

MINUTES OF THE  
MEETING OF THE SENATE COMMITTEE  
ON GOVERNMENT AFFAIRS

SIXTY-FIRST SESSION  
NEVADA STATE LEGISLATURE  
April 15, 1981

The Senate Committee on Government Affairs was called to order by Chairman James I. Gibson, at 2:08 p.m., Wednesday, April 15, 1981, in Room 243 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator James I. Gibson, Chairman  
Senator Jean Ford, Vice Chairman  
Senator Keith Ashworth  
Senator Gene Echols  
Senator James Kosinski  
Senator Sue Wagner

COMMITTEE MEMBER ABSENT:

Senator Virgil Getto (Excused)

STAFF MEMBER PRESENT:

Anne Lage, Committee Secretary

SENATE BILL NO. 163

Provides for urban subdistricts within water conservancy districts.

Mr. Louis Gardella, President Truckee Meadows Water Users Association, gave a slide presentation on the Truckee Irrigation System. He stated that this presentation had been prepared for the legislator's tour which had been scheduled in January, but cancelled due to a conflict in scheduling. He distributed a summary of his feelings toward this bill. (See Exhibit C.)

Mr. Claude Dukes, Water Master, testified that this type of agency was urgently needed in the Truckee Meadows. He did indicate that Sparks had taken over the operation and maintenance of the North Truckee Ditch.

Mr. Russell McDonald, Truckee Meadows Water Users Association, testified that any vehicle which would provide assistance to the problems of the irrigation ditch system should be used.

SENATE COMMITTEE ON  
GOVERNMENT AFFAIRS  
April 15, 1981

Mr. John Aratscable, Assistant Reno City Manager, testified that the City of Reno was confused about this bill. He recognized that they had a responsibility, but thought that a local agreement could be prepared to work out a solution. He did not feel that state legislation was necessary to handle the problem.

In response to Senator Wagner's question, Mr. Aratscable stated that the City of Reno was aware of the problems, but they had not volunteered to help formulate some kind of working agreement.

Senator Kosinski asked if some type of agreement could be worked on by April 27, 1981. Mr. Aratscable stated that the City of Reno would be willing to meet with the Truckee Meadows Water Users Association to try to come to an agreement.

Mr. Floyd Vice, Washoe County Public Works Director, testified that there was a growing problem with urbanization on the ditches. He stated that Washoe County staff had met with representatives of the ditch companies in an attempt to assist them in resolving the problems. To date, the discussions had not been along the lines of maintenance, rather it had been in allowing them to participate in their subdivision review to make sure proper right-of-ways were being provided for access for their facilities.

Senator Ford suggested that a report be brought back to the committee on what definite plans were made as to what kind of structure would be set up so that this problem was not allowed to continue.

SENATE BILL NO. 482

Authorizes attorney general to investigate and prosecute crimes of state officials.

Attorney General Richard Bryan explained the Ryan Case of 1972 as background for this bill. This case virtually emasculated any prosecutorial power in the Attorney General's office by holding in effect there was no common law power to prosecute. Any power to prosecute must be found in a specific statutory authorization.

Mr. Bryan testified that this bill would give the Attorney General's office the power to conduct investigations and

SENATE COMMITTEE ON  
GOVERNMENT AFFAIRS  
April 15, 1981

prosecutions where acts of criminal misconduct have occurred by state officers and employees during the course of their official appointment. It would be current with the District Attorney's office. It would not divest the District Attorney's office of any jurisdictional authority they had at the present time, but would affirmatively by statute provide that authority to the Attorney General's office.

Mr. Bryan believed the justification for this bill was that when allegations were directed to alleged misconduct of state employees, it seemed only logical that action should be taken at the state level.

Mr. Bryan believed that "officer of the state" would include judicial officers as well as legislative members. Senator Ford stated that this should be made clear or refer to a definition of state officers somewhere else in the law. Mr. Bryan had no problem with this clarification.

Mr. Bryan stated that he did have the authority to act in certain areas such as prison inmate problems, Election Campaign Practices Act, The Open Meeting Law, and the Lobbyist Disclosure Act.

Mr. John Crossley, Legislative Auditor, testified in support of Senate Bill No. 482. He distributed copies of the minutes of the meeting of the Legislative Commission wherein Mr. Crossley presented letters from the Attorney General and the District Attorney of Carson City. Those letters were in response to a letter from Mr. David B. Small which precipitated this legislation. (See Exhibit D.)

SENATE BILL NO. 485

Clarifies term "continuous" as used in plan to encourage continuity of service.

Mr. Bob Gagnier, Executive Director Nevada State Employees Association, testified that this bill was an effort to correct the definition of "continuous". He stated that the Attorney General had interpreted it to mean if a person had worked for the state and left to work for another covered entity, then returned to state employment, it should be considered as "continuous" employment. Mr. Gagnier believed this interpretation to be contrary to the legislative intent. Mr. Gagnier felt that the longevity pay system was used to encourage

SENATE COMMITTEE ON  
GOVERNMENT AFFAIRS  
April 15, 1981

employees to stay, not to leave and come back. Mr. Gagnier indicated that those people who were receiving this benefit by virtue of the former Attorney General's opinion would not have that taken away, but it would not occur in the future.

Chairman Gibson questioned the language of the bill, stating that it appeared to mean that the Attorney General's opinion would hold true until July 1, 1981. It was suggested to amend the language to only include those employees who were currently employed and receiving this benefit based on the Attorney General's opinion, and to make clear it applied only to state employment .

Mr. Mitch Brust, Personnel Division, testified that the total state employees receiving longevity pay was 2,800. Of that amount, 74 would have to be "grandfathered in" according to this bill.

Senator Ford moved "Amend and Do Pass" on Senate Bill No. 485.

Senator Wagner seconded the motion.

The motion carried unanimously.

SENATE BILL NO. 487

Provides for financial assistance to certain business.

Ms. Jean Kvam, Intern for Senator Neal, testified that this bill was drafted to create economic opportunities for all those people deprived of the social and economic means of obtaining a competitive position in our economy.

With the threat of the abolishment of the Small Business Administration by the Reagan administration, it was the design of this bill to take up the slack as a result of this.

The major concept of this bill was to encourage bank loans to those persons who were socially or economically disadvantaged by allowing the division to guarantee repayment of these loans.

Ms. Kvam reviewed several mechanical changes that might be considered. Ms. Kvam stated that Senator Neal had indicated that although the concept of the bill was good, as it was worded presently, it was not a working piece of legislation.  
(See Exhibit E.)

