash advance companies and hard money lenders operate in an unregulated market with high interest rates in some instances.

Having this loan available to small businesses in Las Vegas and throughout southern Nevada and the entire State will assist us in growing our businesses. We do support the \$2 million and the third-party outsourcing of this funding. While I do support this bill, it is my hope that the loan guidelines for approval will not exclude small business owners who are credit-challenged. I support this alternative program to assist those businesses with less than perfect credit. Senate Bill 126 is a step in the right direction to help small business with access to capital.

JANE LEE (Commission on Minority Affairs; Department of Business and Industry; Business Development Advisory Council, Clark County):

We support S.B. 126. It has many positive attributes and will make a difference. Many small businesses that made it through the economic downturn in 2008 did so at a cost. They had to take on additional debt, which skewed their financial ratios and made them unbankable.

In conjunction with the team at U.S. Senator Catherine Cortez Masto's Office, we are exploring ways to utilize and funnel federal grants and funds to Nevada and perhaps partner with this bill. Those types of things have yet to be worked out but are in process. There is also something called an indemnity fund which could be used to help guarantee the principal of this investment, thereby

ensuring these funds are sustainable and can return back to GOED to loan out again.

If the provisions in the bill could be flexible enough to take advantage of the federal programs and the indemnity guarantee, we could then create a good microprocess program so that these businesses become bankable, shed some of their debt and rev up economic development.

CONNOR CAIN (Nevada Bankers Association):
We support S.B. 126.

PIPER OVERSTREET:

I have owned two small businesses in Nevada, and it is difficult for small business to obtain capital, especially minority-owned business. I support S.B. 126. This bill goes a long way toward addressing this disparity.

NICK VASSILIADIS (Las Vegas Convention and Visitors Authority):

The Las Vegas Convention and Visitors Authority (LVCVA) actively seeks out the minority and disadvantaged vendors addressed by this bill. We find plenty of them but in different cities in other states. There was not an access to capital in this State for these businesses to obtain, for instance, a larger printer to accommodate a job the size the LVCVA can award them. This bill is an excellent opportunity for those businesses to get projects and contracts they would not otherwise have. We support S.B. 126.

MARLENE LOCKARD (Nevada Women's Lobby):
We support S.B. 126.

BRIAN REEDER (Nevada Contractors Association):

I represent more than 600 construction industry firms in Nevada that support S.B. 126. Many small minority and disadvantaged businesses need to expand, and this bill will give them that opportunity. This expansion feeds into our industry. A key Nevada Contractors Association (NCA) industry challenge is how to grow and diversify the workforce.

The Nevada Contractors Association's efforts go hand in hand with this bill. Some of the programs NCA provides to this end are: a free eight-part small business seminar on construction practices; job advice; attracting youth to the industry through engagement with the Clark County School District; and

working with career and technical schools and the College of Southern Nevada with internship programs. Every year NCA funds scholarships to graduating high schoolers pursuing postsecondary education in construction, engineering and architecture. Last year, we awarded \$36,000 in scholarships funded by charitable contributions from our members. Senate Bill 126 is another tool that can be used to diversify and grow the industry's workforce ([Exhibit F](#)).

RANDI THOMPSON (National Federation of Independent Business):

We represent over 2,000 small business owners who concur that access to capital is challenging for small business. There are 11 million women-owned businesses in the Country, 75,000 of them in Las Vegas. I am also a small business owner, certified through the Nevada Department of Transportation to do public affairs through their Disadvantaged Business Enterprise (DBE) program. The DBE program is intense. It includes a lot of paperwork, verification of what I do and a personal interview. Since I have gone through this DBE certification process, I can see how loans to these well-vetted groups would be helpful.

