

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

**Seventy-sixth Session  
March 25, 2011**

The Senate Committee on Government Affairs was called to order by Chair John J. Lee at 8:05 a.m. on Friday, March 25, 2011, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 5100, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator John J. Lee, Chair  
Senator Mark A. Manendo, Vice Chair  
Senator Michael A. Schneider  
Senator Joseph (Joe) P. Hardy  
Senator James A. Settelmeyer

**GUEST LEGISLATORS PRESENT:**

Senator Allison Copening, Clark County Senatorial District No. 6

**STAFF MEMBERS PRESENT:**

Michael Stewart, Policy Analyst  
Heidi Chlarson, Counsel  
Martha Barnes, Committee Secretary

**OTHERS PRESENT:**

Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association  
David S. Noble, Assistant General Counsel, Public Utilities Commission of Nevada  
Rebecca Gasca, Legislative and Policy Director, American Civil Liberties Union of Nevada  
Rusty McAllister, President, Professional Fire Fighters of Nevada  
Terry K. Graves, Nevada Motor Transport Association  
John Russell, Northern Nevada Laborers

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Barry Smith, Nevada Press Association, Inc.  
Jay Parmer, Builders Association of Northern Nevada  
Jenny Reese, Nevada Association of Realtors  
Jim Feser, Ridgeline Development  
Sheena Beaver, Builders Association of Western Nevada  
Mark Turner, Black Pine Construction  
James M. Wright, Chief, State Fire Marshal Division, Department of Public Safety  
Ray Bizal, National Fire Protection Association  
Ron Lynn, Director, Development Services, Clark County; Nevada Organization of Building Officials  
Brian Kerzetski, President, Plumbing, Heating and Cooling Contractors of Nevada; Vice President, Universal Plumbing and Heating Company  
Richard Lisle, Executive Director, Mechanical Contractors Association of Southern Nevada  
Peter Krueger, Subcontractor Legislative Coalition  
Stacey Giomi, President, Nevada Fire Chiefs Association; Fire Chief, Carson City  
Terry Taylor, Northern Area Director, Fire Prevention Association of Nevada; Nevada International Association of Arson Investigators  
Mike Myers, Fire Chief, City of Las Vegas  
Kelly Blackmon, Deputy Fire Chief, Clark County Fire Department  
Fulton Cochran, Deputy Fire Marshal, City of Henderson  
J. David Fraser, Executive Director, Nevada League of Cities and Municipalities  
David Bowers, City Engineer, City of Las Vegas  
Doug Stevens, Fire Chief, City of Henderson  
Kevin McOsker, Manager of Building Inspections, Clark County Department of Development Services  
Greg Esposito, Business Representative, Plumbers, Pipefitters and Service Technicians Locals 525 and 350; Southern Nevada Building and Construction Trades Council  
Dan Musgrove, City of North Las Vegas  
Randy Soltero, Sheet Metal Workers Local 88  
Danny Thompson, Executive Secretary Treasurer, Nevada State AFL-CIO  
Paul McKenzie, Building and Construction Trades Council of Northern Nevada, AFL-CIO  
Modesto Gaxiola, United Union of Roofers, Waterproofers and Allied Workers, Southern Nevada Local 162  
Terri Barber, Chief Legislative Advocate, City of Henderson  
Wes Henderson, Deputy Director, Nevada Association of Counties

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CHAIR LEE:

We will open the hearing to introduce Bill Draft Request (BDR) 28-172. Mr. Stewart will provide us with a summary.

**BILL DRAFT REQUEST 28-172**: Authorizes the governing body of a local government to adopt procedures for the sale of naming rights to certain public facilities. (Later introduced as [Senate Bill 384](#).)

MICHAEL STEWART (Policy Analyst):

Bill Draft Request 28-172 originated from an interim study from the Legislative Commission's Committee to Study Powers Delegated to Local Governments chaired by Senator Lee. Senator Lee introduced a bill two Sessions ago concerning naming rights that ended up being focused on the shooting range in Clark County. One of the topics discussed was expanding local government authority to establish naming rights for other public facilities such as parks and recreational facilities.

SENATOR MANENDO MOVED TO INTRODUCE BDR 28-172.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR LEE:

We will have Mr. Stewart explain Bill Draft Request 20-170.