SENATE COMMITTEE ON  
GOVERNMENT AFFAIRS  
April 15, 1981

Mr. Walt MacKenzie, Director Department of Economic Opportunity, testified that this bill was a shift of the present small business operation to the state level. Mr. MacKenzie stated that there were sources of money other than the state of Nevada to cover the \$3,000,000, but there was no guarantee that any of that money would be available. If the Small Business Administration should expire under the Reagan administration, then money might be made available under some sort of block grant form.

Mr. Mackenzie also mentioned the \$143,000 which would be necessary to operate this loan business. A Deputy Attorney General, a Certified Public Accountant and two clerical personnel would have to be hired.

Mr. MacKenzie distributed a letter from the Attorney General which criticized portions of the bill. (See Exhibit F.)

Mr. MacKenzie was concerned that this legislation would put the Department in the type of business that it was not designed for in the original statutes. He stated that there was a problem as to where the money would come from for the monetary reserve. Mr. Mackenzie was not in support of this bill.

Senator Keith Ashworth moved "Indefinite Postponement" on Senate Bill No. 487.

Senator Kosinski seconded the motion.

The motion carried. (Senator Echols voted "No".)

ASSEMBLY BILL NO. 265

Increases certain fees for services of constables.

Mr. John Hart, Reno Constable, testified in support of Assembly Bill No. 265. He reviewed the reasons for the proposed increases on the fees. Mr. Hart stated that papers were not always delivered on the first attempt. Very often they must make several trips and with the cost of gas increasing this was becoming costly.

Mr. Hart explained that there had been an amendment made to the bill in the Assembly. It provided for an increase in the fees for evictions.

SENATE COMMITTEE ON  
GOVERNMENT AFFAIRS  
April 15, 1981

Concern was voiced by Chairman Gibson regarding the increase in eviction fees.

Mr. Richard Ferron, Sparks Deputy Constable, testified that during a three month period beginning in October, his total income was \$3,036. His total expenses were \$2,070.50. That averages out to around \$300 per month.

Mr. Russ McClem, Incline Village Constable, testified that these increases were a non-cost factor to the county or the state of Nevada. He stated that he was in agreement with all that John Hart had mentioned.

Ms. Pat Mulroy, Clark County, testified that Clark County was in agreement with the increases, except in two areas. She asked that the summons fees be increased to \$10.00 and the eviction fees be increased to \$25.00. She stated that these two areas were the most expensive to handle. She indicated that in Clark County it took two constables to deliver eviction notices and the fee had to be split between them.

Senator Kosinski inquired if a study had been made of a cost basis for the constable fees.

Senator Gibson also inquired as to the number of evictions which were delivered in Clark County.

Ms. Mulroy stated that she would find out this information and report back to the committee.

SENATE BILL NO. 488

Removes limits on rates of interest for government borrowing.

Chairman Gibson explained that this bill was drawn at the request of the committee so that all government borrowing with regards to the interest which could be paid would be considered within one bill.

Mr. Al McNitt, Administrator Housing Division, testified that the Housing Division was not issuing General Obligation Bonds and was exempt from the statutory limit, thus there was no agency position on this bill. However, Mr. McNitt indicated that the interest limitations on bonds had been difficult to work with. He recommended consideration for any vehicle

SENATE COMMITTEE ON  
GOVERNMENT AFFAIRS  
April 15, 1981

that would provide flexibility to accomodate the broad fluctuations in the bond market interest rates.

Mr. Frank Daykin, Legislative Counsel, testified that this bill would remove any limit upon the rate of interest for public securities. This bill would affect all laws with the exception of the Washoe County Airport Authority and the Las Vegas Valley Water District as they had been covered in two special bills. However, Mr. Daykin indicated that he did have the amendments which would include these two within this bill if the committee requested this to be done. Under the provisions of this bill the interest rate would be determined after the bond election.

Chairman Gibson questioned how the voters would know what their obligation would be if no interest rate was indicated on the ballot. Mr. Daykin replied that the voters would only be voting on a proposed bond at such a rate of interest as the bonds could be sold for. Concern was expressed over not having a stipulation of an interest rate which would not be exceeded. Chairman Gibson questioned if it might be better to have the local governing body determine a maximum interest rate before an election was held.

Mr. Donald Paff, General Manager and Secretary of the Las Vegas Valley Water District, presented his testimony in support of Senate Bill No. 488 with certain amendments. (See Exhibit G.)

Mr. Henry Chanin, Burrows, Smith and Company, testified that this bill would still require a local governing body who was bringing an issue of bonds before its voters, to state a maximum rate of interest. If, however, Assembly Bill No. 167 passed in its present form, that requirement would be eliminated.

Mr. Chanin pointed out three factors which were relevant. One was that dollars paid out ten to fifteen years from now would be worth less than they were now. A second factor about long term debt was that it was designed to provide for future users to share the burden of facilities that were presently needed. Finally, if the market were to change and interest rates dropped, bonds could be replaced at a lower rate.

SENATE COMMITTEE ON  
GOVERNMENT AFFAIRS  
April 15, 1981

Mr. Chanin testified that 27 other states had removed the cap on interest rates.

Mr. Ken Partridge, University of Nevada, testified that the Board of Regents of the University of Nevada were in support of Senate Bill No. 488. He indicated that presently they had two bond issues that needed to be sold to enable them to build two buildings. With the 9 percent limitation, they had not been able to sell those bonds.

Mr. Bryce Wilson, Nevada Association of Counties, testified that he was also representing the Nevada League of Cities and that both associations were in support of this bill.

Mr. Ed Greer, Business Manager for Clark County School District, testified that Clark County had to have a county wide need to gain the necessary support needed to pass a school bond. Their bonds usually ran from \$30 million to \$60 million and were to be spent over a three year period. The 9 percent ceiling would make it almost impossible for them to sell their bonds.

The committee decided to hold this bill and give it further consideration. Mr. Daykin was instructed to prepare the amendment to include the Las Vegas Valley Water District and the Washoe County Airport Authority.

SENATE BILL NO. 513

Authorizes deposit of state money in insured credit unions.

Ms. Pamela Crowell, representing Senator Joe Neal, testified that the concept of this bill was not new. In the 1979 session of the legislature, Assembly Bill No. 818 attempted to do most of what this bill would accomplish. However, it was vetoed by Governor List as there was a cap placed on investments.

Mr. Norman Okata, Credit Union Commissioner, testified that he was in support of this bill. It would allow local agencies to support their own community charter.

Mr. Stan Colton, Nevada State Treasurer, testified that any deposit made had to be collateralized.

Senator Ford moved "Do Pass" on Senate Bill No. 513.

Senator Kosinski seconded the motion.

The motion carried unanimously.



