

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

**Eightieth Session
April 9, 2019**

The Senate Committee on Government Affairs was called to order by Chair David R. Parks at 6:43 p.m. on Tuesday, April 9, 2019, in Room 1214 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 Melanie Scheible, Vice Chair
Senator James Ohrenschall
Senator Pete Goicoechea

COMMITTEE MEMBERS ABSENT:

Senator Ben Kieckhefer (Excused)

GUEST LEGISLATORS PRESENT:

Senator Marilyn Dondero Loop, Senatorial District No. 8
Senator James A. Settlemeyer, Senatorial District No. 17

STAFF MEMBERS PRESENT:

Jennifer Ruedy, Committee Policy Analyst
Heidi Chlarson, Committee Counsel
Becky Archer, Committee Secretary

OTHERS PRESENT:

Joe Neal, Elks Paran Lodge 1508
Shani Coleman, City of Las Vegas
Mary McElhone, Deputy Director, Planning Department, City of Las Vegas
Charles Barber, Elks Paran Lodge 1508

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Steven Conger, Nevada League of Cities and Municipalities
Mike Draper, Tahoe-Douglas Visitor's Authority
Lew Feldman, Tahoe-Douglas Visitor's Authority
Carol Chaplin, Tahoe-Douglas Visitor's Authority
Mike Bradford, South Tahoe Alliance of Resorts
Tim Tretton, MontBleu Resort Casino & Spa
John McLaughlin, Edgewood Companies
Mike Alonso, Caesars Entertainment
Joelle Shearin, Hard Rock Hotel and Casino; Paragon Gaming
Steve Teshara, Lake Tahoe South Shore Chamber of Commerce
Paul McKenzie, Building and Construction Trades Council of Northern Nevada
Aaron West, Nevada Builders Alliance
Bill Chernock, Carson Valley Chamber of Commerce
Jan Vandermade, Carson Valley Visitors Authority
Jeanette Belz, Nevada Chapter Associated General Contractors
Chaunsey Chau-Duong, Southern Nevada Water Authority
Jeff Haag, Administrator, Purchasing Division, Department of Administration
Aaron West, Nevada Builders Alliance
Angela Fuss, Lumos & Associates
Steve Hartman, Vidler Water Company
Dylan Shaver, City of Reno

CHAIR PARKS:

We will start with Senate Bill (S.B.) 498.

SENATE BILL 498: Revises provisions relating to certain tax-exempt organizations. (BDR 20-1082)

SENATOR MARILYN DONDERO LOOP (Senatorial District No. 8):

I am pleased to sponsor this bill. One of our former Senators, Joe Neal, will be in Las Vegas to help present this bill. I am here to present S.B. 498, which revises provisions relating to certain tax-exempt organizations.

Senate Bill 498 relates to a 501(c)(8) not-for-profit organization that receives tax exemption status by the Internal Revenue Service (IRS). This status applies to certain fraternal beneficiary societies, orders or associations. I will refer to these collectively as fraternal societies in my remarks.

According to the Internal Revenue Code section 501(c)(8), a fraternal society must:

- Have a fraternal purpose. This means that members are united through a shared pursuit or common ties and engage in common activities. Members have associated themselves in order to help each other and promote a common cause;
- Operate under the lodge system. The lodge system requires two entities: a parent and one or more subordinate organizations, each of which is largely self-governing and called a lodge; and
- Provide for the payment of life, sick, accident or other benefits. All members of the lodge system will ordinarily be eligible for benefits, though an association may establish reasonable criteria for excluding some members.

Sections 1 and 2 of this measure prohibit the board of county commissioners of a county or the governing body of an incorporated city from enacting or enforcing certain ordinances, making the operation of an establishment or place of business by a fraternal society unreasonably impracticable.

The term “unreasonably impracticable” means the measures necessary to comply with an ordinance impede the ability of an organization that operates an establishment or place of business to carry out its fraternal duties or require such a high investment of risk, money, time or any other resource or asset that the operation of the establishment or place of business is not worthy of being carried out in practice by a reasonable prudent businessperson.

Sections 1 and 2 of the measure also impose certain procedures for the board of county commissioners of a county or the governing body of an incorporated city to follow when proposing to take adverse action against a fraternal society.

The fraternal society must be notified in writing, specifying the grounds for the proposed adverse action. A time for a hearing on the matter must be fixed within five days after the notice, and the board must appoint a hearing officer to conduct the hearing.

An adverse action may only be taken against a fraternal society when the hearing officer determines the establishment or place of business has violated

an ordinance and the provisions of the ordinance did not make the operation of the establishment or place of business unreasonably impracticable.

Sections 1 and 2 of the measure clarify that the provisions of this measure do not prohibit an entity from enacting or enforcing an ordinance to address circumstances in which there is imminent risk of harm to the life of another person.

Finally, section 3 of the measure provides that a fraternal society may invite persons who are not members of the organization into establishments and places of business operated by the fraternal society. In addition, the fraternal society may engage in recruitment activities with such persons.

I ask for your support of this measure, which revises provisions relating to recruitment activities of fraternal societies. Joe Neal will speak to this issue.

JOE NEAL (Elks Paran Lodge 1508):

The Elks Paran Lodge is a 501(c)(8) not-for-profit organization. I will provide some history as to why this bill is necessary. As a 501(c)(8) organization, the Paran Lodge is allowed to have a restaurant and bar within our organization for our membership and guests. We have been established in this community almost 70 years. The lodge has been operating since about 1897.

This bill codifies a due process clause within the *Nevada Revised Statutes* (NRS). This process will require the police department or any other organization in the county or city to notify an organization of an adverse action before taking action and appoint a hearing officer to hear the case.

This bill does not terminate the police powers of any entity of the local government. It codifies in NRS the due process requirement related to adverse actions.

As an example, I have been a member of the Lodge since about 1963. One time, I was sitting in the Lodge and the police came in after an altercation outside. The police wanted to shut us down. I happened to be there and being familiar with the law and having an understanding of the nonprofit status of this organization, I asked the police officers to stand down. The police officers did, and I asked the officers to call their supervisor. The supervisor came over,

poked his head in the door and told the officers to leave because the officers did not have any reason to be there.

Over a period of time, the Paran Lodge has suffered from situations outside of the facility. Some altercations which developed outside the facility were wrongfully attributed to our Lodge. In one instance, a fellow from the neighborhood in which the Paran Lodge is located was shot in the middle of the street adjacent to the property. The City attributed the incident to the Paran Lodge even though it had nothing to do with our Lodge. The Paran Lodge was confronted with the fact that when the Lodge has guests or entertainment during meetings and other activities, the Lodge needs to bring in certain people as security forces to monitor and control our activities within the premises.

The Paran Lodge does not interfere with the police powers of the State. If the State or the Las Vegas Metropolitan Police Department (LVMPD) is following someone in a hot pursuit and the person runs into our building, by all means, we would help the police root the person out and find the person.

Over the years, the police department has indicated that it receives hearsay from the community about what is happening at our Lodge. The police department writes the information down, and in many cases, the information does not correspond to the records kept by the Paran Lodge. The Lodge keeps records of all adverse activities that happen in the facility. Records are kept in case of a lawsuit. Our organization wants to testify as to what those activities were. If an altercation occurs in the facility, we have people in the facility remove the person and write up a report. The Lodge has its own security.

There was a situation last year when the police department came in and shut the Paran Lodge down under the say-so of one lieutenant. The City kept the Lodge shut down, and we could not go into our lodge or meet our organizational and fraternal responsibilities for almost six months. That was wrong.

The Paran Lodge decided to seek this legislation to establish a due process requirement to notify the exalted ruler or the person in charge of any adverse actions and set up a hearing within five days with a hearing officer. This prevents the city council or county commissioner from making a decision based upon hearsay.

Another complaint heard within our organization is the Paran Lodge takes business away from other businesses. The Lodge does not advertise or go out and tell people to come to the facility. People come to the Elks Lodge as a result of it being in the community for such a long time. Back in the 1960s, when black folks had nowhere to go in terms of recreational activities, they came to the Elks Lodge. The Lodge allowed people to come in as guests and served them as guests in the recreational activities.

This bill codifies a process into law so the police will not have to look at the federal statute—Title 26 USC, which is the Internal Revenue Code—to find out what our organization stands for and who we are.

This also codifies into NRS a due process requirement allowing a person from a lodge the opportunity to testify as to what went wrong and state his or her side of the problem.

This opportunity did not exist before. Today's process is mostly a political situation when going before the city council or county commissioner. The city council or county commissioner is responding to people who vote for them. For example, the city or county might receive a complaint because of the number of people who show up to a facility. Sometimes, the Paran Lodge might have 10, 15 or 20 cars in the parking lot, but just 1 or 2 people may be sitting at the bar. The other people may be attending a meeting in the facility. Other establishments think business is being taken away from them and complain to the city or the county about this situation. This causes problems the Lodge has to confront, similar to last year when the Paran Lodge was shut down for about six months. The Paran Lodge reopened in November of last year and is now beginning to get back on its feet.

