

SENATE FINANCE COMMITTEE  
MINUTES OF MEETING  
MARCH 24, 1977

The meeting was called to order at 8:00 A.M.

Senator Floyd R. Lamb was in the Chair.

PRESENT: Senator Floyd R. Lamb, Chairman  
Senator James I. Gibson, Vice-Chairman  
Senator Eugene V. Echols  
Senator Norman D. Glaser  
Senator Norman Ty Hilbrecht  
Senator Thomas R.C. Wilson

EXCUSED ABSENCE: Senator C. Clifton Young

OTHERS: Ronald W. Sparks, Chief Deputy, Fiscal Analysis  
Howard Barrett, Budget Director  
Cy Ryan, UPI  
John B. Etchamendy, Director Communications Board  
William G. Parsons, Chairman, State Communications Board  
Stan Warren, Nevada Bell  
John B. MacDonald, Communications Specialist, Highway Department  
Vernon Bennett, Executive Officer, Public Employees Retirement Ad. Fund  
Will Keating, Assistant Executive Director  
Ross Culbertson, Vice Chairman, Retirement Board  
/ Bill Isaëff, Deputy Attorney General

Senator Lamb asked Mr. Etchamendy to proceed.

Mr. Etchamendy: We are here on the second hearing on the budget. We are involved in the business of implementing a state-wide microwave system for use by state agencies which is approximately 70% finished at this time. It was started two years ago and it is a two year project.

"The Board has four employees, myself, my secretary who takes care of the time and bookkeeping and two microwave technicians that work with a construction crew at this time implementing the state microwave system. I don't think I need to say any more than that unless anyone has any questions."

Senator Lamb asked if anyone else wanted to speak on this subject.

Stan Warren: "I represent Nevada Bell and I testified at the first hearing, Senator Lamb, on this. I think in the interest of time what we are really in disagreement on is the intended use of the system. I testified here recently that their plans to expand the system in these areas I believe are above and beyond the original intent of the bill as it was passed in the 1975 legislature. The sum and substance of the changes put on the bill in 1975 was that the system should be used to its very best economic advantage. In other words if there are services that are provided by the telephone industry that could more economically be provided in and with the communications system that the state is putting together, and if their comparison of those services should be made and the conclusions drawn, the final decision on this would be made by the Interim Finance Committee.

"As I said earlier we have had requests for facilities on the ends to connect locations in the Reno and Carson City areas that I believe are circumventing some of the services normally provided by the telephone industry. And so I came in, in opposition to the budget, based on that.

"I believe Mr. Sparks has handed to you summaries of all the written and oral testimony of 1975. I see comments in there from Government Affairs where I testified in the Assembly, also from Ways and Means and also the testimony that was put in here. I think we get down to the fact that I think if they are going to expand the system into these areas then, in fact, there should be some fair comparisons made. I'd like to answer any questions if I possible can from the Committee."

Senator Lamb asked if anyone had any questions. He asked Mr. Etchamendy if he agreed and Mr. Etchamendy said he did not.

John MacDonald: "I would like to challenge one comment that Mr. Warren has made. He indicated that there are plans for the expansion for the system beyond the originally intended legislation. I would like him to clarify what he thinks these plans are. I am not aware of any plans for expansion that would infringe on the legislative intent of the last session."

Mr. Warren: "I think I reminded you of the one that Mr. Parsons had explained to me where the Fish and Game asked for the connection from their Reno office to the Highway Patrol into the microwave system and there is a mechanical switcher here in Carson City, somewhat like the central office that the telephone office provides, certainly much smaller, to allow them the switching of that phone, that would be state owned, to the Fish and Game Office through the facility to a similar arrangement in Las Vegas. The Central Telephone Company has been given a forecast of something like 25 such facilities this year and, I think, 20 more next year. Mr. MacDonald himself has said that they would need entrance cable facilities in Las Vegas to the tune of something from 60 to 100 pair of wire, which, to me, is an awful lot of new type facility and this has not been explained to me other than what I have extracted from Mr. Parsons on the idea of putting a phone on one end and being able to call to the other."

"In my first testimony I brought up the shared use of the wats services and I think that is rather economical and this is one indication I have. And I can't help but wonder about wanting to add 60 to 100 pair of wire in Las Vegas to the other end of the system and what they really intend to use with that facility."

Senator Lamb asked, since 1975, how many users have you put on the system, that you didn't have then.

Mr. Etchamendy: "Presently the users of the system include the Highway Patrol, the Department of Law Enforcement Assistance, The Highway Department, and presently we have Fish and Game and Forestry on the system."

Senator Lamb said that was an overall answer. He wanted to know, since 1975, which ones have you put on?

Mr. MacDonald: "Mr. Etchamendy wasn't aboard then and he wasn't aware of the testimony of the activities that went on in the Legislature last session. There have been no users added to the system that were not authorized at the last session of the Legislature. While I am up, may I make another comment. Addressing Mr. Warren's remarks; he indicated that we have asked for a number of entrance cables in Las Vegas. The Highway Department was authorized to a certain number of channels on the system; I requested cables from the Highway Department facility to the DMV facility in Las Vegas so we could access these. I further advised Central Telephone in Las Vegas that we are building a new administration building down there and there would be additional telephone usage and they should plan for this."

"I did not indicate that I was going to need 60 to 100 pairs of wires."

Mr. Warren: "I was given that as a quote from the people, and we discussed it on the phone and I've got what they gave me and I would have to go on their word on the thing. I think we are just at a standoff. Senator Lamb, I would like to bring up one point. Ever since the beginning of this system back in probably the early '60s, '62 along in there, the plans for the use and the intended scope of the system have always been kept very much in the dark, I think, certainly to me. As I said when I sat here two weeks ago when we talked about this thing, if I had a better idea of what they were doing and felt that this thing was completely above board, then certainly I may or may not be sitting here right now challenging this thing. You talk about the growth, they talk about the fact that it will handle 480 circuits, I think this is a term that is pretty generally used around the state, and may I just remind you that that is one heck of a lot of communication."

SENATE FINANCE COMMITTEE  
MINUTES OF MEETING  
MARCH 24, 1977  
PAGE THREE

"And I wonder really what the need is and would like to know and Mr. Etchamendy said that maybe my company stands to lose alot of money. Right today we are really unaware of what the needs are that would bring about the expanded use of this system to take it up to the 400 capacity. We have, as an industry, conducted a telecommunication study for the state. We do have a recommendation, pending, that is now going through some readjustment on it because of later uses that are brought forth and identified with us and I think that there ought to be a fair comparison of which way, truly, is the best way for the State of Nevada to go when it comes to meeting the telecommunications needs. Not to just run off and build a system and find a way to use it."

Senator Lamb: "Do you supply this service to these people?"

Mr. Warren: "Well I still don't know exactly what John is talking about; as far as data circuits go, yes we do and we have been meeting their data needs over the years. We do provide their voice, we provide signal circuits. There are some things that are related to mobile radio that we don't provide and I have long endorsed the idea of expanding this system for mobile communications. I talked about putting it in ambulances that are volunteer ambulances around the state and I also talked about putting this into school busses that roam some of the very remote areas, for their needs. Now this type of thing I totally go for, but when you are beginning to provide services that have been in the past and still can be provided by the industry, I just think a fair comparison ought to be made before you get into it."

Mr. Parsons: "I am Chairman of the Communications Board and also representing the Nevada Department of Fish and Game. Just to respond to two comments, initially, the Fish and Game Department identified nine channels on the system and they did this early on under the Governor's Executive Order that established the beginning of the Board. We are currently on this program before you asking for the use of two channels. Secondly, the Board holds open meetings monthly and anybody is certainly welcome to attend. We are not trying to do anything surreptitiously and it is an open and free discussion."

Senator Echols: "You are the chairman of the Communications Board?"

Mr. Parsons: "Yes"

Senator Echols: "And from the Department of Fish and Game. You are the Director of the Department of Fish and Game?"

Mr. Parsons: "No, I am Chief of Law Enforcement of Fish and Game."

Senator Echols: "Is that in compliance with the program statement? I understand that the Board consists of the directors."

Mr. Parsons: "Or their alternates."

Senator Echols: "You say you meet regularly every month?"

Mr. Parsons: "Normally we have met on the average of once a month."

Senator Echols: "Do you get pretty good participation and direction?"

Mr. Parsons: "Those people from the board, yes. All members of the Board. This is a seven member board, from each of the agencies and we generally have very good participation."

Senator Echols: "You think if I called up any one of those people, they would know what was going on? Individually."

Mr. Parsons: "Yes."

SENATE FINANCE COMMITTEE  
MINUTES OF MEETING  
MARCH 24, 1977  
PAGE FOUR

Mr. Warren: "Senator Lamb, I have earlier said that perhaps maybe a different combination of membership on the Communications Board was the answer. I said in my last testimony here, somewhat, well I don't think it would be totally fair to them, but I suggested putting someone from the telephone industry on that Board. Or perhaps someone from the private sector who would be interested in the economic operation of the system."