SENATE COMMITTEE ON  
GOVERNMENT AFFAIRS  
April 15, 1981

SENATE BILL NO. 518

Revoves limits on boundaries of service area of county fire departments.

Ms. Pat Mulroy, Clark County, testified that in the last session Assembly Bill No. 749 allowed counties to form county fire departments. Part of the bill placed boundary restrictions on these departments. This bill would remove boundary restrictions.

Ms. Mulroy requested that an amendment be included within this bill which would state, "the area to be served by the fire department must be contiguous, compact and must not include any territory within the boundaries of an incorporated city".

Mr. Lodi Smith, State Forester testified that he was in support of this bill with the exclusion of Chapter 473.

Mr. Gene LeBlanc, Washoe County Fire District, testified in support of this bill.

Mr. Julius Conigliaro, City of Las Vegas, testified in support of this bill with the proposed amendment.

Senator Ford moved "Amend and Do Pass" on Senate Bill No. 518.

Senator Echols seconded the motion.

The motion carried unanimously.

SENATE JOINT RESOLUTION NO. 29

Proposes constitutional amendment to remove lieutenant governor as president of senate.

Chairman Gibson informed the committee that the amendment had been completed which would allow the lieutenant governor to perform duties as prescribed by law.

Senator Keith Ashworth moved "Amend and Do Pass" on Senate Joint Resolution No. 29.

Senator Ford seconded the motion.

The motion carried. (Senator Wagner voted "No".)

SENATE COMMITTEE ON  
GOVERNMENT AFFAIRS  
April 15, 1981

BILL DRAFT REQUEST NO. 1890 (S.R. 12)

Adds new standing rule which provides procedure for deciding contest of election.

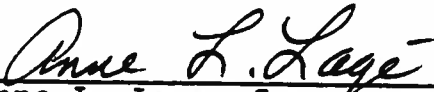
Chairman Gibson submitted this Bill Draft Request for committee introduction.

REAPPORTIONMENT

Mr. Andrew Grose, Research Director, presented his latest maps on reapportionment.

There being no further business, the meeting adjourned at 6:30 p.m.

Respectfully submitted by:

  
\_\_\_\_\_  
Anne L. Lage, Secretary

APPROVED BY:

  
\_\_\_\_\_  
Senator James I. Gibson, Chairman

DATE: May 4, 1981

SENATE AGENDA

COMMITTEE MEETINGS

Committee on Government Affairs , Room 243 .

Day Wednesday , Date April 15 , Time 2:00 p.m. .

S. B. No. 163--Provides for urban subdistricts within water conservancy districts.

Dave Henry, Washoe County

S. B. No. 482--Authorizes attorney general to investigate and prosecute crimes of state officials.

Richard Bryan, Attorney General

S. B. No. 485--Clarifies term "continuous" as used in plan to encourage continuity of service.

Bob Gagnier, State of Nevada Employees' Association  
James Wittenberg, Personnel Administrator

S. B. No. 487--Provides for financial assistance to certain business.

Senator Joe Neal, Prime Sponsor  
Walter MacKenzie, Director Economic Development

S. B. No. 488--Removes limit on interest rate allowed on public financing.

Allen McNitt, Housing Division  
G. P. Etcheverry, Nevada League of Cities  
Bryce Wilson, Nevada Association of Counties

A. B. No. 265--Increases certain fees for services of constables.

S. B. No. 513--Authorizes deposit of state money in insured credit unions.

Senator Joe Neal, Prime Sponsor

S. B. No. 518--Removes limits on boundaries of service area of county fire departments.

ATTENDANCE ROSTER FORM

COMMITTEE MEETINGS

SENATE COMMITTEE ON GOVERNMENT AFFAIRS

DATE: April 15, 1981

EXHIBIT B

PLEASE PRINT NAME	PLEASE PRINT ORGANIZATION & ADDRESS	PLEASE PRINT TELEPHONE
R. MACDOUGALL	USDA - SCS	784-5408
PAM WILCOX	NV DIV. OF CONSERVATION DISTRICTS - NYE BLDG	885-5414
BOB GAGNIER	SNEA	982-3910
AL WENITT	Housing Director	4257
<del>John Crossley</del>	U. of N. System Administration	784-4026
HENRY CHAMIN	BURNING, SMITH & Co	733-3980
FLOYD VICE	WASHOE COUNTY PUBLIC WORKS	785-4281
<del>John Crossley</del>	Intern for Nevada Dept	-
DON PAFF	LAS VEGAS VALLEY WATER DIST	870-2011
John Crossley	LCB - Reno	805-5620
Walt MacNEADIE	DES	885-4322
<del>John Crossley</del>	Truckee Meadows Water Users	322 0094
<del>John Crossley</del>	Alma	325-1637
<del>John Crossley</del>	AjG	885-4176
<del>John Crossley</del>	Winnemucca	885-4050
Joe Venderwell	Nev. Gr Union League	825-1379
<del>John Crossley</del> Pat Mulroy	Clark Co	383-3520

COMMITTEE ON GOVERNMENTAL AFFAIRS

SENATOR JAMES GIBSON, CHAIRMAN

EXHIBIT C

SB-163 HEARING, APRIL 15, 1981

The time has come to reappraise the whole spectrum of water availability, management, usage and quality together with problems of flood control, drainage, etc., in the Truckee Meadows.

It is the consensus of most water knowledgeable people that creation of an urban subconservancy district in the Truckee River drainage basin offers the best solution to the water problem crisis the area is facing. SB-163, an amendment to the State Conservancy District Law will make the organization of a subconservancy district possible. There are about 40 local, state, federal, and private agencies or groups interested in the Truckee River water. A subconservancy district could act as the focal agency to bring the conflicting interests together. The Truckee Meadows must be considered as one community as all entities within the Truckee Meadows must depend on the Truckee River for water.

A subconservancy district would become an integral part of the Carson-Truckee Conservancy District which is composed of all or parts of six counties. The district is responsible for repayment of their portion of costs of construction of Stampede, Prosser, and Martis Creek dams and plays an important part in the management of those reservoirs. A subconservancy district would be largely responsible for improvement within the Truckee River Basin of flood control, drainage, delivery systems, etc.

The Truckee Meadows is faced with making the best usage of water available. Usage of water is restricted by the Orr Ditch Decree, the Truckee River Agreement, and Nevada State water laws. The Clean Water Act (208) has placed another restriction on water usage. To comply with these restrictions an umbrella like agency is vital. No other solution has been presented.

Therefore, it is hoped that the Government Affairs Committee will give a "do pass" recommendation to SB-163.