JANINE HANSEN (Nevada Families for Freedom):

I am a supporter of small business. Several members of my family have small businesses, and my son lost his engineering business and his home in the economic downturn. My other son lost his business due to illness and injury. My daughter has been struggling to keep her business open since 2011. I am surprised by this bill because I thought it was the philosophy of this Legislature to have equality under the law. Equality between men and women which would preclude special privileges and consideration for women over men. This bill discriminates against children who have white fathers, who cannot get a loan. It discriminates against women who are married to white men and discriminates against white men. It discriminates against women who are dependent upon child support from white men. It does not help those who have been most harmed by the Great Recession and suffering high unemployment. An interesting article in *The Atlantic*, states that:

The Great Recession had the twin distinction of creating the largest postwar male jobless rate and the largest male-female jobless rate gap. Because of the disproportionate harm the recession caused men, Mark Perry, in his testimony before members of Congress, coined the term "mancession." One reason for the disproportionate harm is that manufacturing and construction—traditionally fields

that have been male dominated—were hit particularly hard by the Great Recession. Unfortunately, these industries have also been particularly slow to recover and may never achieve their prerecession employment levels.

Another supporting statistic is that for two and a half decades, the rate of men's pay usually goes down during a recession. They have been the hardest hit. Nonresident fathers have particular difficulty meeting their child support obligations. *The Atlantic* article says; "for men with lower earnings this has been occurring for two and a half decades." In the 2001 recession, wages stagnated and began to fall again and have been doing so ever since. This is a result of the increasing number of economically vulnerable nonresident fathers since the 1990 strategy which held so much promise has become increasingly ineffective. Fathers who need to pay their child support but are economically vulnerable have been unable to meet their obligations. Nationally, the number of nonresident fathers has soared to 9 million. More than half of those fathers are economically vulnerable and a more diverse population than the poor inner city, mostly minority fathers who have been the focus of this study.

Although I support healthy small business, S.B. 126 should be equal in that all should be able to take advantage of the loan program.

There are many vulnerable people, not only women or minorities. White men need help with their families and to earn the money they need. I appreciate the objective of S.B. 126, to help small business because small business is the foundation of our communities and our economy. However, I do not think S.B. 126 should discriminate. It should be equal as is the philosophy of this Legislature.

SENATOR FORD:

I address the opposition to note that this program is open to small business enterprises. Meaning, a white man who owns a small business can qualify for a loan under this program. Ms. Hansen is correct, this is a bill that deals with equality. Saying it does not does not make it so. The small business has to work toward qualification. The bill does not rectify past remnants of discrimination we see relative to SBEs, MBEs and DBEs. This program is helpful in that regard.

To address a couple of other points made about the program, there is a current GOED program called the State Small Business Credit Initiative (SSBCI).

Senate Bill 126 aligns with the SSBCI program to help small business. The credit-challenged business issue that has been raised is something Steve Hill and I have discussed. When the regulations are drafted, opportunities will be included to address those concerns.

There is an important component of this bill raised by Ms. Lee. A provision in this bill allows the fund to receive federal grants mentioned in the testimony on U.S. Senator Cortez Masto's program. The provision also allows private banks to allocate monies from their own coffers into this program. To the extent that we can align other opportunities with this program, we will.

CHAIR RATTI:

Upon examination with staff, it looks like the structure terminates. It would be important to make sure there is a mechanism in place to ensure that even if we do not put more money into it, the ability to continue administration of the loans and receipt payments is in place.

I close the hearing on S.B. 126 and open the hearing on Senate Bill 281.

SENATE BILL 281: Revises provisions relating to the reconveyance or sale of real property by a county treasurer for delinquent taxes. (BDR 32-99)

SENATOR MARK A. MANENDO (Senatorial District No. 21):

I bring S.B. 281 forth to correct a problem some of the folks in homeowners' associations (HOA) experience. This could help many HOAs in our State. Senate Bill 281 relates to what happens to the collection of delinquent amounts after a county sells a property inside the association for the recovery of delinquent property taxes. The property is sold free and clear of all liens, meaning that the claims of all junior creditors, mortgages, mechanic liens and HOAs are wiped out. Previous attempts to collect the past due assessments from that property are gone, and HOA's lose everything they are owed. This is a burden for HOAs. Then the burden of that delinquency becomes shared through increased assessments to other homeowners in that community. In response to requests for help by the HOAs, a way to help is addressed in S.B. 281.