Senator Lamb asked them to spell out the membership of the Board, and what they are.

Mr. Parsons: "The Board consists of the Directors or alternates of the following agencies: Nevada Department of Fish and Game; Conservation and Natural Resources, represented by the Division of Forestry; Nevada Highway Department; Crime Commission; Civil Defense; Department of Motor Vehicles; and the Department of Administration."

Mr. Warren: "I have the list here, at least by statute, A.B. 161, of the last session."

Senator Lamb: "Well, this seems to be a problem here as to how far you are going. I don't mind stating my position, I don't know how the other members of the Committee feel, I don't think we are in competition with private enterprise if you can get the same kind of service, probably cheaper, by the time you take the outlay of monies and your construction and stuff like that: they are in the business, they have pretty much got their facilities, but like most of these departments you want to build up a big firm here, or whatever you want to call it."

Mr. MacDonald: "At the outset the system was designed and built to support mobile radio communications in remote areas. The system will support ambulances, school busses, and any number of other mobile applications, if those who have the mobile requirements wish to use the system and can afford to buy radios for their vehicles. The Communications Board does not attempt to provide mobile radio service to any one. With the design of the system, for mobile radio purposes, we also develop the capability to provide point to point communications for certain agencies. And this is what we are using, the data circuits, office to office voice circuits."

Senator Lamb: "Let's quit kidding, don't you want to expand this communications system."

Mr. MacDonald: "Sir, I prefer to use the channels that have been authorized to the highway department for highway department communications and I don't intend to expand the system at all. My communications are for my own purposes and I'm sure that each of these other agencies represented here will say the same thing, without equivocation."

Senator Lamb: "Let's take Fish and Game. What does this cost to take the Fish and Game into this system?"

Mr. Parsons: "Well, these two channels that are identified here in this budget would be \$2500 for the two."

Senator Lamb: "Are you just giving it to them, or does the Communications System charge Fish and Game so much to come in?"

Mr. Parsons: "Yes, this would be the repair and maintenance that would be assessed to the Fish and Game Commission."

Senator Lamb: "What does this system cost, if you could tell me, to date?"

Mr. Warren: "Senator, I am not going to try to give you some figures, but I think we are hovering on what does it really cost. I think my testimony from the last session and what is going in now, I believe the system has got something, I think, in excess of \$3 million. I'm not sure of all the costs, but I think it was \$2 million something two years ago, and it's got obvious increases in it since."

SENATE FINANCE COMMITTEE  
MINUTES OF MEETING  
MARCH 24, 1977  
PAGE FIVE

"Now, in my testimony two years ago I laid out some parameters put out by Arthur D. Little, a fiscal analyst, and I know generally when you build a system like this, you have to look at depreciation and you've got to look at maintenance. And pretty generally government doesn't look at depreciation, when it wears out they get a new one. You don't have a holding account."

Senator Lamb: "What would it cost these seven departments to hook up with your system?"

Mr. Warren: "I wish I knew what their needs were, Senator, maybe I'd have a better chance of telling you exactly what it is. We are not in the mobile radio business and I have never professed before this Committee that we can, but my point is that I have suggested that you take the cost of the system, you figure at least your maintenance on the broad scale of 10%, now you begin to get near your annual cost, plus whatever regular budget you allow in it, and begin to divide into the cost of the channels, and you begin to get to a cost so you can compare it. When you look at factors the company provides, you've got our regular tariff rates, plus we do pay the taxes on this, we have readily located maintenance throughout the state and training - a lot of factors. And also if you lose your system, a hurricane or some kind of a big wind or something comes through there, we are there to take care of it and get it back on the air. You've got to look at the whole thing, I think."

Mr. Etchamendy: "I think I may have some answers for you, Senator. First of all we did build the system primarily to provide services that the telephone company did not want to or could not provide. As a result of building a system to provide those services, we are able to provide other services, I feel, at a reduced cost to the state in the areas that the telephone company provides. The system, as it was purchased, was equipped with 120 communications channels and these are various type lines going different places in the state. That includes all of the two way radio control circuits, and all the other circuits that were programmed into the thing. To date we have not expanded on that 120 channels; we still remain at the 120 channel level. I assumed we had the authority to go ahead and utilize those 120 channels that are presently installed in the system. I think what Mr. Warren is challenging is our authority to use the equipment that we have already purchased and put on the mountain tops in these locations throughout the State."

"As for the cost of the system, it cost the department only for the purchase of the peripheral equipment that is required for the circuit that they want to provide and an annual maintenance cost. The annual maintenance cost is based on the budget for this department. You'll see a column in the budget there that shows radio system users. If you divide that amount of money up by the number of channels that each agency who is participating in the system uses, you can determine how much each agency is going to pay. In fact, I could tell you exactly how much each agency is going to pay next year for their use of the microwave system. It averages out to be about \$1267 a channel."

Mr. Warren: "I am not going to get into this as I am not sure we would agree on the figures. The only question I have is, you have all these channels, how are they going to be used. I think what this committee agreed to two years ago was that when you begin to lap over into the area of private enterprise, you make a comparison. And here we are at a loggerhead on this thing."

Senator Wilson: "I have just been going through this folder and the amendments passed in 1975 provide "that any time the State Communications Board considers a proposal for expansion of the service, the equipment or the facilities normally provided to the state by the industry, the service, equipment and facilities are to be provided by the telephone industry except when the requirements of the subsections are met." One of the requirements is that the Board conduct a study and prepare a report dealing with the proposed expansions and savings etc., and that the staff of the research and fiscal division evaluate it."

"The operative language is "service, equipment or facilities." At the meeting here before, there was discussion about the referral of this question to the Attorney General's Office for an opinion to be sure that you weren't afoul of this requirement.

"On page 2 of the letter after setting forth the language I just referred to, it states: It would be the interpretation of this office that if a new system of telecommunications involving new types of equipment and hardware not now being provided to the State by the industry were to be developed, then the Board could propose the system without following the procedures I just referred to.

"We are not talking about new types of equipment and hardware not now being provided to the state, we are talking about three classifications, service, equipment, or facilities. Not just equipment or hardware. So I have to take exception to that opinion. We are not limited to equipment or hardware. The requirement proposes new services.

"What troubles me a little is that I kind of have a feeling that you are looking for an exception to the statutory mandate that defines policy and saying that we can proceed without following the procedures set forth with a cost analysis. To be candid with you it bothers me a little.

"The opinion, it seems to me unreasonably constrains the scope of the policy requirement. Because we are not dealing with the distinctions only of hardware and equipment, we are dealing with expansions of service. And the opinion, if I read it correctly, ignores that. Am I misconstruing it? I don't want to be unfair."

Senator Gibson: "Doesn't the next sentence with regard to those types of systems and equipment which are currently being provided to the state, the State Communications Board could not supply such services and equipment to any state agency unless provided through the telephone industry or unless the procedures of this cost comparison were followed."

Senator Wilson: "Are you saying that we are not talking about a service that can be provided by industry?"

Mr. Etchamendy: "I think the industry can provide all the service if they wanted to."

Mr. MacDonald: "The Service Communications board provides strictly channels from one point to another. That is all their authorization is and that is all they have the capacity to provide. The agencies that use the channels provided their own services on the end. If they have a data channel they provide their data terminals and their data sets and everything else that is necessary to utilize the data circuit. The State Communications Board merely provides the circuit from one microwave terminal to another microwave terminal. It's up to the individual agencies to get on that channel and use it for whatever they can. For whatever they have been authorized."

Senator Wilson: "How are we as a group of laymen going to sit here and appreciate the distinctions of what you are talking about. My problem is staff hasn't looked at this because you construed this as meaning that this is not a service now provided to the state by this industry. We are not talking about new equipment or hardware and so you are exempt from the provision that gives us any kind of a competent way to analyze what we are talking about. So you are talking about talking to seven laymen on this Committee that don't know radio and telephone communications and you're saying this is all we're doing. Understand it immediately and appreciate the distinctions. And frankly, I don't think we can."

Mr. MacDonald: "If you will recall the comment I made two weeks ago when I addressed the Committee, I indicated that the analogy of the paved highway with 480 lanes on it - and when I buy my access to that highway I have access to a length, a channel from A to B. Mr. Etchamendy and the Communications Board are providing that lane for me to use. When I put my mobile radio at one end and the control unit on the other end, then all he is doing is providing that one lane.

"This is the same service that the telephone company can provide in some instances and in the case of mobile radio, they usually can't because our radio transmitters are way up on the mountain top somewhere where we don't have access to telephone service."

Senator Wilson: "Here's the difficulty I'm having and you may be perfectly correct, the problem is that this thing has not been approached in the way where you can even invite competitive bids to eliminate any contention and establish the very analogy you are arguing."

Mr. MacDonald: "At the outset, it was determined that the telephone company could not provide the system we needed for a mobile radio communication and therefore we built a system to support this. Now these 480 lanes will provide us a capacity for other services."

Senator Wilson: "Well you see it's the other services I think that are in . . ."