Louie A. Gardella  
President  
Truckee Meadows Water Users Association

Vice-Chairman  
Washoe-Storey Conservation District

*John Crossley*

MINUTES OF THE  
MEETING OF THE LEGISLATIVE COMMISSION  
NEVADA LEGISLATIVE COUNSEL BUREAU  
Carson City, Nevada  
May 6, 1980

EXHIBIT D

TABLE OF CONTENTS

<u>Item No.</u>		<u>Page</u>
1.	Approval of minutes of meeting held on February 27, 1980.....	1
2.	Reports to the commission:	
(a)	Meeting attendance report--Mr. Arthur J. Palmer, Director.....	2
(b)	Report of polls taken of the Legislative Commission, Mr. Arthur J. Palmer, Director.....	2
(c)	White Pine County Crime Impact Report, Mr. Arthur J. Palmer, Director.....	2
(d)	Nevada Industrial Commission action in response to Advisory Board--Mr. Arthur J. Palmer, Director.....	2
(e)	Report of information received from district attorneys and public defenders for 1979--Mr. Frank W. Daykin, Legislative Counsel.....	2
(f)	Compilation of Special and Local Acts, S.C.R. 45--Mr. Frank W. Daykin, Legislative Counsel.....	2
(g)	Select Committee on Public Lands--Senator Richard Blakemore.....	3
(h)	Special Committee on MX Missile matters--Senator Richard Blakemore.....	3
(i)	National Conference of State Legislatures (NCSL) Geothermal Energy Committee--Senator Lawrence E. Jacobsen.....	3
(j)	Legislative film availability--Mr. Andrew P. Grose, Research Director.....	3
(k)	Reapportionment planning for the 1981 session--Mr. Andrew P. Grose, Research Director.....	4
(l)	Legislative Committee for Review of Federal Regulations--Mr. Robert Erickson, Senior Research Analyst.....	4
(m)	Western Conference, Council of State Governments, 1981 Annual Meeting, Reno, Nevada--Mr. Robert Erickson, Senior Research Analyst.....	4
3.	Legislative Auditor:	
(a)	Report on attorney general and district attorney communications (NRS 218.880).....	5
(b)	Audit reports:	
(1)	Statewide Receipts and Disbursements--Payroll Function.....	5
(2)	Revenue Sharing Trust Fund.....	5
(3)	Countercyclical Aid.....	6
(4)	Consolidated Bond Interest and Redemption Fund.....	6
(5)	Human Resources--Mental Hygiene and Mental Retardation Division--Desert Developmental Center.....	6
(6)	Human Resources--Mental Hygiene and Mental Retardation Division--Sierra Developmental Center.....	6

(more)

Chairman Ashworth said it is anticipated that he will assume the chairmanship of the Western Conference of the Council of State Governments in Jackson, Wyoming, this year, and he is recommending that the 1981 conference be held in Reno.

Item 3--Legislative Auditor:

X  
(a) Report on attorney general and district attorney communications (NRS 218.880). In response to the commission's previous request, Mr. Crossley presented letters from the Attorney General and the District Attorney of Carson City, copies of which are attached as Exhibit B. He asked Mr. Daykin to comment on the opinions contained in the letters.

Mr. Daykin said that clearly the Attorney General was correct and technically Mr. Small is correct. He further said that if the situation is to be corrected, it would have to be by legislation since it would take legislation to vest the authority to prosecute these offenses directly in the Attorney General.

Mr. Dini expressed disbelief that state employees could embezzle money and no one would prosecute. Mr. Daykin referred to the lack of a statute of limitations for gross misdemeanors and suggested that this situation be corrected by legislation during the 1981 session.

SENATOR JACOBSEN MOVED THAT LEGISLATIVE COUNSEL BE INSTRUCTED TO PREPARE PROPER LEGISLATION FOR THE JUDICIARY COMMITTEE OF EITHER HOUSE TO INTRODUCE DURING THE 1981 SESSION. SECONDED BY MR. BARENGO AND CARRIED.

Mr. Daykin assured Mr. May that the commission had done everything that it could do to attempt to prosecute the employees involved. He also told Senator Blakemore he would advise him in regard to malfeasance suits.

(b) Audit reports:

(1) Statewide Receipts and Disbursements--Payroll Function. Mr. Crossley stated that the centralized payroll system was completed and in operation but, as this report points out, in order for it to function properly the Personnel Division and all other agencies must monitor it closely.

Mr. Clarence Fuss presented the report and read the summary of significant findings.

Senator Close asked how much the errors had cost the state. Mr. Crossley estimated that it would be between \$25,000 and \$50,000 a year for terminations and leave without pay since most errors occurred in those categories. Mr. Fuss said he believed over 50 percent of the errors existed because of the anticipated pay aspect and this item is going to be eliminated by the Personnel Division.

MR. DINI MOVED TO ACCEPT THE REPORT. SECONDED BY SENATOR BLAKEMORE AND CARRIED.

(2) Revenue Sharing Trust Fund. Mr. Hanson presented this report.

SENATOR DODGE MOVED TO ACCEPT THE REPORT. SECONDED BY MR. MAY AND CARRIED.

OFFICE OF THE  
DISTRICT ATTORNEY  
OF  
CARSON CITY

708 NORTH CARSON  
CARSON CITY, NEVADA 89701  
(702) 882-3276

DAVID B. SMALL  
DISTRICT ATTORNEY

May 5, 1980

Legislative Commission  
Legislative Building  
Carson City, Nevada

Re: Rural Clinics; FY 1978 Audit

May it please the Commission:

In response to the request of the Commission, this office has considered the alleged irregularities disclosed in the audit report of Rural Clinics for fiscal year 1978. We do not intend to pursue the matter further.

Without doubt, evidence exists which tends to show criminal activity with a Carson City nexus involving persons of Rural Clinics and public monies. Certainly the law does not contemplate the knowing submission of false vouchers for the establishment of government office slush funds. The statutory proscriptions of most obvious application, however, describe gross misdemeanors. The alleged offenses occurred in 1976-1977 and were discovered no later than the end of 1978. Prosecution is barred by the statute of limitations.

We also understand that disciplinary action was initiated in early 1979. With one exception, the employees involved were terminated and have since scattered. This office was first informed of the problem in February, 1980. Even if a prosecution could be initiated, it would be difficult and unjustifiably stale.

Finally, it must be added that criminal matters of this nature might more appropriately be pursued by the Office of the Attorney General. Interest in preventing the misuse of State funds is not limited to Carson City citizens. The initiation of civil action to recover State monies is now an Attorney General prerogative; concurrent jurisdiction to prosecute a criminal action under such circumstances should lie in that office as well.