There are nine creditors listed in NRS 361.585 that can claim against those funds. The intent of S.B. 281 is to help HOAs add their class to this list so they can recover monies owed them which are unavailable under current statute. Mike Randolph will be able to answer technical questions about how this works.

MIKE RANDOLPH (Homeowner Association Services, Inc.):

I have spent the last 17 years as manager for a collection agency that assists HOAs in recovery of delinquent accounts and have served on the board of my own HOA for the last 15 years.

The problem we address today is when a county forecloses and sells real property at a tax auction, the HOA of that property has its lien, in collection process, wiped out. The HOA must write off the complete amount to bad debt. This puts pressure on the HOA's budget, and the loss is then passed on to the other homeowners of that association as higher assessments to make up the shortfall. This bill adds a common-interest community, an HOA, to those enabled to file a claim for the excess proceeds after a property has been sold at auction for past due property taxes.

Since properties sold at tax auction are sold free and clear of liens and encumbrances, investors bid up the properties over what the county is owed. Those funds are referred to as excess proceeds. At the tax sale, the county recovers all taxes, charges and fees due plus \$300 and then 10 percent of the next \$10,000 recovered. The remaining funds are then available to claims filed by nine specific classes of creditors. *Nevada Revised Statutes* (NRS) 361.585, subsection 4, paragraphs (a) through (i) list those creditors that appear on page 2 of the bill, lines 29 through 38, and page 3, lines 1 to 3.

In 2007, A.B. No. 585 of the 74th Session added a creditor under a judgment lien to the list. This is someone who has taken the defaulting owner to court for a money judgment such as a payday loan company, bail bondsman's office or an insurance subrogation. In 2015, S.B. No. 47 of the 78th Session added a municipality which holds a lien against the property to the list.

An HOA is a secured creditor of the property by virtue of the covenants, conditions and restrictions (CC&Rs). The HOAs must provide services and amenities to all properties in the association regardless of whether the property owners pay their required payments or not. *Nevada Revised Statutes* 116.3116, subsection 1 states: "The association has a lien" There is no question the HOA is a creditor against that property. The HOAs should likewise be added to the list in NRS 361.585.

The HOA's uncollected delinquency is wiped by the tax sale with no other hope for recovery, and it must still provide services and amenities. The defaulting owner is No. 1 on the list and can file a claim for those funds; however, the association cannot, even though the owner still owes money to the association. Senate Bill 281 adds an association that has filed a notice of default and election to sell against the property to be added to the list. Homeowners' associations must actively pursue collection of past due money, rather than wait to hit the jackpot if the county sells a property at a tax sale. A property tax sale wipes out the association lien. This bill only adds associations to the list in NRS 361.585.

Once the county takes a tax deed against the property, the association, to protect its rights, must pay the delinquent taxes in full and must redeem the property from the county before taking the property foreclosure sale itself. In most cases, associations cannot afford to do this and are fearful the homeowner might file for bankruptcy in between the time the taxes are paid and the association's foreclosure sale. If bankruptcy happens, the association is out the money it advanced to the taxes. Then the association must hire an attorney in an attempt to regain its money in bankruptcy court. The added cost and risk to the association worsens the problem.

An example of this is Winterwood Village Homeowner's Association. Leslie Ortega is the board president for the 214-unit mobile home community in Las Vegas. In December 2014, a property was sold for delinquent taxes. The association had already filed a notice of default against the property in an attempt to collect \$2,533.88 in past charges. However, it was unable to advance the \$7,881.21 due in delinquent taxes on the property in order to take the property to foreclosure to collect association money as well as the funds it could have advanced to Clark County. In this association, assessments are only \$55 per month. After the sale of that property by the County to a third-party purchaser for \$17,000, the association hired an attorney to file a claim against those excess proceeds. The association was denied because it was not on the list of creditors in NRS 361.585. There was enough money to pay the association from the excess proceeds, but under law, the prior homeowner could file a claim, get the money and stiff the association. This association lost over \$2,500 plus attorney fees on this file.