**BILL DRAFT REQUEST 20-170**: Grants power to local governments to perform certain acts or duties which are not prohibited or limited by statute. (Later introduced as [Senate Bill 385](#).)

CHAIR LEE:

The Committee has indicated there is no explanation needed and we will go right to the vote.

SENATOR MANENDO MOVED TO INTRODUCE BDR 20-170.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR LEE:

We will now hear Assembly Bill (A.B.) 10 from the work session agenda.

ASSEMBLY BILL 10: Revises provisions governing certain funds and the destruction of public records. (BDR 33-441)

MR. STEWART:

Assembly Bill 10 ([Exhibit C](#)) clarifies any interest earned on the Gift Fund for the State Library and Archives will be credited to the Gift Fund. The bill also eliminates the Fund for the Support of the Division of Museums and History. Before destroying a public record, the bill requires the custodian to either microfilm the record or save it in an electronic record keeping system. The standards for the applicable retention of microfilmed or electronic records are also set forth in the measure. There were no amendments offered on A.B. 10.

SENATOR SETTELMAYER MOVED TO DO PASS A.B. 10.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR LEE:

The next bill to discuss from the work session agenda is Assembly Bill 103.

ASSEMBLY BILL 103: Makes various changes to the Airport Authority Act for Carson City. (BDR S-645)

MR. STEWART:

Assembly Bill 103 ([Exhibit D](#)) expands the eligible area for selecting qualified manufacturing representatives to the Carson City Airport Authority from the surrounding airport industrial area to a 3-mile radius. If there are no qualified representatives identified during the selection, the Carson City Board of

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Supervisors may appoint a member to represent the general public. There were no amendments offered for this bill.

SENATOR MANENDO MOVED TO DO PASS A.B. 103.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR LEE:

The next bill we will hear from the work session agenda is Senate Bill (S.B.) 231.

SENATE BILL 231: Makes various changes relating to concealed firearms.  
(BDR 20-742)

MR. STEWART:

Senate Bill 231 ([Exhibit E](#)) authorizes a person who holds a concealed weapons permit to carry a concealed firearm on the property of the Nevada System of Higher Education (NSHE). It authorizes a county sheriff and the police department for NSHE to provide permit holders information concerning instructors and organizations that offer courses in firearm safety. The focus is on issues relating to firearm safety in an educational environment.

There was a long discussion regarding the bill, and Chair Lee has proposed two amendments for discussion which allow some flexibility to NSHE in order to address the issue of concealed weapons at certain events and in dormitories. The first amendment discusses the authority for NSHE to establish policies or regulations in order to implement a restriction in relation to events at sporting venues with a seating capacity of 1,000 or more and to address issues such as tailgating. Any such policy may not prohibit a permittee who is on the property of NSHE for reasons other than attending such events from carrying a concealed weapon.

The second amendment addresses dormitories, requiring the Board of Regents to prescribe rules concerning the storage of firearms in dormitories or residence

halls located on the property of NSHE. Such rules may not prohibit concealed firearms in dormitories or residence halls.

CHAIR LEE:

After a lengthy hearing regarding the concerns voiced by law enforcement, could Frank Adams please come to the witness table?

FRANK ADAMS (Executive Director, Nevada Sheriffs' and Chiefs' Association):

After the hearing held on this bill I put forward some concerns from the Sheriffs' and Chiefs' Association regarding situations that needed to be addressed if the bill moves forward. One concern is what is determined to be a campus? The other concerns had to do with special events, tailgating and dormitory issues. I believe the amendments have eased some of the concerns, but I cannot support the bill without speaking with the Association. The amendments have gone a long way to ease our concerns with how the carry concealed weapon provisions are handled on campuses.

CHAIR LEE:

Are there other concerns that need to be brought forward that may have been missed at the hearing?

MR. ADAMS:

Other concerns were best addressed by the chiefs of police from the University of Nevada, Reno, and University of Nevada, Las Vegas, campuses. The concerns of the Sheriffs' and Chiefs' Association have been met, but we do not deal with guns on campuses. The other officers discussed safety on campus and how safe the campuses are. They are concerned with problems that may arise from people carrying guns and others not knowing about it. The two amendments go a long way to helping law enforcement deal with this issue.

CHAIR LEE:

Is there anyone here from the University System who may be in the police department? Is there a regent or anyone representing the Board of Regents here? At this time I will ask for a motion for S.B. 231.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 231.