Yours truly,

  
David B. Small

DBS/d

EXHIBIT B - Page 1 of 3





STATE OF NEVADA  
 OFFICE OF THE ATTORNEY GENERAL  
 CAPITOL COMPLEX  
 CARSON CITY 89710  
 (702) 885-4170

RICHARD M. BRYAN  
 ATTORNEY GENERAL

LARRY C. STROVE  
 CHIEF DEPUTY ATTORNEY GENERAL

April 14, 1980

John R. Crossley, C.P.A.  
 Legislative Counsel Bureau  
 Legislative Building  
 Capitol Complex  
 Carson City, NV 89710

Dear John:

In response to your inquiry of March 13, 1980, concerning this office's involvement upon our receipt of the legislative auditor's report pursuant to NRS 213.890, it appears that the statutes are silent as to what this office should or must do upon receipt of the auditor's report of inadequacy of fiscal records.

The Attorney General's criminal jurisdiction is set forth in NRS 229.120. This office may institute criminal prosecution only where specifically authorized to do so by statute. My staff advises that no statute exists which authorizes the Attorney General to prosecute violations of criminal law that have been discovered as a result of legislative audits. Accordingly, the normal rules of criminal jurisdiction that apply, i.e., the District Attorney's office which has the appropriate venue would have the jurisdiction to institute the prosecutions in the event any larceny, perjury, making or submission of false reports and like crimes are revealed.

However, this office would, upon receipt of the auditor's report, contact the appropriate district attorney and perhaps monitor the progress of the case on an informal basis. The district attorney could, pursuant to NRS 229.130, request prosecutorial or investigative assistance. This office additionally could consider intervention into pending criminal proceedings when appropriate, or presentation of a case before a grand jury in those counties where they are impanelled.

Lastly, NRS 229.170 provides that the Attorney General may commence a civil action where it becomes necessary to protect the interest of the state. The civil alternative to criminal prosecution may well be the reason

John R. Crossley, C.P.A.  
April 14, 1980  
Page 2

Why NRS 218.890 requires notification of the Attorney General. Thus, this office may institute suit for the recovery of state money obtained illegally.

I hope this reply satisfactorily answers your inquiry.

Very truly yours,

RICHARD H. BRYAN  
Attorney General

REB/ct



Robert J. Johnston  
DISTRICT ATTORNEY

## White Pine County District Attorney

White Pine County Courthouse  
P.O. Box 240 • Ely, Nevada 89301  
(702) 289-8828

May 3, 1980

Mr. Keith Ashworth, Senator, Chairman  
Nevada Legislative Commission  
Legislative Building  
Capitol Complex  
Carson City, Nevada 89710

Re: Department of Human Resources, Rural Clinics

Dear Mr. Ashworth:

This office has recently reviewed information produced by the Legislative Auditor regarding the alleged unauthorized use of public funds by employees of the Rural Clinics. Upon due consideration of all facts involved and the appropriate law, it is the opinion of this office that no cognizable criminal offense has been committed in White Pine County.

Additionally, there is a significant question as to the timeliness of any criminal charges arising out of this incident, due to the long delay in referral of this matter to the appropriate law enforcement authorities.

It would be the recommendation of this office, that the Legislature should provide a mechanism whereby the Attorney General's Office could take criminal as well as the already authorized civil jurisdiction of matters involving improprieties by State employees or officials. If you have any questions regarding this matter, please feel free to contact me.

Yours very truly,

A handwritten signature in cursive script that reads "Robert J. Johnston".

ROBERT J. JOHNSTON  
District Attorney

RJJ/sm

CC: Mr. John R. Crossley, Legislative Auditor ✓  
Mr. Richard H. Bryan, Attorney General

S.B. 487

TESTIMONY BY JEAN M. KVAM ON BEHALF OF SENATOR JOE NEAL  
APRIL 15, 1981

EXHIBIT E

Under our system of government it is the design that all people are equal under the law, no one interest or wish is to be dominant over all others. Our government was to create a system where the good of all would prevail and no one interest group could obtain an unfair advantage over all others. It was with this idea that this bill was drafted, to create economic opportunity for all those people deprived of the social and economic means of obtaining a competitive position in our economy. With the threat of the abolishment of the Small Business Administration by the Reagan Administration, it is the design of the bill to take up the slack as a result of this. It is also the intent of this bill to have no fiscal note attached.

S.B. 487 is a good start to remedy this situation but there are a few problems that need to be addressed in order to make this a workable piece of legislation. The major concept of the bill is to encourage bank loans to those persons who are socially or economically disadvantaged by allowing the Division to guarantee repayment of these loans.

First, a minor technical problem, Section 2, subsection 2 refers to persons as "Socially or economically disadvantaged person" and Section 3, subsection 6 refers to "socially and economically disadvantaged". The Small Business Administration has categories of socially or economically disadvantaged persons but no where in the bill does it specify the definition of socially or economically disadvantaged.

Section 5, subsection 2 and 3, are very restrictive considering the Small Business Administration makes eligibility requirements according to the type of business. The definition of a small business can mean up to 1500 employees in some cases. Also, the maximum gross revenue of \$250,000 is quite a small sum. It was suggested to me that it be raised or deleted entirely.

Section 5, subsection 8, should read "reasonable adequate security".

Section 6, subsection 2, The SBA has the statutory ability to enter into participatory loans at the present time but banks are unwilling to do this. The SBA does not presently enter into participatory loans. It was suggested that this section (Section 6, subsection 2) be deleted.

Section 9, subsection 1, The SBA limits repayment of loans to 5 years for working capital loans, up to 10 years for machinery and equipment loans and up to 20 years for construction loans.

S.B. 487

TESTIMONY BY JEAN M. KVAM ON BEHALF OF SENATOR JOE NEAL  
APRIL 15, 1981

Section 9, subsection 2, SBA interest rates are tied to New York Prime. The fixed interest rate is questionable and any loan should be set to NY Prime. If a business is to succeed it should succeed at the same rate all other businesses must succeed at.

Section 6, subsection 3, It is doubtful that loans will be made under the 75% guaranteed payment. SBA now guarantees repayment of 90% of a loan. Only then will banks consider making loans.

Section 12, The note should be executed to the bank not the division.

Section 13. This section puts restrictions on the banks which they cannot comply with. Bank deadlines for notices and reports cannot comply with the 45 day period specified in the bill. Also, it is difficult to decide when a default occurs. If the bill is made attractive to the banks, it is more likely they will make loans.

Section 14, subsection 1, Section 5, subsection 7 already addresses this aspect.