I am aware of another property in a different association in Senate District 5 that owes the association over \$3,000. That association could foreclose to

recover this money but cannot afford to advance the \$13,490 in delinquent taxes so it can proceed with foreclosure. This case was similar to that of Winterwood. If Clark County decides to take this property to tax auction on May 4, that list of properties does not become available until April 5. This bill's current effective date is July 1.

There are presently 32 properties with excess proceeds available. I have included that list in my testimony ([Exhibit G](#)). They are on the Clark County Website and represent over \$715,000 in excess proceeds being held by the County from properties sold in May 2016 and must be claimed by June 8, or the funds will be transferred to the Clark County general fund. According to the Real Estate Division's Website, there are 3,172 registered HOAs in Nevada containing 526,585 residential units occupied by constituents. I am sure the two cases I mentioned are not the only ones like this. Please help these communities move forward by adding HOAs to the list.

SENATOR GANSERT:

In S.B. 281, I am looking at section 2, subsection 6, paragraph (a) where it talks about order of priority of recorded liens. How is order of priority established?

MR. RANDOLPH:

We added an association that has filed a notice of default because according to NRS 116, a superpriority lien is triggered by filing the notice of default and election to sell. This offers a nine-month look back from the date the notice of default is recorded. The superpriority lien is superior, the mortgage company is second, the association would then be behind the mortgage company for any leftover proceeds.

LESLIE ORTEGA (Winterwood Village):

I have been the President of Winterwood Village Homeowners Association for ten years, and I have lived through the recession and witnessed our homeowners lose their homes. We are a small HOA and frequently writing off bills is financially devastating. You have the opportunity to set this right, and I am asking you please do it.

MICHAEL BUCKLEY (Common-Interest Communities Committee, Real Property Law Section, State Bar of Nevada):

We are here to support S.B. 281. Karen Dennison of our Section filed testimony ([Exhibit H](#)). We concur with Mr. Randolph's testimony and support passage of the bill.

GARRETT GORDON (Community Associations Institute; Southern Highlands Community Association; Olympia Group):

We support S.B. 281. This bill is a win-win for everyone. When a property is in tax default, the county comes in and takes the property for delinquent taxes. The county has two options from there. It can sell the property to a bona fide purchaser which dismisses all lienholders. The other option under the statute is reconveyance.

Who has rights for reconveyance? The reconveyance process specifies who can pay the tax debt to the county, take the house and move forward to satisfy the lien. The big question is the impact to the bank lien and the waste management lien. Mr. Buckley submitted on behalf of the State Bar, [Exhibit H](#), the case of *Casazza v. A-Allstate Abstract Company* as testimony in support of this bill. That ruling says: "A junior lienholder does not better its position by obtaining a reconveyance." If an HOA paid the taxes, which is good for the county, and takes title to the property, all of the liens that would have been dismissed return to their lien priority. Homeowners' associations are entitled to nine months of assessments, next in line is the bank, then all the other lienholders.

This bill is a win-win because when a county is in the reconveyance process and the bank has not reconveyed, then a lienholder or judgment creditor can reconvey and sell the property. All liens and creditors are then dismissed. Adding HOAs to the list of creditors gives HOAs the option to pay the taxes and allows all the liens to return to the same position as if the county had never stepped in.

SENATOR FORD:

How does this comport with S.B. No. 306 of the 78th Session?

MR. GORDON:

It has no impact and here is why. Under *Cassaza*, there is no change to lien priority. This only puts HOAs on the list that the county has of who can step in and have the property reconveyed. I would argue it helps every lienholder,

including deeds of trust, in that if the county sells the property, everything is extinguished. If the HOA has the ability to come back in and take title to the property, then the banker's liens spring back and now their deed of trust is back on title. We do not see any impact to S.B. No. 306 of the 78th Session.

SENATOR FORD:

I will ask the opposition the same question. How does this comport with S.B. No. 306 of the 78th Session?

MR. GORDON:

I will commit to you that if there are conflicting opinions, I will roll up my sleeves and work with them to see if we can come to a compromise.

SARAH COLLINS (Nevada Association of Community Managers):
We support S.B. 281.