SENATOR MANENDO SECONDED THE MOTION.

SENATOR SCHNEIDER:

This bill is something we should not process. I have spoken to several professors who live in my district. They are appalled we are even discussing this issue. I spoke to the President of the University of Nevada, Las Vegas (UNLV), and he does not support the bill. I have spoken to a couple of members of the Board of Regents, and they do not support the bill. I have also spoken to students, and they do not support the bill.

We had testimony from Janine Hansen who said crime was up and the police on whom we spend millions of dollars to train have statistics indicating crime is down. Ms. Hansen testified she is scared walking across the Brigham Young University (BYU) campus. I do not think the BYU campus is unsafe as she claims. I know our campuses are safe. This puts a scarlet letter on all of our colleges to make a statement like this to the Nation. I will fight this bill when it gets to the Senate Floor; if it goes to the Assembly, I will fight it there.

My wife has prepaid some of our granddaughter's tuition to attend UNLV, and I will withdraw that money and send her to some other state to go to school. The University should be a safe place where there is open discussion and students feel safe. Students should not have to worry about someone packing a gun in a backpack, and it falls off the table in the Student Union and discharges, sending a .38 bullet flying through the air. This is something we cannot have.

CHAIR LEE:

I did receive a letter from Utah in support of the bill, but it was from the Utah Attorney General, not BYU. You bring up an interesting point. You would think this issue would have the Board of Regents reaching out to me, but I have not been contacted. I have had no communication from NSHE presidents. I have had students contact me on both sides of the issue. I have also spoken to professors and teachers who have indicated a need for the bill. There are definitely valid points on both sides of this issue.

SENATOR SCHNEIDER:

I grew up in a small town in western Nebraska, and my younger brother and I had shotguns. On Saturday morning, we would go pheasant hunting and duck hunting. I still go bird hunting today. This is not about owning guns, it is about a

safe campus. I know the Attorney General of Utah sent us a letter, but he should clean up his own mess in southern Utah in Colorado City and keep his nose out of our business. He has no credibility in this Committee or this Legislative Building. This is Nevada. I cannot tell you how upset this bill makes me.

THE MOTION CARRIED. (SENATOR SCHNEIDER VOTED NO.)

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CHAIR LEE:

The first order of business from today's agenda is Assembly Bill 17.

ASSEMBLY BILL 17: Revises the applicability of the Nevada Administrative Procedure Act to the Public Utilities Commission of Nevada. (BDR 18-455)

DAVID S. NOBLE (Assistant General Counsel, Public Utilities Commission of Nevada):

Assembly Bill 17 is the Public Utilities Commission (PUC) proposal to get the Commission back on the 4- to 6-month, fast-track judicial review of its decisions (Exhibit F). The Commission has its own judicial review provisions under *Nevada Revised Statute* (NRS) 703, and those specifically prevail over the judicial review provisions of NRS 233B. The language in NRS 233B has caused some confusion in the district courts where the judiciary review takes place. In fact, there have been various interpretations from district court to district court and judge to judge within those district courts. The courts have tried to mesh the two frameworks together, and instead of having a fast-track, 4- to 6-month judicial review, it is taking upwards of 9 months to 30 months for judicial review at the district court level. The language in A.B. 17 proposes to clarify that the judicial review provisions in NRS 703 apply, and only apply, to judicial review of PUC decisions.

Following discussions with various stakeholders, the major utilities we regulate and attorneys who represent various interests before the Commission, we have proposed an amendment (Exhibit G) to A.B. 17. The amendment attempts to address two additional concerns. One is the exhaustion of administrative remedies. The Commission has a framework for reconsideration or rehearing of Commission decisions under *Nevada Administrative Code* 703.801. Once a



party receives a decision from the Commission, the party is going directly to court without asking for reconsideration or rehearing. Several times over the past year, we requested the court stay the proceedings so we would have an opportunity to reconsider or rehear the information. In some cases, we have actually revised our decision.

The other element of the proposed amendment is to provide a specific time frame to obtain the Commission's record of proceedings before the court in order to be incorporated into the briefs of the various parties. It also amends the time frame for briefing to 120 days. We cleaned up language in NRS 703 to ensure consistency with NRS 233B.

CHAIR LEE:

Could you please summarize the fast-track program and the 20-day rule?