The Paran Lodge qualifies as an organization under 501(c)(8) because it has a parent lodge out of Winton, North Carolina. The Elks Paran Lodge is part of a large system.

Looking at the Internal Revenue Code, there is a difference between a 501(c)(8) organization and a 501(c)(10) organization. Our organization serves the community. The money the organization makes helps pay the expenses of the Lodge and also funds socially beneficial projects, such as a baseball team that serves Thanksgiving or Easter dinners to the homeless. The organization does not take a profit. This is a nonprofit organization and a person cannot

deduct money donated to a lodge. For example, if I give money to a lodge, it is a gift. Whether it is \$200, \$100 or \$1, it is not tax-deductible based on the 501(c)(8) status.

At the table with me is the Exalted Ruler of the Paran Lodge. I am the second in charge of the Lodge. The Exalted Ruler allowed me to speak on behalf of the Elks Paran Lodge.

CHAIR PARKS:

You referred to 501(c)(8) and 501(c)(10) organizations. I am not familiar with a 501(c)(10) organization. Do other fraternal orders use 501(c)(10) status?

MR. NEAL:

The Elks Paran does not. It is a 501(c)(8) organization as a subordinate lodge. The Elks Paran Lodge has a parent lodge in a larger system in which it reports to a national organization.

The difference between 501(c)(8) and 501(c)(10) organizations is the 501(c)(10) organization must be strictly domestic. Our organization is international. The Elks has organizations all over the world. Our organization does not qualify as a 501(c)(3) organization, which is tax-exempt. Our organization cannot keep any money for the organization but can pay the employees and expenses for maintenance and the like. The money does not go to profit the organization or leaders. Our organization is required to give the money to socially beneficial projects, and the organization reports every year to the Internal Revenue Service.

CHAIR PARKS:

Is your lodge a private membership organization?

MR. NEAL:

Yes, it is membership-based.

CHAIR PARKS:

Does your lodge open the door and let anybody off the street come in to enjoy the bar?

MR. NEAL:

Anybody who wants to come in can come in as our guest. The guests are subject to recruitment when coming into our facility.

CHAIR PARKS:

Are those off the street a guest of a member?

MR. NEAL:

The nonmembers are guests of the lodge and can be guests of the members.

CHAIR PARKS:

Other than the Paran Lodge, will this legislation apply to other fraternal lodges?

MR. NEAL:

Yes. All fraternal societies that qualify under 501(c)(8) are included in this bill. This is permissive legislation and the only change is the codification of the due process clause in terms of any adverse actions. It is only fair that people who run an organization be notified of a problem before the police come in wanting to close the organization down. This is what this bill is about: to notify individuals and allow the opportunity to explain their case.

The Elks Paran Lodge did not have that option last year when the Lodge was shut down. The Paran Lodge did not have the opportunity to question the complaints or provide evidence. This law allows the city or county to present complaints to a lodge and after such notification, set up a due process hearing with a hearing officer. The hearing officer will hear and present the findings to the county commissioner, city council or local government in charge.

CHAIR PARKS:

Are the Eagle Lodge and the Moose Lodge also 501(c)(8) establishments?

MR. NEAL:

Yes. The Knights of Columbus is also a 501(c)(8) establishment.

CHAIR PARKS:

You specify a five-day hearing process. Will the hearing officer be appointed by the elected body of the city or county?

MR. NEAL:

That is what this bill indicates.

SENATOR OHRENSCHALL:

Senate Bill 498 seems to be directed at boards of county commissioners and city councils to enact an ordinance that is targeting certain types of organizations. You mentioned numerous problems the Paran Lodge had with law enforcement. Do you think S.B. 498 will remedy those issues?

MR. NEAL:

Yes. It eliminates the issues in terms of the due process hearing. Once the due process hearing is codified into NRS, the process allows a person from a lodge to testify and give his or her side. This bill is not stopping the city or local governments from enforcing police powers. This is not the aim and purpose. This bill seeks a due process hearing.

SHANI COLEMAN (City of Las Vegas):

The City of Las Vegas fully cooperates with everybody's due process and constitutional rights. Our Deputy Planning Director from the City of Las Vegas will provide more details regarding our concerns with this bill.

MARY MCELHONE (Deputy Director, Planning Department, City of Las Vegas):

The City of Las Vegas has many licensed tax-exempt, nonprofit organizations. These organizations provide valuable services to our community in underserved areas and help members of our community who are on the margins or need a little hand up in life.

These nonprofit organizations usually hold a general business license, and the City rarely has issues with them. But here is where the strong opposition to this bill comes in. Many people do not realize a nonprofit organization may also engage in business activity beyond its nonprofit goals.

In the City of Las Vegas, several tax-exempt or nonprofit organizations also hold privilege licenses such as liquor, gaming or both. A privilege license is considered a license which has been found by the city council to require a high degree of supervision and to more seriously affect the economic social and moral well-being of the city and its residents.

The organizations the City has had problems with generally operate as bars for their members and guests. While most are not an issue, some nonprofit establishments have turned into hotspots for violent criminal activities when the locations are not properly run, kept secure and operate outside the scope of their licenses.

This past year, one location was closed by the Las Vegas Metropolitan Police Department on June 23, 2018, after an assault and battery occurred with a gun. This was after several violent events and multiple compliance issues. There were five previous stabbings, robberies, shootings and assaults starting in August 2017. From January 2017 to June 23, 2018, LVMPD had 78 service calls that the police responded to at this location. Eight educational meetings took place from October 2017 to April 2018 by the City of Las Vegas and LVMPD to educate the responsible individuals at the business before this final violent event.

Business license officers and inspections found various violations which included no responsible party on site, missing alcohol awareness and work cards, and an incomplete membership sign-in log.

During this period of shutdown, the Lodge was allowed to hold meetings required by its bylaws. After the establishment appeared before the Las Vegas City Council, the establishment was allowed to reopen with operational conditions placed on the establishment's license to ensure public safety.

The City does support these nonprofit locations. Just last month, the Las Vegas City Council voted to approve a nonprofit liquor license for the American Legion Post No. 10. This location was previously a Veterans of Foreign Wars (VFW) Post but had its club charter revoked by the VFW State Commander due to public safety and missing money concerns. The nonprofit organization later reopened as the American Legion Post No. 10 in 2012. After coming up with a viable security plan and presenting a plan to the city council to ensure public safety and legal compliance, the American Legion Post No. 10 was granted a nonprofit liquor license by the City of Las Vegas.

The City of Las Vegas is in strong opposition to this bill since it places restrictions on the City and LVMPD to enact or enforce certain ordinances. There are four main points.

First, LVMPD and the City may do an emergency closure for the immediate preservation of public peace, health and safety per existing ordinance. This proposed bill would restrict LVMPD or the City by saying an emergency closure can only take place if there is imminent risk of harm to another person's life. Someone's life must be in danger for LVMPD or the City to do an emergency closure. In the case of the closure mentioned earlier, the shooting and attempted murder had already taken place. The establishment was closed because there was a continued public safety issue.

The second point is, normally, issues with licensed locations must appear before the city council. This bill says the hearing will take place before a hearing officer. This bill cuts out our city council members as part of the process to hear troubled locations. The city council members are our elected officials designated by our citizens to oversee the city and should have the authority to partake in the process.

The third point is conditions are placed on a license by the city council as deemed necessary. As the case with the two troubled locations just mentioned, conditions were placed for public safety reasons. This bill states a city cannot enact or enforce any ordinance that is unreasonably impracticable. Sometimes, the conditions placed on a license can cost a business money, such as improving the lighting in the parking lot, installing security cameras or requiring licensed security staff. Section 2, subsection 5 of this bill creates an argument that these mentioned safety measures might be considered unreasonably impracticable since the measures would cost a business a lot of money. Three of these conditions mentioned were placed on two troubled locations' licenses. However, these measures are known to increase and improve public safety.

The fourth point is the City has a specific liquor license for nonprofit clubs which is available to nonprofit clubs for a fee of only \$2,000, and the clubs do not need to worry about land-use restrictions. The nonprofit clubs do not need to go to the planning commission, and the clubs do not have to worry about any distance separations. It allows the sale of liquor to the nonprofit club's bona fide members and its guests only. A normal tavern license is \$75,000 and requires land-use approval with distance separations from other uses. Nonprofit liquor license locations are not allowed to operate as traditional bars open to the public. Section 3 of this bill says a corporation that qualifies as a tax-exempt organization may invite persons who are not members of the organization. This

section clearly circumvents the whole intent behind the City allowing these nonprofit clubs liquor for its club members for a nominal fee.

Any location serving liquor, whether tax-exempt or not, can run into public safety issues, and the City of Las Vegas has a responsibility to protect its citizens. Per NRS 268.003, the City considers this a matter of local concern since it affects persons who reside, work, visit or otherwise are present in these areas located within the City. The City of Las Vegas strongly opposes this bill as it seeks to control laws which may affect public safety.