JENNIFER GAYNOR (Nevada Credit Union League):

The credit unions have only recently become aware of this bill. We would like to work with Senator Manendo and other industry stakeholders to address some potential concerns and work out solutions so this language does not inadvertently create problems for other parties who have an interest in court, including mortgage and other lienholders.

Any time we hear the words HOA and superpriority, we freak out a bit, understandably so. The bulk of our concern happens in section 1 of this bill which is the reconveyance section. On its face, this bill simply appears to allow HOAs to join the pool of interest-holding entities that may have a property reconveyed to them for tax-delinquent properties held by the county treasurers.

The problem we see is that HOAs do not stand in the same shoes as other lienholders under Nevada law because NRS 116 provides HOAs with a superpriority status that could not only jump them to the head of the line but could extinguish the interest of other lienholders. A major question we have is: if the HOA pays the delinquent taxes and the property is subject to delinquent HOA dues, could it then foreclose after reconveyance and dismiss all other lienholders?

We have some similar questions in section 2 which is the solution in the section described and requested by Senator Manendo's constituent, Mr. Randolph. This

section deals with excess proceeds following the sale of property by the county treasurer. When HOAs are added to this section, our question is: where is the priority in the statutes in the priority of the recorded liens? It sounds like HOAs would only be there for nine months, and then everyone else would still be on the list. We want the opportunity to talk with Senator Manendo to work that out.

SAM McMULLEN (Nevada Bankers Association):

Not all of this bill is objectionable to us, but some pieces are. That is why, consequently, we are against this bill. For clarification, I understand that Mr. Randolph had talked with Clark County counsel about a proposed amendment, and the amendment was acceptable to him. However, Mr. Randolph's testimony seemed to be about excess proceeds, which is the second part of this bill. We had heard the reconveyance part was not as critical, and he may have thought changing this over to the County amendment was okay. May I clarify if that is still his position? I might change my testimony.

CHAIR RATTI:

Senator Manendo or Mr. Randolph, would you like to address the Clark County amendment?

MR. RANDOLPH:

Yes, I spoke with Clark County numerous times and as recently as today. In today's discussion at the Treasurer's Office, I learned the County has rescinded its amendment and would like to come back in two years to rework both NRS 361.585 and NRS 361.610. I am still open to the idea of the excess proceeds, which particularly interests me.

CHAIR RATTI:

My understanding from staff is that Clark County has removed its amendment.

MR. McMULLEN:

Exactly, and that is why I did not prepare a similar amendment because I thought the Clark County amendment was going to be on the books. I am going to support this amendment, perhaps in my own submission. That is why I wanted to find out if the amendment is still active. If so, we would have lobbied for it. We wanted to know if Mr. Randolph needed both pieces of the bill, or if he only needed the excess proceeds piece.

CHAIR RATTI:

That brings us clarity that the amendment has been pulled. If you are interested in seeing that, you would need to resubmit.

MR. MCMULLEN:

I would like to ensure the people around this table know S.B. No. 306 of the 78th Session. The banks built in a big part of the structure. The theory of that bill was the HOAs would get their money as soon as possible and without any worry about what would happen to the major loans. The driver for that is partly an answer to Senator Ford's question and is a germane and important point for you to consider. An HOA has one loan that drives the banks to do those kinds of things because it can extinguish the loan.

Other liens that get filed, especially with a notice to default, do not have superpriority. This bill does not distinguish about those. The superpriority lien is the one for nine months of assessments for HOAs. The banks also made sure the HOAs were made whole for all of the costs up to that point for the filing of the notice of default, which is approximately \$1,350. It has nothing to do with this other than that part. A lien is much different than a superpriority lien.

I will talk with Mr. Randolph and the other parties. However, this bill gathers up any notice of default filed under NRS 116.3116 which is theoretically only a superpriority. If the association files an intent to lien or notice of default under that, we want to make sure it is limited only to the derivative or creation of the superpriority lien. We will submit an amendment. We will be supporting this amendment. We want to make sure the HOAs have the same ability to cue up for excess proceeds as everybody else. Saying that the HOAs are going to step in and save the banks by buying the property is really homeowners profiting when the HOA buys the property next to them as part of their HOA. It is more complicated than said here.