MR. NOBLE:

Once the issues have been briefed and are before the court, the parties must be prepared to go to hearing in 20 days. The judicial review takes precedence over all other civil matters before the district court. Because the Commission deals with billion dollar rate cases and approval of construction permits for billion dollar facilities, it has been determined that judicial review of Commission decisions needs to go on a fast track for a final determination in district court so it can move forward.

CHAIR LEE:

This bill addresses those issues to the court?

MR. NOBLE:

Yes. We have gone from a fast track of 4 months' to 6 months' total time for a decision from district court. Over the past couple of years, the time period has been anywhere from 9 months to 30 months.

CHAIR LEE:

I will close the hearing on A.B. 17 and open the hearing on Senate Bill 377.

**SENATE BILL 377**: Establishes provisions authorizing public-private partnerships for certain projects. (BDR 22-297)

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SENATOR JOSEPH (JOE) P. HARDY (Clark County Senatorial District No. 12):

It appears the bill could be labeled public-private partnerships for all projects. I have used the term public-private partnerships when dealing with the potential bypass around Boulder City, otherwise known as Interstate 11. For whatever reason, people approached me to suggest the concept of public-private partnership might work for what they want to accomplish.

For instance, the nonprofit Boys Town of America, which has a long history of treating mental and behavioral health problems in children, believes it can participate in this type of project. Boys Town of America wants to partner, as a nonprofit from the private sector, with the public entities and treat children. The State and Clark County have established children's treatment programs. This bill will help develop public-private partnerships.

I have been approached by a company called Sandlot that has experience with treating mental health patients in a prison environment. The company could probably do it cheaper and more efficiently than the State. I was approached by somebody who said, if we were going to place museums on the chopping block, what if we had private citizens perform some of the work? I was approached by representatives from MHM Services, Inc., who want to look at the global treatment of mental health patients in prisons, and it has a long history in the United States of treating prisoners with mental health issues.

We hear through the Senate Committee on Health and Human Services the problems of treating mental health issues in the prisons. We are unable to locate practitioners and obtain the staffing needed to treat the mental health patients in prisons. The representatives who presented this idea have a long track record of success and longevity. Another person approached me about including telemedicine.

CHAIR LEE:

Could you explain S.B. 377 section by section?

SENATOR HARDY:

Yes. Look at section 5:

"Project" means: 1. Any structure, facility, undertaking or system which a public agency is authorized to plan, construct, design, finance, improve, equip, operate, maintain or acquire the

rights-of-way for, or any combination thereof, including, without limitation ..."

followed by the list of projects. People think they can help the State, and we think we can help the people of the State if we deliver a product that takes a burden off the State as well as delivers a service. Recognizing that all these people from different venues were interested in this process, it seemed responsible to include everyone. It became an opportunity to look at how we conduct business in this State. Can we reach out to the private entities that have resources and capital for an issue the State is struggling with?

Section 7 states, " 'public-private partnership' means a contract entered into by a public agency and one or more private partners under which the private partner assumes responsibility for a project ... ." If we look at the clarification in section 8 and section 9, it explains how the process would work. It is not mandatory but allows the process to take place. Section 10 provides instruction on how to implement the solicitation process and to consider the proposals. Section 11 provides further clarification regarding requirements on obtaining performance bonds, payment bonds and insurance covering general liability. Further, it provides the requirements necessary to qualify for this type of partnership.

There is a guide available outlining public responsibility when entering into these type of agreements. In section 12, lines 38 and 39, I have discussed with the Legislative Counsel Bureau (LCB) adding language: "no tolling fees unless otherwise authorized by law" after the word "collected" on line 39 or in the middle of the sentence. Conceptually, LCB has agreed the amended language is possible.

I do not want to make this about toll roads. The Nevada Department of Transportation (NDOT) can have a facility, such as a rest stop, that would not require a toll but with a public-private partnership, it would still be under the responsibility of the Department of Transportation.

It would allow us to have some dialogue about recognizing there is money in the private sector and nonprofits in the private sector that may assist the State.

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CHAIR LEE:

Are you willing to accept the proposed amendment ([Exhibit H](#)) from LaShannon Spencer regarding telemedicine as a friendly amendment?

SENATOR HARDY:

This is not an amendment but a concept that could be included in the bill. Senate Bill 377 enables the public-private partnership, but I do not believe this has to be placed in statute as much as allowed.