SENATOR OHRENSCHALL:

With the way the bill is drafted, if the hearing officer were to rule against the City, do you not envision having an appeal process to the full body of a city council?

Ms. McELHONE:

The way the bill is written, the governing body has to serve a five-day written notice and then the action will go before a hearing officer. The bill circumvents bringing the adverse action before a city council.

SENATOR OHRENSCHALL:

If a city or lodge were to lose in front of the hearing officer, you do not believe the way S.B. 498 is written that either party will have the opportunity to appeal to the full body of a city council?

Ms. McELHONE:

The bill indicates the hearing is held before a public hearing officer with no opportunity for an appeal. Usually when our laws and city ordinances are written like this, the only option is for the appeal to go to district court.

CHARLES BARBER (Elks Paran Lodge 1508):

The Elks Paran Lodge was shut down with an ordinance which did not appear on the application for the license held by our organization. "We were shut down with a number of, I believe, 608, which we could not find any documentation." The Lodge was shut down and had ten days to respond. In this ten-day response period, there was no documentation to be found. When we went to court, the City's attorneys had problems coming up with the actual bill the City used to shut the Lodge down.

This example is exactly why our organization needs this bill because there was no communication. The City could not give us the proper ordinance number that our organization needed to pursue in order for an attorney to file an appeal in a timely manner.

Our request for a hearing was dropped because it was not filed within the ten-day period. Our organization went back to court and received the same response that the appeal was not filed in a timely manner, which was an additional ten days. This bill is needed to give us a fair shake and to ensure that, if there is a problem, our organization receives due process. This bill will allow our organization to move forward and everybody will be on the same page.

STEVEN CONGER (Nevada League of Cities and Municipalities):
We oppose this bill on the principle that we oppose anything that diminishes or removes local government authority.

MR. NEAL:

As I indicated, this bill codifies a due process measure into local government ordinances when the governing body wants to close a 501(c)(8) organization. It does not take away police powers. This bill ensures our organization is able to state its side as to what happened when complaints are filed, rather than going before a county commissioner or city council whereby the elected officials have been talking to someone in their district who is saying that our organization is taking business away from them. This is what our organization is up against.

Our organization has been confronted with this problem for quite some time. People have been talking in the community. Our organization has been in this community for over 70 years and is just now beginning to receive these complaints. There were two additional Elk Lodges in the area. Both lodges were closed down. The Paran Lodge is the oldest one. "We started out as the Silver State Lodge, but we reincorporated in 1961 as the Paran Lodge of this particular area, and we have been in operation ever since then."

That was done during the segregation period. When I was a teenager in this city, I used to go down to D Street where the lodge headquarters was located. I could not go inside because teenagers were not allowed to enter when there were dances and such things. There used to be a white Elks lodge and a black Elks lodge. The lodges are now integrated. We are all one entity and serve one organizational purpose.

Our organization does not interfere with the police powers of the State, county or city. The governing body can still exercise those particular powers, but we ask that those powers be exercised within the framework of due process. Let our organization know what is happening.

As a nonprofit, tax-exempt organization under the Internal Revenue Code 501(c)(8), our organization is permitted to have a liquor bar, a restaurant and any other legal activity, such as gaming, in our business. The City states our organization needs to meet other requirements. Our organization is not saying it wants to avoid them. Our organization is saying if there are any problems, let us know about the problems. If our organization is going to be shut down, then give us a reason why. The City cannot just come in and shut us down without any particular reason, and this is what is happening.

The ordinance the City cited was about a violation of the public health and welfare or something of the sort. I do not recall the exact language. The City left it up to one police officer to make the determination. The City delegated the authority to which we are saying, "No, that should not be the case."

"If you are going to shut us down, close us down as a lodge, then make sure that we are notified and then give us an opportunity to state our side of the case. That is the only thing we are asking for in this particular bill."

The City talked about the guest list. Our organization is permitted to have invited guests as a 501(c)(8) organization. When people are in the facility, a security system is in place. Now the City is stating more security is needed. It is understood when groups of people get together, there might be some type of altercation. The Lodge limits altercations by having an electronic monitoring system which members and guests have to pass through. If a person entering has any weapons, the person is notified and searched. But, what the City has done to our organization in this regard is to allow the police to determine who comes in to the Paran Lodge, who the Lodge may recruit and then require the Paran Lodge to give the police a list of those people. That is wrong.

No organization has done that. "We've had reputable people that have been part of this organization, like Martin Luther King, Thurgood Marshall, Ralph Bunche and myself." These people have all been a part of the Elks Lodge, and I am still part of it and have been since 1963.

The Paran Lodge did not have any problems until people started complaining about seeing a lot of cars parked outside our establishment and thinking the Paran Lodge was taking business away from other businesses. The Paran Lodge is not taking business away from any other business. Two or three people may be at the bar, and the others are in a meeting room. The Lodge offers recreation activities for members and guests, and the City wants to control this.

Las Vegas Mayor Carolyn Goodman voted in favor of the Paran Lodge staying open. Las Vegas City Councilman Bob Coffin was also in our favor. One person who ran for the district had been talked to about our organization taking business from certain other establishments. Our organization does not do that. Our organization serves the community, which is all we want to do. Please permit us to do that.

CHAIR PARKS:

We are closing the hearing on S.B. 498 and opening the hearing on S.B. 461.

SENATE BILL 461: Revises provisions governing the Tahoe-Douglas Visitor's Authority. (BDR S-733)

MIKE DRAPER (Tahoe-Douglas Visitor's Authority):

We thank Senator Parks for his work on this Committee and also on the Tahoe Regional Planning Agency subcommittee which led to this bill and Senator James A. Settelmeyer for his ongoing work on Tahoe issues as well. Senate Bill 461 is a bill about economic development. It is an exciting project which is the result of a lot of hard work, research and data compilation that we will share in a top-line format.

I will give a quick background of the Tahoe-Douglas Visitor's Authority (TDVA). The TDVA was set up in 1997, established by the Nevada Legislature in a statute separate from any of the other convention and tourism authorities in the State. It was set up to recognize the unique situation the Douglas County portion of South Lake Tahoe is in. The area is within the Tahoe Township in Douglas County on the Nevada side and delineates the valley portion of Douglas County from the lake portion of Douglas County.

The primary source of TDVA's revenue is its share of the 10 percent hotel room occupancy tax and the 4 percent lodging licensing fee imposed in Douglas County.

Unlike most tourism authorities in Nevada and elsewhere, TDVA does not have bonding authority. That is part of what is addressed with S.B. 461. Also, with the Tahoe-Douglas Visitor's Authority Act—the legislation which created the TDVA—the Visitor's Authority is authorized to fund the planning, construction and operation of a convention center in the Tahoe Township. A convention center of this magnitude does not exist. This bill proposes to change this.

Senate Bill 461 is supported by a robust coalition of several different entities and groups. The TDVA will build a year-round entertainment events and convention center which will tremendously add to the overall quality of life and economic health of Douglas County as well as the entire Lake Tahoe Basin.

I am joined by Carol Chaplin, TDVA Executive Director, and Lew Feldman, TDVA counsel, who will give an overview of this project.

LEW FELDMAN (Tahoe-Douglas Visitor's Authority):

This project has been in the works for about ten years. The Authority has a presentation covering the overview of this project that I will be referring to ([Exhibit C](#)). The TDVA was formed in 1997 and its Advisory Planning Commission exists not only to promote tourism but to design, plan and develop an event center.

Referring to page 3 of the presentation, South Lake Tahoe has experienced a staggering economic decline over the last 20 years. The chart demonstrates our gross gaming dollars in 2000 were about \$350 million per year, and that has declined to about \$200 million per year without adjusting for inflation. This is a staggering decline, and there is a fairly obvious answer to that. The pie chart shows in 2001, tribal gaming commanded about 89 percent of the California and northern Nevada market. Tribal gaming has expanded dramatically at our cost. South Lake Tahoe casinos went from 11 percent of the market in 2001 down to 2 percent in 2018. There is no opportunity to regain that market share because people drive by newer, better casinos on their way to Lake Tahoe. The gaming world and our economy has changed.

The decline in economy is also evidenced by the fact that in 2000 the assessed value in the Casino Core was \$142 million with a decline to \$84 million over the same horizon shown on page 4.

The problem has been compounded and mirrored by the fact South Shore casinos used to have 10,000 employees in the Casino Core at peak time, and the number is down to about 3,000 employees as shown on page 5.

Referring to page 6, this level of economic distress resonated with the Douglas County Board of Commissioners. In 2016, Douglas County determined the Casino Core area was blighted. In accordance with NRS, the County formed Redevelopment Area No. 2, recognizing that an event center could be the catalyst to help reverse this economic decline.

Referring to page 7, the market and our visitors are gravitating toward recreation and entertainment. Gaming has become an amenity and no longer the main attraction. We are building on recreation and entertainment.