ALEX ORTIZ (Clark County):

Clark County is pulling its amendment ([Exhibit I](#)).

CHAIR RATTI:

I close the hearing on S.B. 281 and open the hearing on S.B. 342.

SENATE BILL 342: Revises provisions relating to the collection of certain taxes on passenger carriers. (BDR 32-1116)

JOHN LELEU (Nevada Bus and Limousine Association):

I will read prepared remarks from Senator Patricia Farley into the record ([Exhibit J](#)). Senator Farley represents Senate District No. 8 in Clark County. It is her intention to present S.B. 342 which revises the excise tax provisions currently imposed on common motor carriers of passengers, taxicabs and transportation network companies such as Lyft and Uber. Under existing law, the Nevada Department of Transportation is required to collect a 3 percent excise tax from these types of transportation entities. Please take note of the proposed amendment submitted by the Livery Operators Association ([Exhibit K](#)) and the definitions submitted to the record by the Livery Operators Association ([Exhibit L](#)).

Senate Bill 342 is essentially a cleanup bill. We all recall the transportation network company bills that were passed last Session and the excise taxes attached to those bills. There are a couple of issues with the 3 percent excise tax. The first issue involves the speed at which the bills passed toward the end of the 2015 Legislative Session that caused an oversight in one category of motor carrier, specifically contract motor carriers.

I have met with most of you regarding this bill, and most of you ask me: what is the difference between a contract motor carrier and a common motor carrier? There is a statutory difference. A common motor carrier takes its business on a ride-by-ride basis. A contract motor carrier is a different business model. The contract motor carrier establishes its business by contract with the customer on a longer-term basis rather than on a ride-by-ride basis. Unfortunately, contract motor carrier was overlooked when the excise taxes were applied to transportation companies. Accordingly, S.B. 342 cleans that up and brings contract motor carriers within the 3 percent excise tax, and the tax will be applied to them.

The second issue that S.B. 342 deals with came up during the Interim. As the Nevada Transportation Authority attempted to write regulations and apply the excise tax to the motor carrier industry, a question arose from one particular Nevada Transportation Authority board member regarding the meaning of excise tax. The question was: Does an excise tax pass through to the consumer or is the excise tax applied directly to the motor carrier and come out of the motor carrier's bottom line? The former is the definition. An excise tax is always borne

by the consumer, and S.B. 342 defines excise tax as a tax that is borne by the consumer and not applied as a direct tax to the motor carrier.

Kimberly Maxson-Rushton represents the Livery Operators Association. We are bringing this bill together as a joint industry bill.

CHAIR RATTI:

Is it your anticipation Ms. Maxson-Rushton will address the amendment that we have received?

MR. LELEU:

Yes.

KIMBERLY MAXSON-RUSHTON (Livery Operators Association):

We support S.B. 342. As the Chair noted, I have submitted a friendly amendment to S.B. 342, [Exhibit K](#). For ease of review, I would direct your attention to the bill, section 6, subsection 2. That language specifically speaks to the carriers that are exempt from the excise tax. It erroneously includes contract carriers. Because there is uniqueness of the services between common motor carrier passengers and contract carrier passengers, if the language is stricken, the bill becomes clear. This friendly amendment clarifies the specific intent of the legislation.

CHAIR RATTI:

I will close the hearing on S.B. 342.

VICE CHAIR FORD:

We will open the hearing on S.B. 379.

SENATE BILL 379: Revises provisions relating to alcohol and drug abuse and behavioral health programs. (BDR 40-514)

SENATOR JULIA RATTI (Senatorial District No. 13):

Senate Bill 379 addresses an issue of efficiency and does not change any allocation of funding. It only helps that funding move along more smoothly so we can get more of it into the hands of the people who need it. I will read from my remarks ([Exhibit M](#)).

It is a straightforward bill. I did not intend to walk you through each of the sections. The language provides for a block grant and then provides division of the funds with 70 percent allotted to Clark County and 20 percent to Washoe County, and 10 percent stays with the State to administer the Child Protective Services (CPS) program throughout the rural jurisdictions.