CHAIR LEE:

Could you please explain in section 10, subsection 3,

The public agency may reimburse an unsuccessful bidder for a portion of the cost of preparing a proposal or best and final offer, or both. If the public agency intends to make such a reimbursement, the public agency shall set forth the terms and conditions ... ."

That language is in there for a purpose, but I do not understand the purpose.

SENATOR HARDY:

One of the challenges with soliciting bids is the expense incurred by the entity preparing a bid. In my presentation, I utilized examples of Sandlot and MHM. Both have similar concepts, but most times the referenced language would not apply. It may apply on a huge project where the State or a county needs to determine the scope and request bids without wishing you had heard from more bidders.

REBECCA GASCA (Legislative and Policy Director, American Civil Liberties Union of Nevada):

The American Civil Liberties Union of Nevada (ACLU) is opposed to this bill, and the likelihood that we would ever be able to change that position is pretty slim. The basic problem is the bill opens up a Pandora's box with many unanswered questions. The way the bill is laid out, it essentially provides a backdoor ability for the privatization of various governmental entities and services. Not only does it privatize these traditionally government services, but it does so in a manner that opens the door for any of these kind of public-private partnerships to essentially exercise a right of eminent domain insofar as they could condemn properties and seek rights of way. Contracting away the State's constitutional duties is not the answer to the budget woes of the State. We understand the

State is in dire fiscal straights. There are certain constitutional requirements the State must maintain, and by contracting those away, the State would retain the liability with very little oversight.

Section 5 of this bill lists the various projects that could be included in public-private entities. The list is incredibly long and includes things like schools and prisons. Section 5, subsection 2 gives the State the ability to privatize services such as mental health. These are services and responsibilities for a state to maintain, and courts have validated it in the past. In limited circumstances, when states choose to expand their contractual obligations with private entities, it opens up a whole host of problems regarding the liability of the state. Multiple states have had private entities open up prisons, but those prisons are still required to maintain constitutional care. Many of the prisons have been subject to litigation as a result of substandard care. The ACLU settled a case regarding a class action lawsuit with Ely State Prison. It would be much more difficult and protracted if the prison had been held by a private entity because of additional contractual loopholes. It opens a chasm of liability for the State.

As an example, say a public-private partnership provides a contract to run schools. The public may own the school, but the entity runs the facility. Is the entity required to be bound by the rules of public schools and also be allowed to run a private school? Language in the bill is not clear. What kind of constitutional levels of expression would the students be allowed to have in that entity?

The State has had experience with private entities running a prison. The Florence McClure Women's Correctional Center began as a private entity when it opened in September 1997. At the end of October 2004, the Department of Corrections assumed control of the institution because of multiple constitutional issues. Senate Bill 377 does not address these kinds of issues in which the State may have to reassume responsibility for these public-private partnerships.

The most glaring public-private entity that would be allowed by this bill is the ability for private sidewalks. The ACLU has engaged in litigation with the City of Las Vegas over the Fremont Street area and the sidewalks in and around The Strip. Courts have sided with the ACLU on multiple occasions because it does not matter who owns the sidewalk but what the traditional use of the

sidewalk has been. In these specific cases, the traditional use of the sidewalk is a public forum and public laws must apply.

I would caution the Committee when attempting to move forward with cases that have already been found to be unconstitutional. Essentially, contracting away the State's constitutional liabilities is not going to solve the budget crisis. The State needs to find adequate ways to appropriately fund those entities required to provide State services by the Nevada Constitution.

RUSTY McALLISTER (President, Professional Fire Fighters of Nevada):

We have some concern relative to section 5, subsection 2 where it states ... "any services that a public agency is authorized to provide." Would "any services" include fire protection and police protection?

We heard previous testimony for S.B. 124 in this Committee introduced by Senator Ben Kieckhefer regarding what is allowed and what is not allowed by local governments to limit competition. The provision in that bill provides they can bid on any services which the public deems necessary. This bill would allow for any services offered by governmental agencies to be privatized. It would include fire protection and police protection. We would certainly have concerns, but if that is not the intent of the sponsor, our concerns would be diminished.