Moving to page 8, South Shore has had great success with entertainment. The Harvey's Lake Tahoe summer outdoor concert series has rung the bell on the 10 or 12 nights a year when they have world-class entertainment. Beyoncé, Elton John and Lady Gaga have all performed in the concert series. When that happens and those seats are filled, gaming revenue, food and beverage, retail sales—everybody prospers. South Shore has a seasonal market, and this outdoor opportunity is limited.

Moving to page 9, South Shore resorts are also subject to the spring and fall shoulder seasons and periods of weakness midweek. The Visitor's Authority commissioned an analysis demonstrating the meaty months are April, May, October and November. Those months are big convention and trade show opportunities when lots of inventory exists. This is not ski season or summer season.

Reviewing pages 10 through 14, if South Shore had an event center, it could host an array of events year-round, ranging from sports tournaments to 6,000 seats for concerts and banquets to trade shows, entertainment events, and family-friendly events. That is the market South Shore is unable to serve for which it does not have a facility. South Shore's largest showroom seats about 1,200 people.

Moving to page 15, the TDVA commissioned a study from Economic & Planning Systems, Inc. that demonstrated this event center could alter South Lake's revenue by about \$60 million per year.

Moving to pages 16 and 17, before identifying where this facility might go, our gaming partners Harrah's, Harvey's, Hard Rock Hotel and Casino, and MontBleu Resort Casino commissioned a study because the closer one might be to such a facility, the more benefit one might derive from such a facility. Our partners are aligned on this measure. The recommendation involves the surface parking lot at MontBleu—as shown in the lower left-hand corner of page 17. This is the gateway as one enters from Nevada into the Casino Core.

Page 18 shows the existing condition of the MontBleu Resort Casino and Spa. The mentioned corner is relatively flat with about 1,500 parking spaces at MontBleu. At peak times, whether when South Lake had a sold-out Who concert or a full Saturday night in August, only about half of those parking spaces are occupied because of the change in the market.

Page 19 shows real estate is available to accommodate this event center. The proposed project will include an approximate 130,000 square-foot multiuse event center to accommodate the array of activities described with an outdoor plaza and lawn area for prefunction activities to be held as well. This project will be a catalytic change for the market.

Page 20 shows what the facility will look like if a person is coming from the California side toward the MontBleu corner.

Page 21 shows what the facility will look like as a person enters into the Casino Core from the Nevada side. The facility will be a gateway point of arrival that is breathtaking.

Looking at page 22, notably, the almost 5-acre site would be contributed by private ownership. There is no land cost to develop this facility.

The facility is designed to accommodate up to 6,000 seats for an indoor concert, as shown on page 23. The analysis is the event center may hold as many as 30 concerts year-round. The bulk of the events—an additional 100 events—could be an array of sporting events, conventions, trade shows and exhibitions. The layouts are shown on pages 24 and 25.

Page 26 shows what the facility would look like if the architecture that is contemporary and reflective of its mountain environment was stripped away. About a year ago, the estimate was \$80 million in construction costs. Sadly,

that estimate is probably light today. The economic boom has had a significant impact on labor and materials, and the current estimate is closer to \$90 million.

As shown on pages 27 and 28, we propose with S.B. 461 to authorize TDVA to issue municipal bonds. Three funding sources will exist with two already in place. Because Douglas County already formed a redevelopment district, the traditional redevelopment opportunity exists for tax increment financing, which is about 25 percent of the total budget. Then there is a lodging license fee TDVA could bond against, which is roughly another 20 to 22 percent of the total budget. The key to the solution is to request a \$5 per night room surcharge which will generate about \$50 million in proceeds and will get us to the number required to make this a reality.

This surcharge is not unique to this destination. Reno has a similar surcharge which helps fund its convention and event center. South Shore is not in competition with Reno, by the way. We are synergistic. Creating a destination in northern Nevada is mutually beneficial to our partners in the Washoe County area.

Page 29 demonstrates our gross bonding capability is about \$100 million. After interest reserve and cost of issuance, it would be about \$91 million available for us to facilitate the construction of this facility.

The TDVA is cautiously optimistic that the event center could be under construction as early as one year from now. The construction would be in conjunction with another project, which is sometimes called the Loop Road Project shown on page 30. We have spiced the name up, and now we call it the U.S. 50/South Shore Community Revitalization Project. This project will narrow the five-lane highway through the Casino Core and route traffic along the mountain side of the Casino Core. The project will dramatically change the streetscape, as shown on page 31, to create a pedestrian-friendly walkable streetscape. For those familiar with South Shore, the California side has done a significant transformation with Heavenly Village which has inured hugely to the benefit of our partners in the City of South Lake Tahoe. We would like to marry the two as it is one economy at the end of the day at the core in South Shore.

This U.S. 50 project will transform the five-lane, blank-wall opportunities shown on page 32 to something similar to what is shown on page 33 which will animate the street, create a multimodal opportunity and a more user-friendly

opportunity. The U.S. 50 project will complement the event center in which the whole is greater than the sum of the parts.

Page 34 shows the existing condition of the corner on Highway 50. With the Loop Road Project and the event center, page 35 shows the signature gateway to the Casino Core as proposed in these projects.

These changes are an exciting opportunity. The TDVA has canvassed the interested properties within the Tahoe Township, including every form of rental such as timeshare and vacation rentals. We think the Airbnb folks also recognize the benefits of this project. We have not encountered any pushback whatsoever. Everybody in the lodging business appreciates that this will create jobs, visitation and prosperity.

Mr. Draper will highlight provisions of the bill. We have proposed some revisions, one of which is the removal of investing TDVA with the power of eminent domain. This is not a project requiring eminent domain power and TDVA is pleased to see that deleted from the language.

MR. DRAPER:

We submitted an amendment ([Exhibit D](#)) which we circulated around all interested parties. Everybody has been open to the amendment. I will work from the amendment which streamlines the bill and clarifies issues and questions that came up early on. I will give the highlights using the amendment if that is acceptable to the Committee.

CHAIR PARKS:

That is appropriate.

MR. DRAPER:

As you heard, in order to construct the \$80 million facility and drive the \$60 million in new annual economic activity, the TDVA is requesting the ability to issue debt securities and impose a \$5 per night surcharge for the rental of lodging in the Tahoe Township. The tourism surcharge will not be applied on any lodging or room nights given to a guest free of charge. This policy mirrors other surcharges around the State.

The bill also grants the TDVA the ability to issue bonds and securities which are secured with the revenues from the occupancy tax and tourism surcharge and payable from the operations of various facilities.

The Douglas County Board of Commissioners will collect and administer this surcharge and remit the funds to TDVA, much the same way the Board handles the transient lodging tax.

This bill will go into effect on July 1. This bill is unanimously supported by the resorts in the Tahoe Township as well as many other business and entities in Douglas County.

Incidentally, A.B. 98 is a companion bill that passed out of the Assembly unanimously yesterday. That companion bill, which will eventually be heard in this Committee, supports this bill and gives the TDVA the right to operate an event center. Right now, statute states the TDVA can operate and run a convention center. We want to clarify that the event center can also be used as an entertainment venue.

ASSEMBLY BILL 98: Revises provisions relating to the convention center to be planned, constructed and operated by the Tahoe-Douglas Visitor's Authority. (BDR S-440)

CHAIR PARKS:

The origin of A.B. 98 came from the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System.

CAROL CHAPLIN (Tahoe-Douglas Visitor's Authority):

As the President and CEO of the Tahoe-Douglas Visitor's Authority for the past 11 years, my position makes me an obvious proponent of the event center project and of this legislation which is the hinge pin of its eventual realization.

You heard from Mr. Feldman what this project has the power to do in the way of destination transformation. It will impact our residents with new jobs, our visitors with new entertainment opportunities and our economy with up to \$60 million-plus annual revenues, which most importantly will be generated during the elongated shoulder seasons our mountain town braces itself against each year.

With the decline of gaming as the main source of visitor attraction and subsequently of jobs, this is a competitive game changer for not only the Tahoe Township but our county and region. No year-round facility in Lake Tahoe can offer what the event center will offer. More importantly, we have the support of all our resort hotels, our smaller properties and lodging management companies. When we met with our constituents, we did not encounter negative feedback or opposition to the proposed surcharge. Not only are some of our lodging partners here this evening, but you have received written testimony from several of them.

Additionally, over a dozen property management companies were contacted in our outreach. As well, the Lake Tahoe Visitors Authority, which is recognized by the TDVA as its destination marketing organization, has already established a designated fund of over \$1 million for advance promotion of the event center when it breaks ground. In summary, there is a groundswell of support for the TDVA in this new capacity and for the event center, the approach to funding the construction and an enthusiastic anticipation for its impact on the community.

You will hear from some of these advocates who will focus on what is most important to them. Thank you for your consideration of S.B. 461.

SENATOR GOICOECHEA:

In looking at the amendment, will all the rooms on the California side and the Nevada side have this \$5 fee imposed or just the Nevada side?