Most importantly, Section 6, subsection 1, if this criteria remains in the bill then the intent of the bill is defeated. The banks will loan to persons meeting these requirements without the program being designed in this bill.



STATE OF NEVADA  
OFFICE OF THE ATTORNEY GENERAL

CAPITOL COMPLEX  
CARSON CITY 89710  
(702) 885-4170

EXHIBIT F

RICHARD H. BRYAN  
ATTORNEY GENERAL

LARRY D. STRUVE  
CHIEF DEPUTY ATTORNEY GENERAL

April 7, 1981

Committee on Human Resources  
and Facilities  
Nevada State Senate, Rm. 323  
Legislative Building  
Carson City, Nevada 89710

Re: SB 487. Providing for financial assistance to  
businesses owned by socially and economically  
disadvantaged persons

Gentlemen:

I am writing you as legal counsel to the Department of Economic Development with regard to SB 487. The bill will create a division within the department to make and guarantee loans to socially or economically disadvantaged persons. Aside from pointing out the severe fiscal impact this bill will have on the Department, this office would like to address several weak points in this bill.

1) The definition of "socially or economically disadvantaged person" is vague and overly broad. (Sec. 2(2) of the Bill). In order to meet the standard of economically disadvantaged, where would the department draw the line? Would this person have to make less than x number of dollars? If so, what guideline must be used? The term "socially disadvantaged" is even more vague. What criteria must the department use to meet this standard? The definition also encompasses the phrase that social or economic disadvantage may be caused by "other similar causes". This criteria is most certainly too broad. The standards should be made clear in order for the department to approve the eligibility provisions of Sec. 5(4) and (5) of the bill.

2) The Department has not heretofore had experience in the area of regulation and implementation of loans. The Department would need financial experts, a hearing officer and a half-time if not full-time attorney in order to ensure

550

Committee on Human Resources  
and Facilities  
April 7, 1981  
Page 2

the proper implementation of this act. At this time the Department receives legal assistance on a case by case basis from the Civil Division of the Attorney General's Office. The Civil Division is presently composed of 4 attorneys handling approximately 73 agencies.


The Civil Division would be unable at this time to devote an attorney to an additional half-time if not full-time position.

3) In addition, it is unclear from what source the monetary reserve of Sec. 7 is to be funded.

We would ask the committee to seriously consider the above-mentioned short comings of this bill before any decisive action is taken.

Sincerely,

RICHARD H. BRYAN  
Attorney General

By:   
Pamela M. Bugge  
Deputy Attorney General

PMB:kls

TESTIMONY OF DONALD L. PAFF

EXHIBIT G

BEFORE THE ASSEMBLY/SENATE GOVERNMENT AFFAIRS COMMITTEE ON S.B. 488

APRIL 15, 1981

MY NAME IS DONALD L. PAFF. I AM THE GENERAL MANAGER AND SECRETARY OF THE LAS VEGAS VALLEY WATER DISTRICT. I AM HERE TODAY TO SUPPORT SB 488 AND REQUEST AMENDMENTS TO IT, SPECIFICALLY AS THEY RELATE TO THE INTEREST RATES ON THE WATER DISTRICT'S GENERAL OBLIGATION, REVENUE AND ASSESSMENT DISTRICT BONDS.

S.B. 488 IS AN ALL ENCOMPASSING BILL EFFECTING THE INTEREST RATES FOR MOST, IF NOT ALL, ENTITIES IN THE STATE OF NEVADA. UNFORTUNATELY, AS DRAFTED IT DOES NOT AMEND THE LAS VEGAS VALLEY WATER DISTRICT ACT (CHAPTER 167 OF THE 1947 STATUTES AS AMENDED) IN VARIOUS AREAS THAT CURRENTLY HAVE A NUMERIC INTEREST RATE LIMITATION OF 9 PERCENT. OUR RECOMMENDATION IS THAT THE SECTIONS OF THE DISTRICT ACT THAT PERTAIN TO INTEREST RATES BE INCORPORATED IN S.B. 488.

WE HAVE DRAFTED THE CHANGES THAT WOULD BE NECESSARY TO AMEND THE DISTRICT ACT AS TO THE INTEREST RATES, CONSISTENT WITH THE GENERAL LANGUAGE IN SB 488. ALSO INCLUDED ARE SOME MINOR LANGUAGE CHANGES THAT DEAL WITH BONDING AUTHORITIES OF THE LAS VEGAS VALLEY WATER DISTRICT.

I ALSO WISH TO BRING TO YOUR ATTENTION A.B. 163. IT CHANGES THE INTEREST RATE LIMITATION FOR WATER DISTRICT ASSESSMENT DISTRICT BONDS FROM 9 PERCENT TO 12 PERCENT. CONSISTENT WITH S.B. 488, OUR RECOMMENDED CHANGES WOULD MODIFY THE NUMERIC LIMIT PROVIDED IN A.B. 163 TO AN INTEREST RATE LIMITATION WHICH WOULD BE DETERMINED BY THE GOVERNING BODY. ESSENTIALLY, OUR RECOMMENDED CHANGES WOULD EFFECTIVELY BE A REPEAL OF A.B. 163.



THANK YOU FOR YOUR CONSIDERATION OF OUR RECOMMENDATIONS. I WOULD BE PLEASSED TO TRY TO ANSWER ANY QUESTIONS.

DRAFT BILL NO. \_\_\_\_\_

COMMITTEE ON GOVERNMENT AFFAIRS

SUMMARY - Updates bonding and assessment district proceedings in the law governing the Las Vegas Valley Water District.

Explanation - Matter underlined is new; matter in brackets is material to be omitted.

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AN ACT to amend an act entitled "An Act to create a water district in the Las Vegas valley, Clark County, Nevada; to designate such district as the agency responsible for water distribution; to provide for the procurement, storage, and distribution and sale of water and rights in the use thereof from Lake Mead for industrial, irrigation, municipal, and domestic uses; to provide for the conservation of the groundwater resources of the Las Vegas valley, and to create authority to purchase, acquire and construct the necessary works to carry out the provisions of this act; to provide for the issuance of district bonds and other securities; to provide for the levy of taxes for the payment of operation and maintenance expenses and to supplement other revenues available for the payment of principal of and interest on such bonds and other securities of said district; granting said district the franchise to carry on its operations in municipal corporations within its boundaries; exempting the property and bonds of said district from taxation; validating the creation and organization of said district; and for other purposes thereto," approved March 27, 1947, as amended.