**SENATE BILL 124**: Revises provisions governing the displacement or limitation of competition in providing services by certain local governments. (BDR 21-750)

TERRY K. GRAVES (Nevada Motor Transport Association):

We are not opposed to the bill in concept, although we have some concerns with the language. Our concerns are in regard to transportation issues since a public-private partnership could be a highway or a toll road. Last Session, we brought in an expert who testified before the Senate Committee on Energy, Infrastructure and Transportation and the Assembly Committee on Transportation about the problems arising out of some public-private partnership projects around the Country. We do not want those problems to occur in Nevada, and we want to ensure the right precautions are taken in establishing a project. We do not want the public entity to end up a victim of the private partner on the project. Paid-for public rights-of-way and lanes would not be converted to a toll road, and if a toll road is established, a free right-of-way is provided for those who do not want to utilize a toll road.

SENATOR HARDY:

I have no problem with making sure that schools, prisons, sidewalks, Fremont Street, fire protection, police protection, highways, toll roads and free rights-of-way are not included in the bill.

JOHN RUSSELL (Northern Nevada Laborers):

I am opposed to the bill in concept because this is another way for public agencies to circumvent the prevailing wage laws of the State of Nevada. Under section 11, subsection 1, they exclude themselves from NRS 338, which is the prevailing wage law of the State.

Another concern is the oversight of the construction of any of the public-private partnership projects. Who would oversee these projects to ensure they are being built to State standards?

BARRY SMITH (Nevada Press Association, Inc.):

I signed in as neutral because I understand the concept and can see the potential benefits of the bill. I also have some concerns about the sections being waived. Where does the public come into the process? The sections waived NRS 332 and NRS 333, which house the requirements for public notice of bids. It appears the information for the public-private partnership may be kept confidential until it is executed. I am concerned about where the public comments would be inserted because it could come after the contract has been signed.

SENATOR SCHNEIDER:

I have spoken strongly about these public-private partnerships on toll roads in the Senate Transportation Committee and want to provide information for Senator Hardy. Texas and some other states started out with these partnerships and were not very successful, so the states developed a term called "pickpocket partnerships." We have to be very careful. The people who come into the State want to make money, and Texas learned its lesson on those projects. We have no money in Nevada and may be forced into some of these partnerships with the private sector. We do not want them to control us over the next several decades.

CHAIR LEE:

I will close the hearing on S.B. 377 and open the hearing on Senate Bill 327.

**SENATE BILL 327**: Revises provisions governing the mandatory installation of automatic fire sprinkler systems. (BDR 22-1027)

SENATOR JAMES A. SETTELMAYER (Capital Senatorial District):

Senate Bill 327 deals with a single-family residential mandatory sprinkler issue. In 2009, the International Residential Code (IRC) put forward a concept that on or after January 1 of this year, all single-family dwellings constructed must have fire sprinklers installed in the homes. California already passed a law to comply with the International Residential Code by January 1.

We do not believe this should be a mandate for Nevada. If a particular municipality has this law already in place, it would be allowed to continue. The bill would not allow any new mandates to incur in the State. Many individuals feel by adding fire sprinklers to a new home, there is added protection from fire. This should be the choice of the individual building the home.

With housing at an all time low in this State, I do not believe the incurrence of additional cost can be weighed on the cost-benefit ratio and concluded that a mandate should continue forward. There may be testimony indicating savings in the cost of your fire insurance. After looking into the rate savings for my home, it would be \$50 annually.

With a cost of \$5,000 to add sprinklers to a new home, it would take 100 years to balance out. In most cases, it would be far more than \$5,000. If you have a well, you will have to upgrade your pump and possibly your well casing if the casing is not substantial enough to provide the proper fire flow. In some areas, this could cause people to pay \$16,000 to \$20,000 in new construction costs. I understand this has the potential to save lives, but so would placing a cop in every home. You could save lives that way, but it is not feasible.

Twenty-three states drafted legislation similar to S.B. 327, indicating they will not create a mandatory situation for fire sprinklers. If you want to build a new home and get through the permit process, you can compact some dirt and meet the compaction standards according to the building inspector. You can also dig your stem walls and pour your concrete. You can be an owner-builder and complete the whole house yourself, but you cannot install the sprinklers. This is problematic. Anyone should have the ability to install fire sprinklers if they are building their own home from the ground up. A mandate should not stop an



owner-builder from building his own home because he cannot install the fire sprinklers.