MR. DRAPER:

The room surcharge will be limited to the "Tahoe Township" which is defined as the Nevada part of the Douglas County portion of South Lake Tahoe. It will include short-term rentals, resort hotels and anything in the Tahoe Township which is just the Nevada side.

SENATOR GOICOECHEA:

Will the existing room tax be used to cover this bond?

MR. DRAPER:

We will have the opportunity to bond against our current room tax. The tax will be used in some capacity. This bill will be the basis of about 55 percent of the funding.

SENATOR OHRENSCHALL:

When do you forecast the bonds would be repaid?

MR. FELDMAN:

There will be two forms of bonds. The primary bond will have a 30-year term. The tax increment bond through Douglas County will be lower—closer to 27 or 28 years—because the redevelopment district Douglas County formed is already a couple of years into its term.

SENATOR OHRENSCHALL:

It looks like there will not be as much parking. Do you think there will be enough parking for people who want to come to a concert or sporting event?

MR. FELDMAN:

In anticipation of addressing this issue, we counted cars during peak times. We learned that at a peak event, such as a Lady Gaga or other summer concert, we have 8,000 parking spaces in the Core. We have occupied 5,000 parking spaces during the peak events. There is a surplus at peak times of 3,000 parking spaces. The MontBleu property may be at capacity because of its proximity to the event center. The adjacent supply is more than adequate to accommodate the demand.

SENATOR OHRENSCHALL:

For the last two decades, there has been hope that the Winter Olympics will come to this part of the world. If that were to happen, do you see the event center being able to host events as part of that venue?

MR. FELDMAN:

We would love to be the host of the Winter Olympics, and this facility could be where the ice events are staged. It is designed to accommodate both hockey and ice performing.

CHAIR PARKS:

Will Airbnb short-term rentals be required to pay the \$5 fee in addition to the hotels and other rental properties?

MR. DRAPER:

Yes. All short-term rentals in the Tahoe Township, which includes Airbnb, vacation rentals, condos and hotel rooms, will be required to pay the fee. We

have talked with those parties and most have expressed support. The ones who did not express support just wanted clarification and, hopefully, will be here supporting the bill. We have not heard concern over that as the parties were open to the idea and just wanted clarification. We are also working with labor and hope to gain support of labor on this issue as well as real estate agents and builders on all different facets for this bill.

CHAIR PARKS:

The majority of individuals participating at various events will be residents within the hotels, either in Lake Tahoe or across the state line in South Lake Tahoe. The issue on parking is probably a minimal concern.

MR. DRAPER:

Extensive studies were done on the parking issue. Senator Settlemeyer pointed out there is a multilevel parking facility at MontBleu Resort with additional parking. The available parking is not a concern. As Lake Tahoe has become more accessible for a variety of transit means, we do expect a lot of people who attend this facility will undoubtedly be coming from hotels and resorts where the attendees are parked and effectively coming over by Uber or other means.

SENATOR GOICOECHEA:

Under room tax statutes, transient lodging tax applies for under 30 days. Since that is already law, the \$5 fee could also be applied. I am concerned about the parking. I have been in Tahoe when there was two feet of snow in an outside parking lot and it becomes a little hard to get out of Dodge.

MR. DRAPER:

Several resorts are represented here tonight. The resorts share the concerns about transit and parking in Lake Tahoe. The resorts are supportive and are part of the process to make sure this project is the right size for the community. Rather than take it from me, I am sure Mr. Feldman could add to this. The resorts will also come to the table and be better off to address this as well.

CHAIR PARKS:

We constantly hear the word Tahoe Township. In Nevada law, a township is a judicial district. For this discussion, "Tahoe Township" is a geographic boundary which encompasses the establishments that will be contributing toward funding this event center or paying the \$5 fee. Am I correct?

MR. DRAPER:

You are correct. Tahoe is an established township judicial district with a judge and a constable. The township is just the Douglas County portion of Lake Tahoe. It does not include Incline Village. It is just the portion of South Shore that is in Douglas County.

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

I have represented the Tahoe portion of Douglas County for over a decade. I support the project and the concept going forward. We know the effect tribal gaming has had on this northern Nevada region. In reality, as we have seen from being on several tours of Tahoe during the Interim, we need to diversify. We need to find different ways to bring people in, and we cannot rely on gaming alone to do it. We need event centers. I have been supportive in the past of different projects we have done across the State to do things to diversify. This is another thing to do just that.

As far as the parking area where the event center will be located, nobody parks in that location in the middle of snow storms because it is too far to get from there without slipping and falling. Most people prefer to park in the multistory parking structure at MontBleu. When it gets cold, people park in the covered parking or go to another casino. Generally, I do not see people parking in that area.

MIKE BRADFORD (South Tahoe Alliance of Resorts):

I am in support of S.B. 461. The South Tahoe Alliance of Resorts is comprised of the primary resorts at South Shore including the Caesars Properties, Harvey's Lake Tahoe, Harrah's, Hard Rock Hotel and Casino, MontBleu Resort Casino and Edgewood Tahoe. In addition, it includes Heavenly Mountain Resort—the Vail Resort Property at South Lake Tahoe—and the Lake Tahoe Resort Hotel which are on the California side. Our organization represents all the largest resort properties at South Shore. Our members support this bill.

The presentation is exciting for us. We have worked on this for many years and see this as a transformative project for South Shore. This project combined with the infrastructural project which was depicted—the revitalization of the U.S. 50 corridor—will take South Shore into a new world of destination tourism, where we can rely on gaming but have year-round entertainment to support our businesses and community.

We are happy to be here tonight to talk with you. The work that has been done is extensive, and Mr. Feldman's presentation did a wonderful job of explaining the economic reasons and benefits to our community. This is also good for our environment. The type of redevelopment it will create will cause new projects to be built at Lake Tahoe which will further replace and improve the existing construction that is outdated to a great extent.

I am introducing Tim Tretton who is the General Manager of the MontBleu Hotel.

TIM TRETTON (MontBleu Resort Casino & Spa):

I will not rehash what has already been said. Mr. Feldman, Mr. Draper and Ms. Chaplin did an excellent job of articulating the reasons why this event center is important. As Senator Settlemeyer stated, we need to diversify our economy. It is vital. When property worth goes down 40 percent, it is not good for anybody.

We are in favor of the event center. Since the facility is being built on our property, it will certainly help us. We are also in favor of the \$5 surcharge. It is critical we get this facility built for long-term economic health. It creates jobs, additional room occupancy and room tax. There is not a downside to this project, whatsoever.

There was a question about parking. We will lose a total of about 400 spaces. We have plenty of covered parking. We are at full capacity in our parking lots maybe four or five times a year. This will not be an issue.

JOHN McLAUGHLIN (Edgewood Companies):

Edgewood is heavily invested in the Stateline area, running a top-100 golf course luxury hotel, owning several undeveloped land parcels in the basin and as the MontBleu Hotel Casino landlord.

Edgewood fully supports S.B. 461 which will significantly change the marketability of the Casino Core. In conjunction with the U.S. 50 revitalization, it will not only beautify the corridor and increase visitor demand, but the projects will result in environmental improvements to the lake. It is rare to have a win-win like this for the business community, the environment and the local community to be proud of. Edgewood Companies is proud to support S.B. 461 to make these projects a reality.

SENATOR GOICOECHEA:

Although it has been a decade or more since I have been through that area hauling hay, there used to be truck traffic going through the area. Will there be a truck route around that area?

MR. BRADFORD:

Yes. The purpose of the U.S. 50 revitalization project is to take the through traffic that goes through the Casino Core and route it around the mountain side. This will take the commercial traffic, and a lot of other traffic too, out of the Casino Core. That is part of the point about the environmental benefit. It is not just about tourism. It combines other benefits to make this project more viable.

MIKE ALONSO (Caesars Entertainment):

Caesars Entertainment owns the Harrah's and Harvey's resorts in South Shore. We support S.B. 461. I will not reiterate the presentations provided by previous speakers. The multipurpose event center is a project we need as soon as possible. It will help the region, the Casino Core and Douglas County from an economic development standpoint. We support the project and the surcharge. This project is desperately needed for this area.

JOELLE SHEARIN (Hard Rock Hotel and Casino; Paragon Gaming):

On behalf of Diana Bennett and Scott Menke of Paragon Gaming, we are in support of S.B. 461. We ask that the construction proceed on the event center. The event center will be catalytic to the redevelopment and reintroduction of the Casino Core, bringing new visitation year-round. New visitation is the critical part by bringing the visitors to see concerts, sporting events and other types of theatrical performances. Paragon welcomes the event center as it will be a destination on the north end of the Highway 50 casino corridor. This visitation will allow Hard Rock and other casino properties which are represented here to create new business opportunities and generate additional revenue which we desperately need. It will also create enhanced job opportunities in Stateline.

Thank you for your consideration and support. We appreciate this important strategic initiative.