AMBER HOWELL (Director, Department of Social Services, Washoe County):
We have had this Legislation in place since 2011, and we have not been able to come up with a process that is efficient and gets the money into the hands of the child welfare agencies.

One of our struggles is when children are removed from their families to ensure their safety, the goal is to reunify them as quickly as possible. When these families have substance abuse issues, it is more important that we start to address those as early as possible. These families cannot be placed on wait lists based on the time frames of the courts and children in foster care. Senate Bill 379 allows us to bypass all of the red tape and use the money directly with providers in the community. We know that a significant number of our families in Washoe County struggle with substance abuse and mental health. It is the No. 1 reason why these families need services right away. Quicker access to the funds means quicker treatment for our families.

LISA LINNING, PH.D. (Department of Family Services, Clark County):
We support S.B. 379. This bill would allow child welfare agencies such as ours to develop in-house treatment programs for substance abuse, mental health services, behavioral health services or pass on those funds to our community providers that partner closely with us. These services would greatly benefit the children and parents we serve. As stated in S.B. 379, the monies would not need to be repaid at the end of each fiscal year. The repayment requirement has been an additional barrier to development of sustainable programs. One of the features of this bill allows for longer-term strategic objectives so that programs could be developed with more sustainability rather than time-limited or brief measures. These are services that our families and children need.

SENATOR GANSERT:

Since you are going to put it into a block grant system, does it automatically have reporting requirements? What is the outcome with the funds?

Ms. HOWELL:

Yes. We would have to still report back on how the money is used, I would assume. What we have to do now includes those measures, but I do not anticipate it would be as rigorous. A block grant allows more flexibility. The reporting requirements are whatever the Division of Public and Behavioral Health (DPBH) would require of us.

SENATOR GANSERT:

The reporting requirements would be set through another process?

SENATOR RATTI:

Perhaps we can ask DPBH when representatives come to the table.

SENATOR KIECKHEFER:

Is there anything that determines what would be a reasonable reserve for this function?

Ms. HOWELL:

The Governor's budget instructions talk about agency reserves that should be limited between 30 and 60 days of operating expenditures. Depending on the risk associated with those revenue sources, any excess agency reserve may indicate the need for revenue reduction. They have to have a reserve fund of 30 to 60 days. That is the tipping point where those reserves have to be expended.

SENATOR KIECKHEFER:

Is that somewhere in the law?

Ms. HOWELL:

It is in the Governor's budget instructions. It is not in this piece of legislation.

SENATOR KIECKHEFER:

The reserves in this account have built up because they do not revert. Correct?

Ms. HOWELL:

Correct.

SENATOR KIECKHEFER:

We used those funds recently, a fairly sizeable reserve in this account for a big problem we had to address. We had reserve funds that did not meet the need. Do I remember that correctly?

MS. HOWELL:

At first the agencies were not spending the money at all. We ended up having a reserve at the State level. Then toward the end of last year, we were able to change our scope of work to be able to get those funds. Yes, it has been problematic in spending the money, and the reserve builds up.

SENATOR RATTI:

You are getting right at the issue, Senator Kieckhefer. The original process as it was intended did not get the funds into the hands of the agencies in the way it was intended. To move that along, we did a bailing-wire-and-band-aid creative solution to get the funds out and get them to some good use. We would rather have a more consistent process for a sustainable funding source that can be relied upon with good reporting outcomes to be more consistent. The other piece reduces the administrative cost so all of the dollars go directly where they were intended to go.

SENATOR KIECKHEFER:

Is it a regulatory function? Are we keeping the costs of regulation artificially high to ensure that more revenue is going down into the block grant than needed to regulate the program?

SENATOR RATTI:

That question is out of my depth.