Mr. MacDonald: "Now we are talking about data and point to point voice communications, the Fish and Game channel from Reno to Las Vegas for instance. Mr. Warren indicated that it is going through a switch, which is not the case. But he is trying to make a point."

Senator Wilson: "Well I don't know what significance a switch has."

Mr. MacDonald: "The idea is there is a point to point requirement, a channel, and we can get the Bell prices for that channel, from Reno to Las Vegas, based on airline miles and it's Telpac, and the last time I checked it was 15¢ a mile a month, plus certain termination charges. If we take airline miles, I might be off some, that is \$200 a month plus termination charges on each end, which amounts to \$2400. a year plus the termination charges. Mr. Etchamendy is providing that same channel for \$1200 a year or half the price. At the outset we were authorized a certain number of channels for our own use and I think this was the question that was raised at our last hearing, how many channels were authorized and have we exceeded legislative intent. I feel that we have not even reached the authorized channel usage yet and we certainly haven't exceeded the Legislative intent."

Senator Wilson: "Well to the extent that you haven't exceeded it in the installation of equipment or facilities, that's true, but to the extent that you expand the service, which I take to mean utilization of those channels, that's an expansion of service. And when you do that you are within the requirements of this policy statement. It's an expansion of service. You may not be using the channels, the channels may be authorized, the equipment and facilities may be there and authorized but the service is being expanded. You are increasing the service for which you used those channels. Now here's my problem, we are at a real disadvantage sitting here as a Committee. We go through umpteen budgets that are stacked so high. We've got to find a way to frame the issues directly and simply to pass competent judgment. We can't pass competent judgment on this because you guys are talking about things we don't understand. The only way you avoid that kind of a problem is you follow the policy we set forth for staff analysis by our fiscal analyst and at least maybe a competitive bid system. That's got to be the underlying reason behind this policy decision. There isn't time and we would like to understand, too. There's nothing more frustrating than to sit here and not know what we are supposed to decide. You're asking us to go to the merits on a matter that you guys have been discussing for months. Fine, you understand it, we're sitting here on a ten minute hearing on this question, expected to understand the merits and reach a balanced judgment that does justice. That's not fair. Now this policy was devised to find a way where when you expanded service, not just your facilities and equipment, you expand the service to be provided. If it is a service that can be provided by private industry, you've got some obligation to have it reviewed to insure that the costs you are to expend, of public monies you are going to use are not out of line with the competitive price. If it can be done cheaper by industry, we've got an obligation to spend money that way. It also gives us a chance, when you are expanding service, to have it analyzed by our staff and that's why the procedure was set up."

SENATE FINANCE COMMITTEE  
MINUTES OF MEETING  
MARCH 24, 1977  
PAGE EIGHT

"We are now groping through arguments where you fellows have not even joined the issue because industry doesn't know what you want to do, you say the industry's objections are erroneous. How are we to judge? I don't mean to be irritated about it, but you can see the disadvantage we are at."

Mr. MacDonald: "I can appreciate that. One thing that is in our favor is that each agency operates under a budget and his budget authorization should require him to use the most economical service. And I would say that in practically every instance the administrators have made their decision which is the most economical service based on actual charges they would face."

Senator Wilson: "I'm not questioning that. That may be true and I don't for a moment question that the motives or the proper method in which each of the administrators or the individual board members, I know most of you and I know how you go about your business. I'm frustrated because you didn't follow a procedure which would enable us, without spending all this time and without bringing you all back here a second time, to reach a decision."

Mr. Parsons: "As far as the department of Fish and Game, we have been cited as going outside of the parameters of this policy statement, we have no objections to following this procedure that is outlined. Our advice was that it was not needed. I certainly would have no objections to presenting what we have."

Senator Lamb: "Are you outside the parameter of the instruction?"

Mr. Parsons: "I don't think so."

Senator Gibson: "It was my understanding when we authorized this system it was to support mobile systems in the remote areas. And it seems to me that any other services outside the policy has to go through the procedure, I think that's why we passed this this way."

Mr. Etchamendy: "I'd just like to comment that as far as I am concerned we have done nothing so far in the program to violate the statutes that we operate under. I don't think there have been any violations of our statutory charter. I think possibly what we really need is a decision and some guidance on how we should entertain this business of service, expansion of the system, etc. This whole area of expansion to me is rather nebulous."

Senator Wilson: "That's the problem. That's precisely the problem."

Mr. Etchamendy: "It needs defining. I think if you are going to define it it's going to be a very complicated procedure. I think the word expansion is a word that can be defined in many, many different ways. As far as the intent, I think the only way you can prove intent on anything is through documentation and I have not seen any documentation that shows the intent of the legislature so far. Maybe somebody can bring that to my attention."

Mr. Warren: "Maybe we're getting somewhere. I'd like to see a proposal for theirs on a segment by segment basis so that we are in fact looking at this with a definition that - maybe you ought to try it one time through here, as Mr. Parsons has said, make a proposal and let's take a look at it and look at the costs. One other thing I would like to bring into it, there was a statement made a minute ago, and I think it was an over-simplification that the system simply provides a circuit. Any circuit that's provided in a communications system is far more than just a plain old piece of wire from here to there. I know our people that have met with the Fish and Game people, as an example here, have a string of questions that long that need to be asked and answered so that they can provide a circuit from Fish and Game to the Highway Patrol. We've got to know more about what it is going to be used for. Whether it's a metallic circuit that needs to be or whether it can be a ..., I'm talking about a lot of different things you just plain don't put into a facility. If you are going to have data on it, some of these circuits are four wire circuits, some, he says, are just going to be two wires."



"You get into a lot of parameters and if you are just providing it from here to here, I think we are finally getting to the point of what is being provided, what service is eventually going to be placed on the system, and can we compete with that service in the private sector. I think that's where we are."

Mr. Etchamendy: "I'm glad Mr. Warren spoke because I've got another issue that is even going to complicate things more. And that is in the area where we interconnect with the state microwave system, we don't have a total communication system the way the telephone company does, and what he said about just providing the channels is incorrect, because that is really all we are capable of doing. When we have to tie that communications channel to a place like Fish and Game or Forestry or some other office that is located away from the microwave terminal, the only way we have of doing that, the only way, is by going through the local telephone company, to make the interconnection. So we can't provide a total service like the telephone company advertises. We only provide a communications link, which we feel to be good, secure, economical so that the user can save some money, hopefully. This is going to be the end result of all of this. We can't provide the communications service totally, if we went stringing cable all over town, yes we could do it and we wouldn't be even sitting here talking, because he wouldn't even enter into it. But unfortunately we have to use the telephone services in this particular case and this complicates the issue even more. I'm saying that we are developing a system that provides partially what the telephone industry provides, but not totally."

Mr. Warren: "Well now I think we are really getting out into left field and certainly I think that anyone can understand that it does take a local distribution like we're providing to put this thing together and you remember in my last testimony here I said when you add that facility, you finally wind up with a duplication of what already exists. And there is already a telephone sitting there that the state is paying for. Part of the game certainly is to meet the communications needs and the other part of the game is not necessarily to just build revenues for the sake of building revenues."

Senator Lamb: "What plans do you have as far as expansion?"

Mr. Etchamendy: "We have 120 channels and my goal would be to utilize all 120 of those channels and then worry about any additional channels that we will need after that. As far as expansion of service, I see this as an area that has to be addressed by each individual user of the system. My job is to provide the circuits to the agency for their use and charge them an annual cost for it, so that I can operate and maintain that system."

Senator Lamb: "Mr. Etchamendy, the more you expand this, the better you like it, isn't it?"

Mr. Etchamendy: "I'll be honest with you, Senator, I think the one time maybe the state did something right. The people who are on the Board run the outfit and if they decide the charge is going to be decreased as the number of circuits increase, then I see a reduction in price per circuit happening. Now we all know that we are probably going to need additional people in the future, but I don't ever feel that the services that we are charging for are not going to have the same rate of increase as they would in the private sector, is what I am saying. As it is going to be due to the fact that we have the people who are using the system sitting on a board controlling this. And if you read that same statute that Mr. Warren made reference to a little while ago, you'll see that they make the policy. And even with the amendments that have been proposed in A.B. 278, the only thing the Governor would have the power to do would be to hire and fire the director, the policy decision would still be in the hands of the Board. I really think this is the best way to run the organization. I really feel that we have something equitable here and we could save some money."

SENATE FINANCE COMMITTEE  
MINUTES OF MEETING  
MARCH 24, 1977  
PAGE TEN

Senator Echols: "420 channels mentioned in here, you keep saying 120. Would you clarify that for me?"

Mr. Etchamendy: "The system of 420 is incorrect now, it was probably correct when the legislation went in. But the FCC has increased the authorization for the kind of service that we have to 480 channels now on the type of system that we are using. I'm saying that the system is presently equipped with 120 channels. We can expand up to 480 channels on the type of system as approved by the FCC. We only have enough equipment to provide 120 channels at this time."

Senator Lamb: "What if we were to come back here with a letter of intent or a rule or a statute or something that you didn't expand this at all without permission."