STEVE TESHARA (Lake Tahoe South Shore Chamber of Commerce):

We are the groundswell referenced earlier. Not only are we proud to represent the resorts which are here tonight as part of our membership, but we represent

businesses throughout the community. Small, medium and all businesses will benefit from this project.

Regarding the U.S. 50 Revitalization Project and the artist's rendition of the entrance to the South Shore casino resort area, it is a beautiful upgrade from what we have today. It is exciting that all our businesses will basically benefit as a rising tide floats all boats. There is a tremendous amount of excitement for both the U.S. 50 project and this great anchor as we enter from Nevada into the Casino Core. It will be a tremendous revitalization which is long overdue.

Thank you for the support of the bill along with the amendments presented by Mr. Draper.

CHAIR PARKS:

As a person enters South Shore from Carson City, a person will enter through a roundabout feature which will welcome the community. If the person's interest is to bypass both the Nevada and California sides of South Shore and keep on going, there will be a route on the mountain side which will redirect a person away from the traffic associated with the businesses in the South Shore and South Lake Tahoe area.

PAUL MCKENZIE (Building and Construction Trades Council of Northern Nevada):
We rise in support of S.B. 461. Our members build a lot of the buildings in South Tahoe. We look forward to helping the convention center meet the stringent schedule that will be required to complete this project given the weather situation in Tahoe and the timelines the convention center will face.

This bill will create good jobs. It will also bring economic development to the region.

AARON WEST (Nevada Builders Alliance):

On behalf of the 850 member companies representing the construction industry in Nevada as a whole, we support S.B. 461. We are proponents of economic development and the impacts that can have on our communities.

BILL CHERNOCK (Carson Valley Chamber of Commerce):

We are the East Fork Township portion of Douglas County. I echo all the sentiments presented by my colleagues. We are in full agreement. This project and the activity it will generate will not only benefit the Tahoe portion of

Douglas County, but it will benefit the valley portion as well. Thank you for the opportunity.

JAN VANDERMADE (Carson Valley Visitors Authority):

We are in the East Fork Township of Douglas County. We have 16 lodging properties in the area. I am in full support of S.B. 461. I have the benefit of living and working in this area for quite some time. For 25-plus years working in and around South Lake Tahoe, 10 of those years were spent working for the Marriott Hotels—the two Marriott projects from the startup. At the time, there was another event center contemplated across the street on the California side. The economy went south and it was not able to proceed at that time. The excitement here is the ability to make this happen in Nevada to benefit the economic environment in Nevada.

I also serve on two boards in the area. One is the Reno-Tahoe Territory and the other is the Regional Air Service Corporation which develops air service in and out of this area through the Reno-Tahoe International Airport. I am certain both of those organizations will see the benefit of the economic impact.

In the local lodging area for Tahoe, we find many events that occur in Lake Tahoe where people want to base themselves in Carson Valley. This does not necessarily compete or take away from Tahoe. It is supplemental. We benefit from it and see the positive economic impact.

One benefit that needs to be emphasized is the year-round benefit. The capability to go indoors cannot be understated as to the value of this strategic direction contemplated with this bill. From my career, both in Tahoe and the Carson Valley, a key is to balance out the visitation through the soft-shoulder season as well as through winter and summer.

Douglas County benefits from this project and so will the broader northern Nevada region. Equally, this bill offers an alternative which diversifies any bond funding by placing a reasonable portion of this obligation on visitors. On behalf of the Carson Valley Visitor's Authority, we support the direction proposed in S.B. 461.

MR. DRAPER:

Eight years ago, I was in this same room working on Tahoe issues with many of you. We have dealt with a lot of issues related to Tahoe over the last decade

and more. A lot of those issues and conversations led to this project—a comprehensive project dealing with transit, economy and upgrading the environment. There is even an affordable housing component to the Loop Road Project which includes building 200 low-income housing units. These projects will better the quality of life and the region's economic health. We are excited and encourage your support of S.B. 461.

CHAIR PARKS:

We received written testimony in support of S.B. 461 from Marlena Freitas representing The Ridge Resorts ([Exhibit E](#)) and another from Bill Henderson and Matt Carter representing Carson Valley Inn ([Exhibit F](#)) who did not have a chance to testify tonight. We will close S.B. 461 and move on to S.B. 180.

SENATE BILL 180: Requires certain contractors to post a performance bond before being awarded by a governmental entity certain contracts related to information technology. (BDR 27-739)

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

I am presenting S.B. 180 and will work off the amended version ([Exhibit G](#)). There is one additional amendment which we did not include, as of yet, to limit the scope of S.B. 180. The local municipalities had concerns in how the bill might affect them due to the limit. The bill will only affect the larger counties, but I understand the larger counties' concerns.

Bonds exist in most traditional building-type projects to ensure individuals are able to successfully get projects done. This bill creates a special bonding authority in relation to IT-type projects. Issues have occurred in this State when we do not bond IT projects and things go wrong. That is what this bill addresses.

I am turning the presentation over to Jeanette Belz to give the specifics.

JEANETTE BELZ (Nevada Chapter Associated General Contractors):

Without naming specific projects, large projects have been done by State agencies in regard to information systems over the years. Some projects did not have good outcomes. When a group of contractors sit in a room and get frustrated by poor outcomes, particularly if there is an impact on the Highway Fund, the contractors wonder why bonds are not required for IT-type projects when bonds are put forth with public works projects.

The original bill required bonds for IT projects of \$10 million or greater. Subsequently, we heard from the Department of Motor Vehicles (DMV) and the Department of Public Safety (DPS), both of whom are contemplating large projects at this time. The departments came up with the alternate amended language which I will review. The \$10 million will stay the same but will give two options: one, a 10 percent holdback or retention on the project until the final acceptance of the final project solution; or two, a performance bond of not less than 100 percent of the service component of the bid and not less than 20 percent of the hardware component conditioned on the faithful performance of the contractor.

The bond would remain in effect until the acceptance date of the information system. The "acceptance date" is further defined in [Exhibit G](#), section 3, subsection 6, paragraph (f).

The bill will require the contracting body to enter into a service-level agreement with the IT contractor. The agreement will outline the expected level of service throughout the life of the project, specific benchmarks that need to be met and penalties for not meeting the benchmarks.

In addition, the State agency contracting body will be required to report to the Interim Finance Committee on a quarterly basis in regard to the project's progress.

We are grateful to DMV and DPS for coming forth and working with us. This adds another layer of protection to the State for these projects. I have a letter of explanation from the DMV in terms of what the agency worked with us on this bill ([Exhibit H](#)).

Senator Settlemeyer mentioned the proposal to restrict this to State IT projects, removing local governments from the requirement.

CHAIR PARKS:

Will the bill have a negative impact on potential vendors submitting bids for these large projects? Sometimes, getting a bond costs upfront money. Is this a performance bond on the successful bidder or a bond submitted by all potential bidders on the IT systems?

MS. BELZ:

The bond requirement will be on the successful bidder. It will not affect the other bidders. The cost will be included in the project similar to the way it is in public works. If the State can avoid failure of a project or keep a project on track, compared to what has been lost in this State on other projects, it makes sense to do this.

SENATOR SETTELMAYER:

You are correct. "It will keep some bidders away and I hope it does. Those that in the past, in my opinion, should not have been allowed to bid because of the simple fact they did us no good and the respect that it costs more money in the end." I understand your question, but I look at this bill as a taxpayer dollar protection by making sure we have the right entities to come forward and do these projects correctly to begin with, rather than doing a little bit of the job and then leaving the State with the rest of the mess.

CHAIR PARKS:

I particularly like the 10 percent holdback concept. I have seen it work in other areas. The concept has a commendable history behind it.

CHAUNSEY CHAU-DUONG (Southern Nevada Water Authority):

We are in support of S.B. 180 as the scope has now been limited to the State. I appreciate the sponsor bringing this bill forward.

JEFF HAAG (Administrator, Purchasing Division, Department of Administration):

I will provide some insight to S.B. 180 in the neutral position. I had the opportunity to meet with the bill sponsor and stakeholders on this bill. I applaud them in attempting to tackle an important issue in State government which is ensuring we get IT contracts correct.

Today's procurement process already allows for the provisions included in the bill. The State often has holdbacks on contracts of this size and scope in the technology space. Those holdbacks, on occasions, are beneficial.

The State also has the ability to require performance bonds, and it often does require performance bonds. Unfortunately, experience has shown performance bonds do not always have the intended benefit in technology projects as they do in construction projects. In a recent technology project, which might be driving part of this bill, the State had a performance bond. The performance

bond was negotiated down to a percentage of the service component of the contract. At the point the State decided to terminate the agreement, there were enough mitigating circumstances on both sides that the performance bond did not have the intended benefit the State had expected.

That is the State's experience in leveraging performance bonds in technology projects. Often, the service-deliverable components of a contract are not always clear and defined enough to be mitigated to the perspective where a financial settlement is relevant. Both parties are often able to show enough wrongdoing on either part that a performance bond rarely has the intended benefit.