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

SECTION 1. The following sections of the above-entitled act, being Chapter 167, Statutes of Nevada 1947, as last amended by changes adopted in 1981 by SB 92 and AB 163 is hereby amended to read as follows:

Section 16. Whenever the District proposes to issue its negotiable bonds to obtain funds for the accomplishment of any of its corporate purposes, the board shall cause a report to be prepared and presented to it which describes the improvements or facilities to be financed by the issuance of such bonds and states the estimated costs of the improvements or facilities, together with the estimated financing costs. The board of directors shall then issue a proclamation which sets forth briefly the public facilities proposed to be acquired or constructed. It shall include the estimated cost thereof as shown by such report, the proposed bonded indebtedness to be incurred therefor, the terms, amount, rate of interest and time within which such bonds are redeemable, and on what fund. The proclamation shall be published in full at least once a week for 4 consecutive weeks in some newspaper of general circulation published in the district, and shall state the date of the meeting at which the board will consider a resolution providing for the proposed bond issue. At the first regular meeting of the board, or any adjournment thereof, after the completion of such publication, the board may proceed to adopt a resolution for such purpose. Such resolution shall conform in all material respects to the terms and conditions of the previously published proclamation and may be adopted without submitting the question to a vote of the electors of such district. If a petition is presented to the board at any time prior to the date of the meeting indicated in the publication and signed by not less than 5 percent of the registered voters of the district, as shown by the last preceding registration list, asking for a special election on the question of whether or not the proposed resolution shall be adopted, no such resolution shall be adopted except pursuant to a majority vote in favor thereof at a special election. Any resolution thus adopted providing for the issuance of bonds shall be valid if adopted by the board in the absence of the filing of a petition and election or, if such petition be filed and election had, then if adopted by the board pursuant to a majority vote in favor of the resolution. If an election is held, it may be held as a special election or consolidated with the primary or general election. At any such election, the ballot shall state the question of whether the bond resolution shall be adopted and also set forth the amount of the bonds proposed to be issued. Any such election shall be conducted as early as practicable in the manner provided in chapter 293 of NRS.

(As amended by Chap. 130, Nevada Statutes, 1949; Chap. 307, Nevada Statutes, 1951; Chap. 401, Nevada Statutes, 1957; Chap. 49, Nevada Statutes, 1971; and Chap. 797, Nevada Statutes, 1973)

Section 16e. Such bonds shall be in coupon form, but may be made registerable as to principal [if so provided in the resolution adopting the proposal to be submitted at any bond election] in the resolution issuing such bonds. The bonds shall be in the denomination of \$100 or a multiple thereof, shall bear interest at a coupon rate or rates [not exceeding 9 percent per annum,] to be determined by the governing body shall mature serially or otherwise in such manner as may be provided by the governing body, but not later than forty years from their date, shall be made payable at such place or places within or without the State of Nevada as may be provided by the governing body, and in the discretion of the governing body may be made redeemable at the option of the district prior to maturity at such premium or premiums [not greater than 9 percent] of the principal amount thereof as the governing body may determine.

The bonds shall be signed by the president and attested by the secretary of the district under the official seal of the district in such manner as may be provided by resolution of the board. Interest coupons to be attached to the bonds may be executed with the facsimile signatures of such officers, and in the event any officer whose signature appears on such bond or coupons shall cease to be such officer before delivery of the bonds to the purchaser, such signature shall nevertheless be valid and sufficient for all purposes. The bonds shall be sold in such manner and at such times as the governing body may determine at public or private sale for such prices as the governing body shall approve [ , ]. [ except that in no event shall the bonds be sold at a price which will result in an interest yield therefrom of more than 9 percent per annum computed to average maturity according to standard tables of bond values. ] The proceeds from the sale of the bonds shall be applied exclusively to the purposes stated in the [ notice of the election ] proclamation issued by the Water District in connection therewith and to the payment of the incidental expenses in connection therewith, and expenses incurred in connection with the authorization and issuance of the bonds, including but without limitation, engineering and legal fees and expenses, fiscal agents' fees and expenses, and the payment of interest on the bonds during the period of construction [ of any improvements for which the bonds were voted and for six months thereafter. ] The proceeds from the sale of the first bonds issued by the district may also be used to repay any amounts advanced to the district by Clark County, which have not been repaid at the time the bonds are issued. ] Pending the preparation or execution of definitive bonds, interim receipts or certificates or temporary bonds may be delivered to the purchaser of said bonds.

All bonds issued under the provisions of this act shall constitute negotiable instruments within the meaning of the negotiable instruments law as that law is now or may hereafter be in force in the State of Nevada.

(Added by Chap. 307, Nevada Statutes, 1951; As amended by Chap. 679, Nevada Statutes, 1971; Chap. 522, Nevada Statutes, 1975)

Section 16f. In addition to the power to issue general obligation bonds of the district as hereinbefore set forth, the district shall also have the power, without an election, or without issuing the proclamation specified in section 16 of the Act, under proceedings taken in accordance with this section, to issue bonds payable solely from, and secured by a pledge of, revenues derived from the operation of the works or properties [ constructed, acquired, extended, or improved with the proceeds of such bonds or any portion of such revenues; ] of the District; provided, however, that no bond of the district, whether a general obligation bond or a bond payable solely from revenues, shall have any priority with respect to payment of principal and interest out of revenues of the district over any other bond of the district theretofore or thereafter issued.

(Added by Chap. 307, Nevada Statutes, 1951; As amended by Chap. 797, Nevada Statutes, 1973)

Section 161. The board may by complying with the requirements of section 16 hereof regarding the issuing of a proclamation and by resolution and without an election provide for the issuance of bonds of the district for the purpose of refunding any or all of the outstanding bonds of the district, if no petition for a special election is filed. Such refunding bonds may either be sold and the proceeds applied to the retirement of the outstanding bonds or may be delivered in exchange for the outstanding bonds. The refunding bonds shall be authorized in all respects as original bonds are herein required to be authorized, and the governing body in adopting the resolution issuing the refunding bonds shall provide for the security of such bonds and the source from which such bonds are to be paid and for the rights of the holders thereof in all respects as herein authorized to be provided for other bonds issued under authority of this act. The governing body may also provide that the refunding bonds shall have the same priority of lien on the revenues pledged for their payment as was enjoyed by the bonds refunded.

(Added by Chap. 307, Nevada Statutes, 1951; As amended by Chap. 797, Nevada Statutes, 1973)

Section 40.

1. All special assessments shall from the date of approval of the final assessment roll constitute a lien upon the respective lots or parcels of land assessed coequal with the lien of general taxes, not subject to extinguishment by the sale of any property on account of nonpayment of general taxes, and prior and superior to all liens, claims, encumbrances and titles other than liens of general taxes.