KIRSTEN COULOMBE (Deputy Administrator, Administrative Services, Division of Public and Behavioral Health, Department of Health and Human Services): Our Deputy Administrator over Regulatory, who oversees the marijuana program, can speak to that. In response to Senator Gansert's question about reporting, the counties invoice us monthly, and that is how we understand what services are provided. Since S.B. 379 moves this to a block grant, the reporting could be done annually. The reporting requirement could be whatever we specify. If there is something specific the Legislature would like to see in the reporting requirements, we can have that information.

SENATOR RATTI:

Senator Kieckhefer, would you mind repeating the question?

SENATOR KIECKHEFER:

If there was some indication that this was a process that would allow for a predictable and reliable source of revenue to go into these treatment programs at the county level, my question relates to the function of the program. We are running a regulatory program that is designed to generate revenue that covers the cost of administration. Are we then charging people who are utilizing the program a higher than necessary regulatory cost in order to implement something that was not part of the regulatory scope?

JOE POLLOCK (Deputy Administrator, Regulatory and Planning Services, Division of Public and Behavioral Health, Department of Health and Human Services):

Yes. We have looked at the cost of the medical marijuana card and how we can lower that cost, given the reserves currently in the program.

Going forward, we have many questions about the patient side of the medical marijuana program. There has been discussion to extend the life of a medical card to two or possibly three years. Doing so would cut our revenue significantly. There is also discussion to streamline the application process for a card and perhaps eliminate the rigors that include a background check. As we streamline the process, our staff does less work and we would need less staff. However, the revenues are unknown because if we lower the cost of the card and extend the life for a longer period of time, we could see our fee collections drop significantly. It is hard to predict at this point. Although there is a significant reserve right now that would do some good, I do not know how sustainable the reserve amount will be. I expect it will be much less than what has been generated to date.

SENATOR KIECKHEFER:

I have articulated the concern in the question. If we want to impose an excise tax to generate revenue to meet a public need that is one thing, but to keep a regulatory cost artificially high to meet that need is something else.

SENATOR RATTI:

I was confused at first when I thought you were talking about the regulatory process for the CPS funds and what was used. Now I understand you are

talking about the regulatory process for medical marijuana. That is an issue we can look into further. Your question gets to the point of will there still be leftover funds and if so, what should we do with them? Is that correct?

SENATOR KIECKHEFER:

And if we regularly generate excess funds, then the cost of regulation is probably overpriced.

MARLENE LOCKARD (Human Services Network):

Mental health services are a top priority for the Network within Washoe County. Consequently, we support S.B. 379 and any endeavor to get more dollars to needed services.

MS. COULOMBE:

Senate Bill 379 formalizes the process in place and secures in statute our current funding formula. We support allowing the counties to utilize these funds to better assist families.

SENATOR RATTI:

What was just said is exactly what we are trying to do. We are trying to simplify the current process. If we keep this funding in place, we should not lose money to a bureaucratic process. Let us get the money out to the counties and rural areas where it can be utilized quickly.

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CHAIR RATTI:
The meeting is adjourned at 5:14 p.m.

RESPECTFULLY SUBMITTED:

Colleen Lennox,
Committee Secretary

APPROVED BY:

Senator Julia Ratti, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	6		Attendance Roster
S.B. 64	C	1	Joe Reel	Work Session Document
S.J.R. 5	D	1	Joe Reel	Work Session Document
S.B. 126	E	4	Senator Aaron D. Ford	Proposed Amendment 3222
S.B. 126	F	1	Brian Reeder / Nevada Contractors Association	Written Testimony
S.B. 281	G	6	Mike Randolph / Homeowner Association Services, Inc.	Written Testimony
S.B. 281	H	1	Michael Buckley / Real Property Law Section, Common-Interest Communities Committee, State Bar of Nevada	Written Statement of Karen Dennison, Esq.
S.B. 281	I	4	Alex Ortiz / Clark County	Proposed Amendment
S.B. 342	J	2	John Leleu	Written Testimony of Senator Patricia Farley
S.B. 342	K	5	John Leleu / Livery Operators Association	Written Statement by Kimberly Maxson-Rushton and Proposed Amendment
S.B. 342	L	1	John Leleu / Livery Operators Association	Definitions
S.B. 379	M	1	Senator Julia Ratti	Written Remarks