Our recommendation is to continue to leverage these tools on a case-by-case basis, assessing the particular project at hand, focusing the State's right project management resources in place to see these projects through to fruition and ensuring the projects have the intended benefit the State wanted at the onset.

SENATOR SETTELMAYER:

Regarding the neutral testimony heard, those things can be allowed. This bill will require it. This is the goal: to require something and not allow a case-by-case basis. This way everybody knows the rules going in, and the State can attract bidders that are more inclined to deliver a product which will be more beneficial to the State.

CHAIR PARKS:

We will close the hearing on S.B. 180, and we have one final bill to hear on S.B. 327.

SENATE BILL 327: Revises provisions relating to land use planning. (BDR 22-883)

AARON WEST (Nevada Builders Alliance):

We thank Senator Kieckhefer for carrying this measure on our behalf and bringing this bill forward. We are working off the amendment ([Exhibit I](#)) which essentially deleted all the language in the original bill and condensed it into something more manageable.

Angela Fuss, a land planner with over 18 years of experience, is with me to provide technical support.

Some may be familiar with NRS 278 which deals with tentative and final subdivision maps that is the process by which we create parcels in our communities for residential development. This bill pertains to a subset, NRS 278A, having to do specifically with planned unit developments (PUDs), which tend to be larger master planned communities. As examples, the communities in southern Nevada, such as Anthem, Inspirada and Summerlin, are of that scale. This bill does not pertain to every project that comes through.

In our research, we found each community is left to its own devices to come up with a process to get to what we are seeking in this bill because this process has not been addressed specifically in statute.

This Session, we are hearing about the importance of workforce housing, and a lot of proposals address the issue from a regulatory perspective. As an industry, we contend a supply problem of excessive demand is leading to escalations in pricing and so forth.

The purpose of this bill is to provide local governments an enabling tool for the development of master planned communities. This is enabling legislation.

During the Great Recession, homebuilding was almost at a standstill, and the thought of future development was in question. As we celebrate many economic development wins and see our communities growing now, we are woefully behind in the creation of lots for residential development.

While this bill will not impact the projects already approved based on how it is drafted, the bill will provide opportunity for projects going forward. Senate Bill 327 is a mechanism, should local governments choose to adopt it, to improve on a duplicative process in master planned development. With this bill, there is a potential cost savings to homebuyers as the homes enter the market sooner.

There are several necessary, transparent steps for developers to go through the required process. At no point are we removing the public process from the development tool. The bill allows developers to move through the process more efficiently and the ability to get the scrutiny underway to bring the lots to market to meet the demand.

I will review the bill language. In a project as large as the scale referenced in this bill, multiple villages are envisioned within a development. It is not a single subdivision. It is typically multiple villages comprised of different product types and so forth. Different builders take control of a village and build out that village. We are creating the framework for villages in a simpler process, such that the merchant builders can take a village through a separate and distinct tentative map process instead of the master developer having to go through repeated tentative map processes and taking a linear approach. We are creating the villages in an earlier stage and allowing those villages to proceed through the tentative map process concurrently. This will reduce an amazing amount of time.

I will start with section 16 of the amendment, [Exhibit I](#), which is the mechanism for doing this. Today, parcel maps are limited to four lots or less in NRS. Within this amendment of NRS 278A—as it relates to PUDs—the local jurisdiction will be able to work a parcel map into the PUD handbook, creating more than four parcels. This is the concept of identifying and creating those villages via a parcel map.

The reason we define a "residential dwelling unit" in section 15 is we do not want parcels created with this parcel map to be envisioned for actual residential occupation as a residential dwelling unit. We only want the parcels created for future development through the tentative map process. Therefore, we do not eliminate any bites at the apple the local jurisdiction or public would have at the development process.

Subsection 2 of section 16 allows for the administrative process on the parcel map to happen concurrently with a tentative map process for the individual villages, so at the end we can get the lots created and construction going.

ANGELA FUSS (Lumos & Associates):

My background is processing tentative and final maps and writing and processing these planned unit developments which Mr. West talked about. I will give a timeline of the typical process now for a better understanding of why it takes so long for houses to get to the market. We are seeing a crunch with the shortage of housing.

A typical master planned community is a larger development of normally several hundred homes and, sometimes, even thousands of homes. The planned

community is done through a PUD which is a separate zoning document. The zoning process takes one to two years to get in place.

Once the PUD is approved, the next step is to create villages which are basically large pads sold to a developer. It is not usually one developer that builds the thousands of homes; it is usually broken out to several developers. There may be a 55-and-over retirement community, a townhome product and a mix of different single-family homes by developers such as Toll Brothers, Lennar, Ryder Homes and various other housing developers.

In order to get to the step where the large parcel can be sold to the homebuilder, there is another process. Right now, the developer first goes through a tentative map and then a final map process. It is about a year-long process overall. After that year-long process, a parcel number is created and the developer can now sell to a homebuilder.

That homebuilder then creates the subdivision. It lots out where all the homes will go. The action then goes through another tentative map and a final map process—about another year-long process.

It takes about four years for this master planned community from when the zoning process started to the creation of the villages or larger parcels to the creation of the smaller parcels which are then sold as homes. It is a long process.

Senate Bill 327 does not apply to all subdivisions. It only applies to master planned communities with PUD zoning. Rather than going through the tentative map and final map process twice, this bill will allow a developer to use a new version of the parcel map process which cuts out about three-fourths of the time. With this bill, instead of a year-long process to get these super pads or village pads, it will take three to six months.

Right now, a parcel map is limited to four parcels. If a developer wants to create 15 large pads, it would have to go through the tentative map and final map process multiple times.

With this bill, the mapping processes for both the developer and homebuilder can be done concurrently while the developer is moving forward with the tentative map and final map. This streamlines the process and reduces the time

it takes to get the houses to inventory where the houses can be sold. This will provide more supply.

The big difference is the streamlining of the process. The specifics in the bill still go through the same process as a parcel map, but it increases the parcel map process from only four lots to more than four lots.

A developer cannot put a house on these parcels. The parcels have to be subdivided again. There were concerns of allowing units to be developed through parcel maps and if the economy fails, the developer has these large super pads. The concern being someone could put a house on each of those large super pads with a well and septic tank without infrastructure. This is not possible since we added language to say houses cannot be placed on these super pads. The super pads or parcels need to be subdivided again through the tentative and final map process. This is a stopgap measure in the bill to prevent the creation of a bunch of large lots with wells and septic tanks and no infrastructure to serve them.

The intent of this bill is to streamline the process to help get homes to the market faster following the same steps and processes already in place. One still goes through the same approvals for normal parcel maps along with the same approvals and sign-off procedures for tentative and final maps.

SENATOR SCHEIBLE:

I appreciate that we have a housing shortage and getting homes to the market quicker will be beneficial to a lot of communities. This is not my area of expertise, but I did follow your explanation and understand the process these master planned communities and subsequent developers go through. To be clear on the record, we are using a lot of different terms such as village, super pad, parcel and subdivision. I am not hearing lots, which is where I normally think one individual residential dwelling unit is built. I want to make sure our bill is clear on which of those terms are interchangeable and which ones are not. At what point in the process is the tentative map and the final map allowed to collapse into one another? I want to clarify so we do not run into problems down the road with any lack of clarity.

MR. WEST:

I appreciate the questions. Sometimes, we use terms people can easily relate to. Going back through this process, a developer goes through a PUD process

where a handbook is developed. At that point, a parcel map is developed to create super pads, also known in layman's terms as villages. Once the villages are created, they are transferred into the hands of merchant builders that go through a tentative map subdivision and a final map subdivision process in order to create the actual lots which are then built on and sold as product.

SENATOR SCHEIBLE:

That was an excellent explanation. Can there be multiple subdivisions within one super pad?

MR. WEST:

The intent of this bill is a super pad will become distinct tentative and final subdivision maps so there would not be several other subdivisions within that super pad.

SENATOR SCHEIBLE:

We talked about market changes. Is there flexibility in any of this process? I can imagine if I am a merchant developer who buys a super pad intending to build 200 units and suddenly I can only build 50 units. Can I sell off three-quarters of the super pad to a different merchant developer?

Ms. Fuss:

Typically, developers do one large tentative map. For example, the developer wants to create 300 homes but not build 300 homes at once. Most of the time, the developer phases the final maps, and the final map is what creates the parcel numbers. In the case of the market crashing, the developer would have a tentative map already approved. The tentative maps do expire. When the tentative map expires, it goes back to nothing. Following the same process we have today, one would phase the final maps and develop the housing according to the market.

This is similar to if I were to buy a 100-acre piece of property right now. I would create a tentative map, create a final map and then start to develop. Five years from now, if things slow down, I could go back and make another tentative map to create smaller lots and a final map to sell the property. This example follows straight subdivision of land. Nothing is unique. It follows a typical subdivision to create smaller pads to then sell off to somebody else.