Mr. Etchamendy: "Again, Senator, I appreciate what you are telling me and I will be more than happy to do anything I can, but I do need some direction on this term "expansion"."

Senator Lamb: "What I think we need from you is what your overall plan is. I'm asking you to get me that. And I don't mean next month either."

Mr. Warren: "I'd like also to know, when in fact, the system is going to be completed and what is the declaration of the investment in it. The roads and all the peripheral things that it has taken to put the system together. If I may suggest that."

Senator Lamb: "Is there duplication?"

Mr. Warren: "Yes, we have facilities going to Las Vegas also. To broadly answer your question, I think if you are talking about duplication of the services, I think we are getting to that point. So I have a little difficulty in further answering that question."

Senator Lamb: "well, when you mention roads and things like that, I can see a duplication."

Mr. Warren: "We do share, we do lease some of the roads. They are on some of the mountains we are, and we have worked up a working agreement, so they are using our roads. There are not two roads to the top of one mountain."

Senator Lamb: "Say you had something on the top of one mountain. Could they not use that facility?"

Mr. Warren: "They have in some areas. I think Montezuma, we are using the same road there. McClellan here."

Senator Lamb: "What about the facility at the top?"

Mr. Warren: "Some areas I think there are two."

Mr. Etchamendy: "We are not actually using any channels or any microwave equipment owned by the Bell System. They don't have the capacity to drop it off, any channels off on these mountain tops. There are long haul circuits that take them from one place to another. This is one of the reasons why we developed a microwave system, was to provide that kind of service. The telephone company indicated that they couldn't do that."

Senator Echols: "I want to pursue this 120 channels you referred to just a moment ago. On page 4 in this handout, I see a total that says 167; then the asterisk indicates another 66, that says guaranteed channels. That totals 233."

Mr. Etchamendy: "When the system was first tried on, we had alot of people who wanted to become a part of the system. We had quite a few people drop off the program and reduced their number of channels which they required. That is how we got down to 120."

"For example the UNR dropped their requirements, the Crime Commission dropped part of their requirements, the Highway Patrol dropped part of their requirements. So we started out with 167 channels, but because of budgetary reasons and because the actual use and the number of channels that they felt that they actually needed, the number was reduced from 167 to 120." (Change of tape)

Senator Lamb asked them to get back to the Committee with figures on the costs of the system to date, what their anticipated costs are going to be and where they thought it would end, if it ever would. He thanked them for appearing.

S.B. 17 : Permits free use of state parks by Nevada residents over 60 years of age.

Senator Gibson moved they approve the bill; Senator Echols seconded and the motion carried.

A.J.R. 30: Memorialized Congress to refrain from enacting any law which would establish federal supervision over public retirement systems or require public employees to enroll under Social Security.

Senator Hilbrecht moved that the resolution be approved; Senator Gibson seconded and the motion passed.

S.B. 173: Mr. Bennett said Mr. Bill Isaeff, Deputy Attorney General, assigned to the Retirement System was present. He had researched about six cases regarding the rights of a member to benefits that are provided by law and he would like to, for your information, tell you the information he has received.

Mr. Isaeff: "Mr. Chairman, our own statute contains some language which is relevant to the consideration to the Committee with respect to the deletion of pension rights for certain employees who are now enjoying certain types of rights under Chapter 286. That language is contained in NRS 286.679.3 which states that all rights under this chapter become vested on the date that the employee completes ten years of creditable service or begin receiving such benefits from the date of his death whichever event occurs first. Later in that same section it states that unless specifically provided by the amendatory act, any change in the provisions of this chapter is retroactive for all service of any member prior to the date of vesting, but no such change may impair any vested right. It's that last clause there "no such change may impair any vested right" which indicates, in my opinion, having dealt with these questions and done considerable research in this matter, that indicates that I don't believe the proposals in the second reprint of S.B. 173 can be legally binding on any current member of the system who has more than ten years service in the system at this time. That our own statute says that no such change shall impair any vested right that they may enjoy to continue . . ."

Senator Lamb: "Are we trying to take away anybody's vested right?"

Mr. Bennett: "The difference here and I will give you an example: A man who has ten years service as a police or fireman under probation and parole, but the understanding from the Committee in the way the present bill is written is that that person will have a vested right to retire at age 55 because he has ten years service, but he will not continue as a contributing member of police and firemen after July 1, 1977. You may have another guy who has 17 years, he has over the 10 years service, he can retire at age 55, but as a police or fireman he needs 20 years as a police and fireman in a covered position to retire at age 50. So you maintained the vested right that he has already earned as of July 1, 1977, but you are not allowing him to continue as a contributing member under the police and firemen's fund after July 1, 1977, so he could earn retirement at age 50 with 20 years . . ."

Senator Lamb: "When you speak of the vested rights, you're talking about the five year phase."

SENATE FINANCE COMMITTEE  
MINUTES OF MEETING  
MARCH 24, 1977  
PAGE TWELVE

Mr. Isaeff: "The statute, Senator, speaks in terms of all benefits offered become vested and the benefit of being able to work towards an early retirement at age 50, upon 20 years of service is a benefit that I believe vested with these people at the completion of ten years of their service. So to that extent, this language would only apply to new occupants of the positions which are deleted from the law."

Senator Lamb: "What about the dispatcher and the truck driver and those kind of people . . ."

Mr. Isaeff: "If those people have completed their ten years of service, Senator, then I think we are legally obligated to continue them in those situations however, of course, we will not . . ."

Senator Gibson: "How long has the early retirement system been in effect?"

Mr. Bennett: "Since 1971. People who came in 1971 received previous credit validated under early retirement for service in those approved positions. Bill and I discussed this and I think his position there is not as clear as we had previously discussed but I feel, and he had indicated yesterday that he feels, that those people who were in, frozen as of May, 1975, and this is where your painters, cooks, and all these people came in, do not have the same rights to a vested right because they were never covered in the law. These people were never listed in the law, and we have a provision in our law which says the Retirement Board has the right to adjust any service credit or benefits to correct an error even after retirement. So I don't feel we have a problem with those people being vested, the people who were frozen and never listed in the law."

Mr. Isaeff: "There may well be a problem with those people should the courts decide that the government is estopped to deny them the benefit that was given to them for one reason or another, we may well find that we have to extend them that credit as well. That we may be able to reclassify them prospectively, but not retroactively."

Senator Lamb: "Regardless of the fact that they were never entitled to early retirement?"

Mr. Isaeff: "Those persons who can make out a case for estoppel against the governmental action, the courts may well go in their favor."

Senator Lamb: "You are going to be fighting the case for a long time."

Senator Hilbrecht: "I have two questions. First, isn't there a difference between the person who - well the very language that you read, I take it is capable of more than one interpretation and I suppose that is what you are warning us about."

Mr. Isaeff: "Indeed, Senator."

Senator Hilbrecht: "I think some of us have read it to mean that ten years vested service in the early retirement phase, which we never felt was a difficulty in view of the fact that we don't have ten years experience with it. I think you stated, quite properly, that there are circumstances under which, one of which may be actual inclusion in the statute. That might estop us, with respect to people whose job descriptions more or less are described from time to time in the statute. What other events do you think would estop us, or what would the theory of estoppel proceed upon?"

Mr. Isaeff: "The case that I can cite to the Senator is the Crumpler decision, a 1973 case in California in which some animal control officers were improperly categorized in the California state system as, I believe it is local safety officer, they have a number of different terms in their act. These people were in the law for some time and one of them was even quite close to retirement when it was discovered that they had been erroneously classified."

"So the system then sought to reclassify them nunc pro tunc. They sued the system over this. The California Supreme Court, finally after analyzing the elements of estoppel, because this was entirely the fault of the system and not the members themselves that they had been classified erroneously said: You are estopped to reclassify them nunc pro tunc, however we will allow you to reclassify them in the proper category prospectively from the date of your decision to reclassify. And I believe that may well be the very thing that would be done here, because many of these people were, I believe, misled by the system when the system accepted their contributions for months or even years into believing that they were properly in the early retirement system."

Senator Hilbrecht: "Particularly, I guess, if there is an increased contribution as in the case of the police and fire, in one category, so the estoppel . . ."

Mr. Isaeff: "Most certainly. The Nevada Supreme Court has only ruled twice in the 30 years that this law has been on the books, and in each instance they ruled in favor of the employee."

Senator Lamb: "Thank you, Bill."

Mr. Isaeff: "One other comment, Senator, this also applies to the agriculture extension people."

Senator Lamb: "I don't want to hear it."

Senator Gibson: "The thing that bothers me is where these things have happened, contrary to what the Legislature intended in the law, and you are saying that the Legislature can't correct that now."

Mr. Isaeff: "I am saying, Senator, that they can correct it prospectively. They can make certain that it doesn't happen again."

Senator Lamb: "Thank you."