2. The special assessments shall be due and payable without demand and without interest within 30 days from approval of the final assessment roll. All assessments remaining unpaid at the end of the cash payment period, at the option of the board, may be made payable in not less than four nor more than 15 annual installments of principal, with interest thereon at a rate or rates as determined by the governing body. [not exceeding 12½ percent per annum.] Installments may be collected in either substantially equal installments of principal or in such manner that annual collections of principal together with the interest thereon payable in any 1 year are substantially equal.

3. The lien upon any payment shall be released upon payment on any regular payment date of the total principal due and interest to that date, or upon payment at any other time of the total principal due and interest to the next regular payment date.

4. Any penalty which may be established by the board in the assessment resolution must also be paid in full before the lien will be released.

(Added by Chap. 446, Nevada Statutes, 1963; As amended by Chap. 7, Nevada Statutes, 1968; Chap. 679, Nevada Statutes, 1971; Chap. 797, Nevada Statutes, 1973; Chap. 522, Nevada Statutes, 1975) (And amended by AB 163 in 1981)

## Section 45.

1. When the board shall determine to make any improvement and shall determine to defray the whole or any part of the cost or expense thereof by special assessment, the board may, by resolution, at the time it directs such special assessment to be made, or at any time thereafter while any part of the assessment remains unpaid, without submitting the question to the electors of the district at any general or special election, cause to be issued bonds of the district in an amount not exceeding the assessments outstanding and unpaid at the end of the cash payment period, for the purpose of paying the cost or expense of such improvement. The bonds shall be called "(insert name of subdivision, district or street) Improvement Bonds," shall be signed by the president and countersigned by the secretary of the district, and shall not be sold for less than their par value nor before the work of the improvement is ordered. The bonds may bear interest at a rate or rates as determined by the governing body. (not to exceed 12 percent per annum in any 1 year, but the) The highest interest rate which the bonds may bear must be at least (one-half of) 1 percent less than the rate of interest to be borne by deferred installments of assessments (i.e., assessments remaining unpaid after the 30-day cash payment period) from which the bonds are payable. The bonds may be serial or term in form, may be subject to call for redemption prior to maturity in such manner as the board may determine, shall be payable within a period of not to exceed 15 years, and shall be in such form and denominations as the board shall determine.

2. The special assessment, when levied, shall be and remain a lien on the respective lots and parcels of land assessed from the confirmation of the final assessment roll until paid, as provided in sections 25 to 45, inclusive, and, when collected shall be placed in a special fund to be known as " Improvement Bond Interest and Redemption Fund," and as such shall at all times constitute a sinking fund for and deemed specially appropriated to the payment of the bonds and interest thereon, and shall not be used for any other purpose until the bonds and the interest thereon is are fully paid.

3. The issuance of any bonds, as herein provided, shall be conclusive evidence of the regularity of all proceedings up to the issuance of such bonds.

Section 46.

1. As an alternative means to obtain funds for the accomplishment of any of its corporate purposes, the district shall also have the power to borrow money and to issue and sell notes, in either negotiable or nonnegotiable form to evidence the indebtedness created by such borrowing whenever the board determines that the public interest and necessity require the exercise of that power. Such notes may be issued and sold from time to time as the board has determined at either public or private sale; provided, however, that such notes shall not be issued in a principal amount which exceeds the amount of any unused balance of indebtedness authorized [by vote of the qualified electors of the district] and not otherwise incurred; provided further that any note issued hereunder shall mature not later than 5 years from its date; [and provided further that the maximum rate of interest upon any such note shall not exceed 9 percent per annum.] Notes authorized pursuant to this section shall be in such form and amount as the board shall determine and set forth in its resolution providing for the issuance of the notes. Any such notes may be refunded in the manner prescribed by section 161 hereof.

2. Notes issued pursuant to this section shall be issued as the general obligations of the district, for the payment of which the full faith, credit and resources of the district are pledged, and it shall be the duty annually of the governing body to provide for the levy of taxes on all taxable property in the district (subject to pertinent existing constitutional restrictions) fully sufficient in conjunction with other available income and revenues of the district to assure the prompt payment of principal and interest as they fall due. The governing body of the district shall in each year in due season, prior to the time when county taxes are levied by the board of county commissioners, determine the amount of taxes, if any, which are necessary to be levied on the taxable property in such district for such year,, for the purpose of supplementing other revenues of the district available for the payment of principal and interest of any general obligation bond issues or notes issued pursuant to this section; and prior to the date on which the board of county commissioners makes the county levy for such year the governing body of the district shall certify to the clerk of the board of county commissioners the amount necessary to be so raised by taxes levied against the taxable property in the district in such fiscal year. The board of county commissioners shall at the time of making the levy of county taxes for



that year levy the tax so certified upon all taxable property in the district. Such tax when levied shall be entered upon the assessment rolls and collected in the same manner as state and county taxes and the proceeds thereof shall be paid to the treasurer of the district to be used for the purposes for which the tax was levied. All taxes levied as herein provided shall constitute a lien on the property charged therewith from the date of the levy thereof by the board of county commissioners, or the entry thereof on the assessment roll of the county auditor, until the same are paid, and thereafter if allowed to become delinquent, shall be enforced in the same manner as is now provided by law for the collection of state and county taxes. No additional allowance, fee or compensation shall be paid to any officer for carrying out the provisions of this section. In the event that the total taxes requested to be levied in any 1 year by the district and the political subdivision which overlap it should exceed 50 mills and reduction thereof shall become necessary by reason of the restriction contained in section 2 of article 10 of the constitution of the State of Nevada, the board charged with the duty of making such reductions and allocations is hereby required to allocate to the district sufficient taxes to assure the payment to the district of money sufficient to make certain the prompt payment of and interest on any note of the district which may have been issued with the pledge of the full faith, credit and resources of the district; and where notes have been so issued, the district shall be regarded as a political subdivision of the State of Nevada for the purposes of NRS 350.250, and the provisions of NRS 350.250 shall be applicable to the district.

[3. The provisions of law regarding the general obligation bond commission (NRS 350.001 to 350.006, inclusive) shall not apply to notes issued pursuant to this section.]

[4.] 3. The authority granted by this section shall not be construed as a continuing revolving authorization to issue such notes but rather is authority only to issue notes in lieu of the bonds previously authorized. The issuance of notes pursuant to this sections exhausts, to the extent of their principal amount, any unused balance of [indebtedness authorized by vote of the qualified electors of the district.] authorized indebtedness.

(Added by Chap. 120, Nevada Statutes, 1969; As amended by Chap. 679, Nevada Statutes, 1971; Chap. 522, Nevada Statutes, 1975)

SECTION 2. This act will become effective upon passage and approval.