SENATOR GOICOECHEA:

With parcel maps, a developer does not need to show the infrastructure in the development. The infrastructure comes later. In this case, it sounds like a parcel map could be of 200 acres. Then one would come back with a tentative subdivision map to break that large parcel map down into 40 acres; at that point, it would include the infrastructure and subdivision requirements.

MR. WEST:

Let me throw one more step in there. With the creation of the parcel map and super pads, the backbone infrastructure to support those super pads is articulated within that parcel map. However, the process to construct the development is a building permit process, not a planning process. One advantage to this new process is if we create these super pads, the master developer can be moving forward with the backbone infrastructure at the same time the merchant builder is going through the tentative map and final map process. The master developer and merchant builder can be doing site improvements concurrently.

SENATOR GOICOECHEA:

To clarify, a developer could develop its parcel with at least part of the backbone infrastructure of water and sewer mains. The builder would then bring the infrastructure into the lots when it files the subdivision map.

SENATOR SCHEIBLE:

Thank you for this educational hearing. I have one other question regarding the current rule allowing the PUD to divide into four villages or super pads. Before that, did a developer have to request four villages at a time? If I wanted 12 villages, I would get the first 4 approved, then I would get the second 4 approved and then I would get the third 4 approved?

MR. WEST:

That is correct. This is what we are clarifying in the bill. Each jurisdiction has a different approval process because it is not articulated. Some jurisdictions do the subdivision process, others do concurrent parcel maps; a developer ends up processing four parcel maps to get to the same end. From a timing perspective, the process takes a year versus three months with one map.

SENATOR SCHEIBLE:

Under the bill's process, if I am the mastermind behind the master planned community and know 27 subdivisions or villages will be in the community, I can submit my map with all 27 delineated on the map from the get-go.

MR. WEST:

That is the intent.

SENATOR OHRENSCHALL:

I am not knowledgeable with planning and development. When the super pad is sold to a builder, is the builder required to hold public hearings on the project it plans to build? Will there be less public input with this bill's process? How do you envision this working?

MR. WEST:

The process we are articulating makes sure we do not avoid the public process. Creating the super pad and then handing that super pad off to the merchant builder that then has to take the super pad through a separate and distinct tentative subdivision map process and final subdivision map process are all public processes. The builder works through the jurisdiction to a planning commission or board and then to the associated governing board. We do not usurp any input from the public with this process.

SENATOR OHRENSCHALL:

There is public input at the initial subdividing of creating the super pads, but is there public input before a planning commission, zoning commission or local governing body when the builder wants a variance to build a higher density than what is normal in that area? Would that still need public input or public hearings? This is one concern I am hearing from constituents.

Ms. FUSS:

Each jurisdiction has a different process for parcel maps. For instance, in the City of Fernley, a parcel map goes through a public hearing at the planning commission. In Washoe County, there is not a formal public hearing per se, such as a planning commission, but the County has a parcel map committee. These are two completely separate ways of approving a parcel map. In the City of Sparks, there is no separate parcel map committee. It is all done administratively.

Every jurisdiction is required to go through the same process already in place for a parcel map. We are not changing the jurisdiction's version of how it wants to review a parcel map. The parcel maps will require the same sign-off by all the different agencies. For instance, some agencies require a water well service at the time of parcel maps and other agencies do not. We are not changing any existing agency requirements. It is the same process. We are adding the ability to do a parcel map which creates more than four parcels. For example, with this bill we can submit 14 parcels through the parcel map process rather than limiting it to 4 and having to do multiple parcel maps or a full tentative final map.

MR. WEST:

The PUD process is a public process which typically takes 24 to 36 months for a project. The developer then creates the super pads. Each of the super pads created by the parcel map has to go through a tentative subdivision and final subdivision map process, which is another public process. In no way are we removing the public from the equation.

SENATOR GOICOECHEA:

Typically, the parcel map process in the rural areas is fairly simple. I do not know the process in Clark County and Washoe County that well. For example, if you own four parcels and want more, you take one of those parcels and subdivide it into four more, and that is how you get it accomplished in the end. This bill allows a developer to go beyond five parcels at a time. Most developments of this nature in the rural counties are done by the planning boards.

MR. WEST:

That is correct, although I am not aware of a PUD being processed in any rural county at this point.

SENATOR GOICOECHEA:

I am hoping for them in the future.

CHAIR PARKS:

Does S.B. 327 create more approvals required at the administrative level versus the elected or planning commission level?

Ms. Fuss:

A parcel map is a one-step process. It goes through either a planning commission or an administrative staff to write a staff report. If a developer has to go through a tentative map and a final map process, that is a two-step process. It requires a more in-depth review, a lot more review at the staff level because they are reviewing two steps rather than one step. From this perspective, this bill reduces the amount of work on the agency, city or county staff. Instead of processing a tentative map and final map for the master developer plus a tentative map and final map for the merchant builders, a parcel map is completed one time for the developer, then the tentative map and final map is completed for the merchant builders with this bill.

STEVE HARTMAN (Vidler Water Company):

Our company is often involved in the early phases of these types of projects. Mr. West and Ms. Fuss did a good job of giving the overview. For the last 40-plus years, my practice has been involved in zoning, planning and development of real estate, and the various connected areas of infrastructure, natural resources and the ultimate, resulting ownership management entities. These activities are covered in NRS 278, NRS 278A, NRS 278B as well as the common-interest communities described in NRS 116, NRS 119A and NRS 119B, which are other ways in which a developer creates units. Reviewing the bill and the amendment—which is a significant improvement—I am here to support S.B. 327 as amended, not because it is a land-use planning tool but because it is a land development tool.

One thing that must occur before getting to the subdivision phase, whether it is a tentative or final mapping process, is having infrastructure installed. Typically, the plans begin at the planning and zoning of a master plan to indicate the multiple kinds of uses, such as condominiums, individual lots, commercial or industrial. An overview of everything from water and sewer to schools and traffic demands is included. A developer gets a wide-ranging look at all the issues that any community faces whether it is drainage, high-rise or low-rise requirements. Those are things which commence at the beginning of the process. That is part of the 24- to 36-month process mentioned.

One thing going on in northern Nevada is the significant supply-and-demand imbalance which has resulted in a corresponding price escalation. The imbalance is caused in a large part by this delay in getting developments through the process and getting through the process responsibly.

The bill's policies are not new tools just breaking on the horizon. We have used these tools in Carson City, Lyon County and Douglas County for large planned unit developments.

In northern Nevada, 50,000-plus jobs generated are diverse, and the jobs have created the need for a variety of housing. These super pads or villages with a given density—which require X amount of drainage, X amount of sewer capacity, water capacity and electrical—are all pieces of the infrastructure that go in a parcel map before going to the tentative and final map process which then turns them into lots.

Getting the infrastructure in is the piece of the puzzle that can speed up the process for efficient development and housing construction to begin. All communities need this tool. As Ms. Fuss indicated, the communities all approach it differently. The communities have individual ways of dealing with it. This is a good tool to speed up the infrastructure piece because almost all of these large properties require significant amounts of infrastructure to be installed to serve the people who will ultimately live there.

This is postapproval of planning and zoning whether a good or bad project, depending on what the community thinks. I urge you to pass this bill as amended. It a viable tool to efficiently get product out into the marketplace.

DYLAN SHAVER (City of Reno):

The City of Reno is neutral on this measure. We extend our thanks to the sponsor, Mr. West and others for being available to answer our questions as to their intent and what they are working on with this bill.

We are neutral because while it does appear to add a tool to our toolbox, it is reliant primarily on a city council creating a city ordinance, and I do not want to create the impression that I speak for the Reno City Council or can say that the Council would pass such an ordinance.

Nevertheless, we did want to put on the record that affordable housing is important to the City of Reno, and we are grateful to those who brought this bill.

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MR. WEST:

We rallied quite a bit of support for this measure; unfortunately, we outlasted them from a time perspective tonight. We can get that support conveyed to the Committee shortly.

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CHAIR PARKS:

We will close the hearing on S.B. 327. The Senate Committee on Government Affairs meeting is adjourned at 9:06 p.m.

RESPECTFULLY SUBMITTED:

Becky Archer,
Committee Secretary

APPROVED BY:

Senator David R. Parks, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	10		Attendance Roster
S.B. 461	C	35	Lew Feldman / Tahoe-Douglas Visitor's Authority	Presentation
S.B. 461	D	9	Mike Draper / Tahoe-Douglas Visitor's Authority	Proposed Amendment
S.B. 461	E	1	The Ridge Resorts	Written Testimony in Support from Marlena Freitas
S.B. 461	F	1	Carson Valley Inn	Written Testimony in Support from Bill Henderson and Matt Carter
S.B. 180	G	2	Senator James A. Settelmeyer	Proposed Amendment
S.B. 180	H	1	Department of Motor Vehicles	Written comments regarding Proposed Amendments
S.B. 327	I	8	Aaron West	Proposed Amendment