Mr. Bennett: "I would like the Committee to note it, because he is our attorney and he has researched it. We felt the Committee should have available the information and any implications it may have. We feel, and we have discussed this also with our actuary that there is a considerable difference and the legal claim of a person who was in by law and you are now removing him from that law as opposed to the group that were frozen on May 19, because in effect what the Committee did two years ago is say, leave everything as it is for two years so we can make a decision and this is what happened with those people such as the painters, the clerk and all those people. I think their rights are considerably less than the people who are already listed in the law. We do feel quite sure that we are going to be sued by all three groups that are being taken out. But this may be a good opportunity to find out whether or not that theory is correct."

Senator Lamb: "I think you are going to get that opportunity."

Mr. Bennett: "Another thing that concerns me, if this is fact, and I think the California cases have been consistently in favor of an employee, that if you really look at it and you look at S.B. 173, we have alot of other things that we are taking away from people. The right to pay on overtime, the right to pay on secondary employment, the right to be paid for their terminal leave when they terminate. If all of these things are followed forward only on a prospective basis, what you are really dealing with is neither the Legislature nor the Retirement Board can do anything, except in the future."

Senator Gibson: "That's what bothers me, and that's all across the country they are trying to correct these programs because of the uses that have been in. I don't buy this baloney, frankly."

SENATE FINANCE COMMITTEE  
MINUTES OF MEETING  
MARCH 24, 1977  
PAGE FOURTEEN

Mr. Bennett: "We felt that the Committee should have the information from our attorney because he is researching what has happened in seven cases that have occurred and in six of the seven cases they ruled in favor of the employee."

Senator Lamb: "Well, you're just inviting a law suit."

Senator Wilson: "Who is?"

Mr. Bennett: "No sir, we are just explaining to you the legal interpretation."

Senator Lamb: "The Retirement Board, if we do what we are trying to do, they are saying, come on boys, you've got a good shot at us."

Senator Wilson: "I don't think they are saying that, Mr. Chairman. I think we ought to know what the facts are. Let's make a policy decision and do what you think ought to be done, but I don't think anybody is inviting a law suit. I'm just saying I don't think that's fair."

Senator Gibson: "How long has the parole and probation program been in effect."

Mr. Barrett: "It's been in effect at least since 1959, I don't know before that."

Mr. Bennett: "You see, when they added the new contribution rates in 1971 where you paid the additional 1/2% employee and employer, that also grandfathered in and gave previous credit in the early retirement program for any previous service in those capacities. So, if a guy in 1971 had five years service as a parole and probation officer and was enrolled by law in 1971, then he automatically received credit for the five years before as a parole and probation officer. If that were not true, you wouldn't have any person retired at all in the police and firemen's fund, because it's only been in existence since 1969. What we were trying to do, Senator, was to provide to you the information from our attorney merely for your information and assistance. The Retirement Board has taken no position and made no recommendation regarding this matter."

Senator Lamb directed the Committee's attention to page 4, Section 11 of S.B. 173. Line 30: A member of the Nevada highway patrol who exercises the police powers specified in NRS 481.0491 and 481.180. What we are trying to do is go back to what the original intent of the early retirement bill was. So anybody who doesn't fit in that category, we are going to take them out, I suppose. We are either going to do it here or on the floor. There were no changes made on line 30.

Line 32: The sheriff of a county or of a metropolitan police department, a detective or a deputy sheriff. Senator Hilbrecht said that Senator Raggio had questioned that and he wasn't sure what he was referring to. He thought he was referring to a deputy sheriff who was collecting taxes, or not involved in police work in the field, like a detective or a regular highway patrolman would be, would also qualify under this. He said he had told him he didn't think so because of the language on lines 26 thru 29. He thought that perhaps he might be mistaken.

Senator Lamb asked why a deputy sheriff wouldn't qualify.

Senator Hilbrecht said there were some people who collected license fees as deputy sheriffs. They don't go out in the field and they don't carry guns. A discussion followed on this question.

Senator Lamb asked Barton Jacka, from Las Vegas Metro Police who was present at the hearing, if he could help in clarifying the duties of some of the people in question, if they are comparable to everyday police officers.

Barton Jacka said that every organization throughout the state, sheriff's departments, have specialized people who perform functions in the civil bureau, in the business license bureau. The people in the business license bureau in the Sheriff's Department in Las Vegas, carry guns, conduct investigations, have the ability to make arrests and do so as a matter of routine.

SENATE FINANCE COMMITTEE  
MINUTES OF MEETING

MARCH 24, 1977

PAGE FIFTEEN

Not the same matter of routine that a line policeman on the street does, but they do do that. They also investigate the proper licensing of establishments, so he felt they would clearly qualify. He said in the Washoe County Sheriff's Office, their deputy sheriffs assigned to their ancillary groups like business licensing etc., are rotated in and out.

Senator Lamb asked if there was a riot, if they would be called out.

Barton Jacka said when the welfare marchers marched, he specifically requested of the Director of the Las Vegas Business License Bureau to dispatch his people to take care of some responsibilities. He said they did the same thing in the Civil Bureau, even though the people there were older, they are basically policemen, they carry guns and can make arrests and they respond to back up policemen when they are needed.

Barton Jacka said there was a problem in today's society; government units hire so-called experts to come in and survey the odd classifications and they come up with all kinds of different titles and names and they forget that basically policemen are policemen. The titles assigned is where some of the problems have come from, particularly in Clark and Washoe Counties. In a county like Lyon County a Deputy Sheriff does all of those things, but his title is basically a deputy sheriff. He felt the surveys had hurt the department in a way. He said when you hire a man, put a badge on him, and commission him, his commission card is not one bit different from anyone else's, it says he has the power to conduct investigations and make arrests.

The Committee agreed to let Line 32 stand.

Line 34: The chief of police of an incorporated city or unincorporated town, a detective, or a subordinate police officer. This line was agreed on by the Committee.

Line 36: a member of the University of Nevada System Police Department. It was determined that these men had the ability to make arrests, conduct investigations on campus. In the Las Vegas, and Washoe Counties they call on the sheriff's office in the case of serious or major crimes. By legislation these men have the power as peace officers and they are commissioned by the University.

Mr. Bennett said, as a matter of clarification, that the Retirement System has 118 different state, county and municipal entities in the system. They all have their own job descriptions. What is apropos in Las Vegas is not necessarily appropriate in Reno, or Washoe, or Pioche, or Lander. He said a good example was the Justice of Peace who, in an insurrection, can go out and handle a riot, but there hasn't been an insurrection in the state since about 1880, so those people should not be covered. Then within the Sheriff's Department a deputy who in a riot can go out and handle it: but how often do you have a riot? So does his principle duties exclude that? He said he wanted to make the point that these are extremely involved, complicated things where individual situations have to be examined. He felt that the Police and Firemen's Retirement Fund Advisory Committee has done a very thorough job in going into these things on an individual basis. But he felt it was an individual thing. They meet with the people, they get job descriptions, they have the people appear before them, then they make a recommendation to the retirement board. He said the Legislature was creating, by S.B. 173, a Legislative Interim Retirement Committee which they recommended would in the next two years conduct a study of all these areas and come up with some firm recommendations as to just what do you mean. When you say a deputy sheriff, do you want to keep the man who is an administrator in the office who handles budget matters and establishes duty rosters? Do you mean a training officer, that sort of thing. He felt it would be very difficult for the Committee to make those distinctions at the present hearing.

Senator Hilbrecht moved that line 36 be deleted; Senator Echols seconded and the motion carried.

SENATE FINANCE COMMITTEE  
MINUTES OF MEETING  
MARCH 24, 1977  
PAGE SIXTEEN

Line 37: Was agreed upon by the Committee to remain with the bill.

Line 38: A special investigator employed by the attorney general or by a district attorney. This was deleted by previous action; the Committee agreed to let that action stand.

Line 40, 41, 42: A parole and probation officer of the department of parole and probation or other employee whose duties require daily contact with the prisoners for a majority of his work. Mr. Bennett said that lines 41 and 42 referred to people such as the cook in the kitchen who works a group of people, such as prisoners; the definition would require that you would have to have daily contact with the prisoners and your contact has to be for a majority of your work. Senator Hilbrecht moved that the words "or other employee" on line 41 be deleted; Senator Echols seconded and the motion passed.

Mr. Bennett asked if this action was intended as a tightening up process, and the Committee agreed that it was. He asked if the guard on the tower who is armed, whose purpose was to keep the guy from going over the wall, does he have daily contact? The Committee agreed that he did. Mr. Bennett said he just wanted to be sure of the Committee's intent.

Line 43: A guard, jailer or matron of a county or city jail. A discussion followed on the dangers of a jailer in carrying out his duties. The Sheriff from Lyon County testified that he thought this was the most dangerous job in the whole system. It was agreed that this provision would remain in the bill.

Line 44: An employee of the state gaming control board who is assigned to enforcement duties on a regular, full-time basis. There was a discussion on this because of a certain amount of heat that would be generated by its removal. Senator Wilson said there was either a justifiable distinction or there was not and he did not care what was said on the floor of the Senate. He felt they had to go to the merits of the classifications. Senator Gibson moved that these positions be deleted. Senator Echols seconded and the motion carried that an employee of the state gaming control board who is assigned to enforcement duties on a regular, full time basis did not qualify under the early retirement act.

Line 46: A taxicab field investigator designated by a taxicab authority. Senator Echols moved that this classification be deleted; Senator Glaser seconded and the motion carried.

Line 47: An agent of the investigation and narcotics division of the department of law enforcement assistance. Senator Gibson said he felt this was one of the more dangerous positions in law enforcement and he moved that they remain within the early retirement; Senator Hilbrecht seconded and the motion carried.

Line 49: Page 4 and Lines 1 thru 3 on page 5. The immediate supervisor of any person described in paragraphs (a) to (i) inclusive, if the supervisor's position is a normal promotional progression from one of the positions listed in paragraphs (a) to (i), inclusive. Mr. Bennett referred the Committee's attention to a memo from the Police and Fireman Advisory Board that had been distributed with suggested new language. He said that the present provision as it is written in the law would automatically provide coverage to any supervisor of one of the positions that are covered by law, provided it is in a normal promotional progression. And the assumption here is that if the person could be promoted from the ranks to this position as supervisor, then he would be allowed to continue in the early retirement program. Due to the actions of the Committee to tighten up the coverage, they would like to recommend that you also tighten up this area and it would provide in effect that you only cover a supervisor or another type person who would be maybe a training officer or somebody like that, only if he is a direct in-line promotion from the ranks.

Under the present law, the warden at the State Prison is being covered because the guards at the prison are being covered and he is in what would be considered a normal promotional progression, because you could select a warden from one of the members of the prison.



SENATE FINANCE COMMITTEE  
MINUTES OF MEETING  
MARCH 24, 1977  
PAGE SEVENTEEN

But that usually doesn't happen, so what this amendment would say is, that you would cover the warden at the prison only if he is directly promoted from the guards at the prison, but if he is employed, say from California or Indiana, or somewhere outside, that he would not be enrolled in the early retirement program. (See attached Memo signed by three members of the Police and Firemen Advisory Board.)

Mr. Bennett said a supervisor of a fire department squad would not want a promotion if he was going to lose his early retirement coverage which he has as a line fire fighter. This change would allow only those people who are already covered who get a promotion to an immediate above position within their own agency to be continued under the early retirement, but it would not cover and it will take out many of the present supervisors who are covered mainly because they have a group within their agency that is covered.

Senator Hilbrecht moved that the amendments on the memo from the Police and Firemen Advisory Board be approved; Senator Echols seconded.

Senator Wilson asked if this only applied to those people who received their promotions in consecutive order, from a supervisory position to the next progressive one. Mr. Bennett said it did not mean that. The motion carried.

Mr. Bennett said the amendments were essentially the same, only that one applied to the policemen and the other to the firemen.

Page 5, between lines 7 and 8 add the following: See attached memo for wording suggested by the Retirement Board.

Mr. Bennett explained that this amendment spelled out the intent of the Committee as of the last meeting in regard to taking out the investigator of the D.A., the A.G.'s office and Parole and Probation.

Senator Hilbrecht asked for an example. When these are deleted from coverage when does the employee become eligible to retire, how does the language in the bill impact the benefits he would receive as opposed to the benefits he would have received if the coverage had not been deleted.

Mr. Bennett said that the early retirement for police and firemen allows a person to retire at age 55 with ten years service as a police or firemen and at age 50 with twenty years service as a police or fireman. You cannot combine police and firemen service and nonpolice and firemen service to make the ten year or the twenty years for eligibility. What is being done, if the intent of the Committee is enacted in the law, the amendment merely states the intent that you have indicated. The Committee is saying that they are going to remove from coverage the investigators of the District Attorney's office, the investigators of the Attorney General's Office, and the parole and probation officers. These people were already covered by law. Also the University of Nevada policemen. Once any of these people who have ten years of service already by June 30, 1977, as a police or fireman have a vested right; and this means that although you are going to discontinue their paying the additional contribution, the 1/2% of employee and employer beginning July 1, this means that they are guaranteed to retire under early retirement for a police or fireman at age 55. This cannot be taken away from them. What it also means though is if they have not earned 20 years service as a police or fireman, that even though they are vested, they will not earn any additional credit after July 1, 1977 as a police or fireman and they will not be able if they work another ten years by age 50 to retire at age 50 with ten years service because they will be frozen in the police and firemen fund for that amount of credit as of June 30, 1977. For instance there is a district attorney investigator in Washoe County who now has 17 years service as an investigator. He is 47 years of old. If this action is passed and becomes law he will quit contributing to the early retirement program as of July 1, 1977 with 17 years credit to which he is vested which gives him a right to retire at age 55. But what you are taking away from him is the right to continue contributing as a police and fireman during the next three years so he could retire at age 50 with twenty years service. He will lose nothing that he has earned as of June 30, 1977, but he will gain no additional benefits after July 1, 1977.

SENATE FINANCE COMMITTEE  
MINUTES OF MEETING  
MARCH 24, 1977  
PAGE NINETEEN

Senator Hilbrecht: "Mr. Chairman, the only question I have, and Spike I understand your feeling about certain categories and I think you understand mine about other categories, but the question is why do you object to this, if there is something in this that is sinister, because it seems to me as though, the sinister thing is all the yellow ink on page 4."

Senator Wilson: "One of the reasons a guy goes into law enforcement in one of the previously included fields is that he does qualify for early retirement . . ."

Senator Lamb: "All right we'll buy that."

Senator Wilson: "Well, you're entitled to your opinion."

Senator Lamb: "Well, where were they before we ever started it."

Senator Wilson: "I'm not going to argue with you. You asked me what my reason was and I'll be willing to give it, but I'm not going to debate it after a vote because you don't happen to share my point of view."

Senator Lamb: "All right. Let's move on."

Senator Lamb referred them to page 5, line 14; after the word "450.500" insert the following: "the Nevada Interscholastic Activities Association".

Mr. Bennett said that Senator Gibson had suggested that this amendment be drafted because some of the school district superintendents had discussed and were concerned about the fact that this was being removed. The Retirement System had recommended that three groups of quasi-public agencies, or in some cases employee associations be added to the Nevada Interscholastic Activities Association, the Nevada League of Cities and the Classified School Employees Association. The Committee amended all three out and the Nevada Interscholastic Activities Association which is already enrolled in the Retirement System, has been for several years but has not been legally spelled out in the law, is quite concerned about this. Several of the school district superintendents are also concerned.

The Nevada Interscholastic Activities Association is the association that should be totally removed from any school district because they regulate interscholastic activities: football and basketball games, track and field between all of the schools. They came into the Retirement System several years ago by meeting with the previous Acting Director who suggested, at that time, that they be covered through the Carson City School District. What had happened, at that time, was that the school district was receiving their funds and reporting them to the Retirement System as an employee. When the situation was brought to the attention of the System, it was referred to the Board. They are not legally covered under present law; the Board determined that they would be allowed to remain within the System until this session and an amendment would be proposed to keep them in. The Nevada Interscholastic Activities Association is not a lobby group, such as the Nevada League of Cities. It is not an employee association. It is technically a non-profit public agency, but they are similar in identity to a Council of Governments which works with many governments but on an individual sort of liaison basis. He said that Bert Cooper of the Association was present if the Committee has any questions.

Senator Gibson said the reason he had requested that this be followed up is because this is another situation where somebody was misled by improper information from the department and the present person who is in this position has been in the Retirement System for many years and after inquiry, before he entered into the position, determined that he would be eligible in the retirement system and was hired. Then it was discovered that the advice that had been given was not correct.

He said in the light of what Mr. Isaeff had to say, it didn't matter whether the Committee added this or not. He said he just felt it should be looked into as it had not been brought to the Committee's attention previously.

SENATE FINANCE COMMITTEE  
MINUTES OF MEETING  
MARCH 24, 1977  
PAGE TWENTY

Senator Gibson moved that the amendment, as outlined, be approved; Senator Glaser seconded and the motion passed with Senators Hilbrecht and Lamb dissenting.

Senator Lamb thanked Mr. Bennett for appearing.

ADMINISTRATION PERSONNEL BUDGET: Senator Gibson moved that the budget be closed; Senator Echols seconded and the motion carried. (The Occupation Assistance Program had been questioned earlier and Mr. Wittenberg had submitted a memo, copy attached, to the Committee explaining the function of the Program.)

HISTORIC PRESERVATION PROGRAM BUDGET: Mr. Barrett said that this budget was self contained and at this point it was recommended that the program remain where it is, with State Parks. Senator Hilbrecht motioned that the budget be approved; Senator Gibson seconded and the motion carried.

SILICOSIS PROGRAM BUDGET: Senator Gibson moved the budget be closed; Senator Hilbrecht seconded and the motion carried.

CONSUMER PROTECTION BUDGET: Senator Hilbrecht moved the budget be approved; Senator Gibson seconded and the motion carried.

DRINKING WATER PROGRAM BUDGET: Senator Hilbrecht said that Clark and Washoe Counties said they needed added contract fees, \$68,000 in the first year, and \$76,000 in the second year. That is the total request, not a substantial increase. He moved that the budget be amended to show county programs in the first year of the biennium of \$68,000 instead of \$62,400; and in the second year of the biennium, \$76,000 in lieu of \$62,400. Senator Gibson seconded and the motion carried.

Senator Hilbrecht moved that the budget be closed as amended. Senator Gibson seconded and the motion carried.

BUREAU OF LABORATORY AND RESEARCH BUDGET: Senator Hilbrecht moved the Committee go with the Governor; Senator Echols seconded and the motion carried.

BUREAU OF HEALTH FACILITIES BUDGET: Senator Glaser moved the Committee go with the Governor; the motion was seconded by Senator Gibson and carried.

HEALTH AID TO COUNTIES BUDGET: Senator Gibson asked Mr. Barrett if his interpretation of the per capita was that the total aid per capita referred to total aid. Mr. Barrett said that was correct. He said that they used to pass only federal dollars on to the county, they were not given state dollars. About four years ago it was switched around and they gave them state dollars in lieu of some of the federal dollars and saved the federal dollars for the state, so they could use state dollars to match additional federal dollars at the local level. He said they had put an 11% increase into the budget, the same as they used for an inflation increase in other areas, but he would not recommend going beyond that.

Senator Hilbrecht said he felt they made a pretty compelling case: with the withdrawal of federal categorical monies, they indicated that the venereal disease program and a number of other programs were endangered or no longer available.

Mr. Barrett said that it was amazing how every other year during the Legislature, federal funds are supposedly going away and right after the Legislature goes home, usually all the federal funds are restored and all of them are back again. He felt this was something that came to the Legislature as a reason for giving them more money

Senator Hilbrecht said he felt there may have been a basic misunderstanding between Legislative intent and Mr. Barrett's interpretation of it, from his understanding, that resulted in reduced dollars for the last biennium.

SENATE FINANCE COMMITTEE  
MINUTES OF MEETING  
MARCH 24, 1977  
PAGE TWENTYONE

Senator Lamb asked who wanted to increase the budget and Senator Hilbrecht said that he did.

Senator Glaser moved that the Committee go with the Governor;  
Senator Echols seconded and the budget was closed with Senators Gibson and Hilbrecht dissenting.

DEPARTMENT OF LAW ENFORCEMENT ASSISTANCE BUDGET: It was decided to hold this budget for further study.

DEPARTMENT OF MILITARY BUDGET: Senator Glaser moved the budget be approved as the Governor recommended; Senator Gibson seconded and the motion carried.

ADMINISTRATIVE SERVICES DMV BUDGET: Mr. Barrett reported to the Committee on a question regarding rent which had been raised earlier. He said he could not explain why it did not jive up with the actual that was expended last year. The difference has to be that they were getting a very good deal from Buildings and Grounds in the past, and in effect were being subsidized by other agencies that were paying into Buildings and Grounds. This now puts them on the same basis as any other agency that is getting Buildings and Grounds services.

Senator Gibson asked if they had ever made a study on a building like this where they might contract compared to what the state has with Buildings and Grounds. Mr. Barrett said they had contracted a few times in the past and it did not work. The problem has been that as a public agency they have to go with the lowest contractor and in order to get to be the lowest contractor they hire on the lowest pay scale and the result is inefficiencies, dirty buildings, typewriters knocked over, and things stolen. If there was a way that the contractors could be screened better so they could get better contracts, he felt contracting would be the way to go. However they do not have the procedures to do it.

Senator Gibson said the amount for the buildings was a little dumbfounding.

Mr. Barrett explained that they have a number of buildings.

Senator Wilson asked what agencies were subsidizing the rent formerly.

Mr. Barrett said it would have to be all the regular agencies that receive services from Buildings and Grounds. These agencies all show a reduction in rent during the first year.

Senator Gibson moved that the budget be closed; Senator Echols seconded and the motion carried.

AUTOMATION DMV BUDGET: Mr. Barrett referred the Committee's attention to a letter in which he had answered previous questions of the Committee relative to Computer Facility Charges. (Copy attached.) He spoke briefly on the letter.

Senator Gibson asked if he still felt that the personnel which was listed in the budget would not interfere with the implementation of the program.  
Mr. Barrett said he did, definitely.

Senator Gibson moved that the budget be closed; Senator Echols seconded and the motion carried.

CARSON CITY TAXES BUDGET: Mr. Barrett explained that they were changing the recommendation so the first year would equal the amount they were recommending for the second year. He said he did not think any legislation was needed, they would just put a paragraph in the appropriations act.

Senator Gibson moved they go with the modified recommendation.  
Senator Wilson seconded and the motion carried.

SENATE FINANCE COMMITTEE  
MINUTES OF MEETING  
MARCH 24, 1977  
PAGE TWENTYTWO

The meeting adjourned at 10:20 A.M.

RESPECTFULLY SUBMITTED:

*Muriel P. Mooney*

MURIEL P. MOONEY, SECRETARY

APPROVED:

*Floyd R. Lamb*  
FLOYD R. LAMB, CHAIRMAN

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ASSEMBLY JOINT RESOLUTION NO. 30—  
ASSEMBLYMAN MAY

MARCH 7, 1977

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Referred to Committee on Government Affairs

SUMMARY—Memorializes Congress to refrain from enacting any law which would establish federal supervision over public retirement systems or require public employees to enroll under Social Security. (BDR 1027)

EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

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ASSEMBLY JOINT RESOLUTION—Memorializing the Congress of the United States to refrain from enacting any law which would establish federal supervision over public retirement systems or require public employees to enroll under Social Security.

- 1 WHEREAS, The proposed Public Employee Retirement Income Security  
2 Act, H.R. 13040, which was introduced in Congress on April 5, 1976,  
3 would have established federal jurisdiction over and supervision of public  
4 retirement systems in the areas of vesting, portability and funding; and  
5 WHEREAS, There is presently a proposal before the Subcommittee on  
6 Social Security of the House Ways and Means Committee which would  
7 require all persons covered by public retirement systems to enroll under  
8 Social Security in addition to their present coverage; and  
9 WHEREAS, Mandatory enrollment under Social Security, in addition  
10 to the present coverage provided to public employees by the public  
11 employees' retirement systems, would increase the annual cost to public  
12 employees and their respective public employers by approximately \$30  
13 million per year to enroll those employees in an additional federal pro-  
14 gram which has an unfunded liability of approximately \$2.1 trillion; and  
15 WHEREAS, There is presently a proposal under consideration by a con-  
16 gressional committee to require that all public retirement systems invest  
17 20 percent of their assets in housing investments with the provision that  
18 the public systems would have 10 years from the date of passage to reach  
19 the 20 percent of portfolio participation level; and  
20 WHEREAS, The public employees' retirement system of the State of  
21 Nevada presently has a policy of investing up to 10 percent of portfolio  
22 in mortgage and real estate investments with a return of over 10 percent  
23 which would not be possible with investments in housing because the  
24 return is considerably lower; and  
25 WHEREAS, The public employees' retirement system and the legislators'  
26 retirement system of the State of Nevada have been required to participate

Original bill is 2 pages long.  
Contact the Research Library for  
a copy of the complete bill.

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S. B. 17

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SENATE BILL NO. 17—SENATORS FAISS, ECHOLS,  
HERNSTADT, NEAL, WILSON AND SHEERIN

JANUARY 18, 1977

Referred to Committee on Environment, Public Resources  
and Agriculture

SUMMARY—Permits free use of state parks by Nevada residents over 60  
years of age. (BDR 35-482)

FISCAL NOTE: Local Government Impact: No.  
State or Industrial Insurance Impact: Yes.

EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to state parks and monuments; providing for free use of state  
parks by Nevada residents over 60 years of age; and providing other matters  
properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,  
do enact as follows:*

- 1 SECTION 1. NRS 407.065 is hereby amended to read as follows:  
2 407.065 The system is hereby authorized to:  
3 1. Designate, establish, name, plan, operate, control, protect, develop  
4 and maintain state parks, monuments and recreation areas for the use  
5 of the general public.  
6 2. Protect state parks and property controlled or administered by it  
7 from misuse or damage and to preserve the peace within such areas. At  
8 the discretion of the administrator, rangers and employees of the system  
9 shall have the same power to make arrests as any other peace officer for  
10 violations of law committed inside the boundaries of state parks or real  
11 property controlled or administered by the system. The administrator  
12 may appoint or designate certain system employees to have the general  
13 authority of peace officers as provided in NRS 169.125, but such  
14 employees shall not be police officers or firemen for the purposes of  
15 NRS 286.510.  
16 3. Allow multiple use of state parks and real property controlled or  
17 administered by it for any lawful purpose, including but not limited to,  
18 grazing, mining, development of natural resources, hunting and fishing,  
19 and subject to such rules and regulations as may be promulgated in  
20 furtherance of the purposes of the system.  
21 4. Conduct and operate such special services as may be necessary for

Original bill is 2 pages long.  
Contact the Research Library for  
a copy of the complete bill.

PROPOSED AMENDMENTS TO SENATE BILL 173, SECOND REPRINT BY  
SENATE FINANCE COMMITTEE

- 1) Page 4, delete lines 41 and 42 in their entirety and insert the following: probation.);
- 2) Page 4, delete lines 44 through 48 in their entirety.
- 3) Page 4, line 49, delete the word "(j)" and insert "(g)".
- 4) Page 5, between lines 7 and 8 add the following: 3. A member who has earned a vested right for service as a police officer in a position which was previously listed in the law and has been deleted from coverage by this act shall be entitled to early retirement benefits provided to a police officer based on the amount of service earned in this capacity prior to July 1, 1977 but shall not continue as a contributing member or earn additional early retirement credit in the Police and Firemen Retirement Fund after that date.



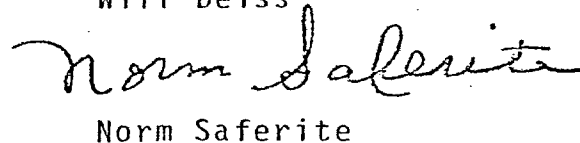
SUGGESTED AMENDMENTS BY POLICE AND FIREMEN RETIREMENT FUND  
ADVISORY COMMITTEE TO SENATE BILL 173, SECOND REPRINT

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- 1) Page 4, delete lines 17 through 20 in their entirety and insert the following: (e) An employee of a public employer covered under the early retirement program who receives a direct in-line promotion to either a supervisory or support position directly affecting the operation of a covered position.
- 2) Page 4, delete line 49; page 5, delete lines 1 through 3 in their entirety and insert the following: (j) An employee of a public employer covered under the early retirement program who receives a direct in-line promotion to either a supervisory or support position directly affecting the operation of a covered position.

  
Julie Conigliaro

  
Will Deiss

  
Norm Saferite

PROPOSED AMENDMENT TO SENATE BILL 173, SECOND REPRINT BY  
SENATE FINANCE COMMITTEE

Page 5, line 14, after the word "450.500" and before "and"  
insert the following: , the Nevada Interscholastic Activities  
Association.

MEMORANDUM

TO: Senator Norman Hilbrecht

FROM: Jim Wittenberg  
State Personnel Administrator

DATE: March 18, 1977

SUBJECT: Occupational Assistance Program

The Occupational Assistance Program (OAP) was founded on the premise that the State of Nevada has a vital and legitimate concern for its employees' personal problems when those problems impair their ability to perform satisfactorily on the job. It further recognizes the need to provide a service of confidential professional consultation for its personnel in such matters. While an employee's personal life is his or her own affair, it is sound practice to offer assistance when their job performance is materially affected. The concept was started in private industry where the payoff in cost-avoidance and savings as well as from a humanitarian standpoint was substantial.

The OAP program recognizes that significant savings can result from an enlightened approach to such problems in an attempt to assist the employee in returning to useful job production.

Increasingly, we observe that agency heads and other management personnel are recognizing that alcoholism, drug dependency and other dysfunctions are essentially soluable problems, and that punitive action is largely unsuccessful and costly when imposed prior to a genuine offer of appropriate treatment and care.

A variety of problems, such as alcohol and drug, marital, financial, medical, psychological, social, and vocational misplacement are often a cause of unacceptable job performance. Over 50% of the cases involve alcohol abuse. In most cases, a combination of these problems exist. OAP staff also provides training for supervisory and management personnel in early identification of the problem employed and the proper course of action to pursue in resolving them.

During calendar 1976, over 200 employees have utilized the service and since the inception of the program over 600 employees have been helped. This total does not include time spent with agency supervisors and family members who were also involved in many cases. The supervisory follow-through has been one of the important elements in the success of this program.

Careful records have been maintained relative to employee productivity before and after treatment by OAP. Percentage of dysfunction as determined by agency supervisors and management, not OAP staff, ranges from 10% to as high as 95%. The average for all employees involved in the program is conservatively estimated to be 25% (non-productive time). This is roughly the same percentage found in private industry and other public jurisdictions surveyed where similar assistance programs are operational.

The cost savings is determined by the average annual salary of employees using the program which is about \$12,000. When the 25% non-production average before treatment is eliminated, a direct productivity increase or savings is realized ( $\$3,000 \times 200 = \$600,000$ ). If employees leave the organization due to impaired work performance due to personal problems a further cost to the State is accrued in replacement and training. If we consider only half the annual salary for the first year for the replacement multiplied by the number of employees, an indirect savings is realized ( $\$6,000 \times 200 = \$1,200,000$ ). Thus, during the year of operation, the total direct and indirect savings calculated in this manner is  $\$600,000 + \$1,200,000 = \$1,800,000$ . These cost savings makes no attempt to incorporate the humanitarian aspects of the program. These are all indirect savings but are very real. Another direct cost is involved in the dollars spent for training and development of a troubled employee. The savings resulting from the rehabilitation of a good employee would be also significant.

At least one indication of success is that over 90% of all employees using the program are still employed by the State. Our research has indicated that over 80% of industrial firings in the United States are caused by social maladjustment (absenteeism, lateness, alcoholism, etc.) and not skill deficiencies or lack of ability to do the job.

Our savings projections, I suppose, are arguable but we think realistic. This program has resulted in monetary cost-avoidance and humanitarian success which far outweigh the program cost in my opinion.

JFW:akh  
cc.: Senator Eugene Echols

## MEMORANDUM

TO: Senate Finance Committee

FROM: Howard E. Barrett

SUBJECT: Computer Facility Charges - Department of Motor Vehicles

The following is a recap of actual agency usage of the Computer Facility for fiscal year 1975-76 and estimated usages for the coming biennium.

	1975-76 Actual	1977-78 Estimate	1978-79 Estimate
Department of Highways	7.56% \$ 139,825	12.89% \$ 224,275	12.62% \$ 219,573
Central Data Processing	21.43% 403,504	34.77% 604,967	34.60% 601,240
Department of Motor Vehicles	20.56% 387,077	28.30% 492,394	27.46% 477,771
Controller	4.21% 79,312	7.20% 125,274	7.01% 121,966
Legislative Counsel Bureau	.13% 2,362	.62% 10,787	.58% 10,091
Nevada Industrial Commission	5.92% 111,463	16.22% 282,214	17.73% 308,482
Employment Security Department	40.32% 759,030		
	<u>\$1,882,574</u>	<u>\$1,739,911</u>	<u>\$1,739,881</u>

The above schedule reveals that the Department of Motor Vehicles percentage of use goes from 20.56% in fiscal year 1975-76 to 28.30% in fiscal year 1977-78. The Department of Motor Vehicles dollar share of the costs increases from \$387,077 in fiscal year 1975-76 to \$492,394 in fiscal year 1977-78. This is an increase of 27.2%.

Below is another schedule showing the fiscal year 1975-76 actual figures with the Employment Security Department excluded.

Department of Highways	\$ 139,825	12.45%
Central Data Processing	403,504	35.91%
Department of Motor Vehicles	387,077	34.45%
Controller	79,312	7.06%
Legislative Counsel Bureau	2,362	.21%
Nevada Industrial Commission	111,463	9.92%
	<u>\$1,123,543</u>	100.00%

The above schedule reveals that the Department of Motor Vehicles percentage share of the Computer Facility operation was 34.45% when Employment Security is excluded from consideration. When comparing this with the estimates for the coming biennium, we can see an estimated decrease in Motor Vehicles share of 6.15% to 28.30%. This decrease is primarily due to the installation of a distributed processing network by Motor Vehicles and the increasing usage by the Industrial Commission.

The percentages for the various agencies were based on projected workloads. The Department of Motor Vehicles long range forecast projected substantial growth in volumes on existing systems. Therefore their percentage of the total would increase. Originally, the Facility anticipated that Motor Vehicles would be a

36.92% user. With the distributed processing network, the Facility revised their projection for Motor Vehicles to a 28.30% user, a reduction of 8.62%.

Some of the reasons for the increase in cost to the regular users from fiscal year 1975-76 to fiscal year 1977-78 are listed below.

	<u>Approximate Increase</u>
Employment Security Removal - Direct Operating	\$ 60,000
Employment Security Removal - Salary Overhead	14,000
Employment Security Removal - One-Time Software	37,100
Increased Utility Costs	37,000
Increased Maintenance Contracts (Including A.P.)	48,000
Salary Increases	35,000
Equipment for New Disc Packs	26,000
Increased General Fund Repayment	71,700
Increased Equipment	193,125

In addition, substantial salary savings were created with Employment Security in the Facility since common use of staff enabled the agency to leave positions vacant periodically.

The installation of the distributed processing network is primarily the replacement of the field terminal equipment. Motor Vehicles share in absolute dollars, then, is increasing because of increasing costs and increasing volumes of work. At the same time, this increase has been tempered by the move to distributed processing.

HEB:DM/md