It is more reasonable to discuss smoke alarms relative to cost effectiveness. According to statistics, most deaths occur from smoke inhalation. Smoke alarms have provided protection if they are hard-wired into the home. The smoke alarm must have a power system and a backup battery. Too often the smoke alarms are purchased at the store, and then someone steals the 9-volt battery for one of the kids' toys or the TV remote. Many people will have statistics regarding the concept of fire sprinklers saving lives and getting people out of the building. Did the fire sprinklers get people out of the building, or was it the smoke alarm? The conflicting data can be confusing.

Sprinklers protect the property far more than they protect the lives of the residents compared to the smoke detectors. With the new construction methods, we are far safer than we have ever been. With the use of materials that are not flammable, we have far fewer incidents in new homes. In some respects, the concept of mandating fire sprinklers seems to be going the wrong direction. Fire sprinklers should really be installed in the older homes that are more problematic rather than the new ones. Because of the increased cost of installing fire sprinklers, you could be pricing people out of new homes and forcing them into older homes that are more dangerous. This could increase the fire danger. Based on a study in the state of Connecticut, for every \$1,000 of additional cost of a home, you are pricing the home out of the reach of 217,000 people. For every \$1,000 there will be 217,000 people who will not be able to bid on that home due to their finances. Citing the economy in Nevada, it is probably worse.

This is an issue of choice. It should be a choice for an individual buyer who wants to build a new home to say, I want sprinklers, and I will install them or have them installed. It should not be a mandate. There may be some situations that will call for a mandate, but some counties have determined different ways to address square footage options, two levels and fire flow.

Connecticut appointed a legislative task force to look into complying with the concept before it passed its own bill not to mandate installation of fire sprinklers for new single-family dwellings. If you use the traditional rate of how many fires occur in a specified area—which in Connecticut was 91,000 homes before a

loss of life—and you look at the cost to add sprinklers to those homes, it adds up to \$400 million before you save one human life.

SENATOR SCHNEIDER:

The subdivisions built in the desert around Las Vegas are built pretty safe and I can see the debate on sprinkler systems. What about in your district, where people build up into the trees around Lake Tahoe and the Tahoe Basin, where if a house catches on fire, you can burn down a whole forest before the fire department can even get there? Your choice not to install fire sprinklers may affect the entire Tahoe Basin, which affects the watershed and everything else. Does that mean it should be a choice? A nasty fire in the Tahoe Basin could destroy Lake Tahoe, and you have wiped out tourism for generations to come. How do you address that? I understand choice, but there is also responsibility.

SENATOR SETTELMAYER:

In that respect, if the danger is more from wildland fires and things of that nature, we should discuss the possibility of sprinklers on rooftops, things that will not allow the fire to spread. It is still a matter of choice. We could add to the fire protection by hiring more firemen in order to more effectively utilize the \$400 million. The Gondola Fire began from a cigarette being thrown out of a gondola and igniting a fire when it hit the ground. I have not seen house fires create that kind of a fire. I understand the concerns but think there is a better way to utilize those resources.

CHAIR LEE:

To recap the bill, the requirements already in place by local governments will remain but any new adaptations to the local code would have to be mandated by the State. Is that how you intend to move this bill forward?

SENATOR SETTELMAYER:

Correct, in the form of mandatory fire sprinklers.

CHAIR LEE:

If we do not pass this bill, anyone who builds a home in the future would be subject to the rules of the county or city when the code changes. If you wanted to add a bathroom onto your house and you obtained a permit, are you concerned you would have to add sprinklers to the whole home?

SENATOR SETTELMAYER:

Yes, that is a concern. As Senator Schneider alluded, the other issue is what if you have a wildland fire caused by someone throwing out a cigarette and it burns up all the homes in the area. Your insurance company will provide you the money to rebuild the home, but it will not cover the additional cost of adding fire sprinklers. The homeowner would have additional out-of-pocket expenses.

JAY PARMER (Builders Association of Northern Nevada):

As a matter of policy, the Builders Association of Northern Nevada supports permanently deleting the section of R313 of the IRC code which mandates fire sprinklers in single-family residences. Twenty-three states have already prohibited mandatory fire sprinkler requirements, and two states have approved them. We agree that preventing death and injury by fire in structures has and should remain a priority goal. The question before the Committee is how to accomplish this goal in a cost-effective manner and in a way that will not compromise or thwart other important goals in this State, such as providing affordable housing. By affordable housing, I mean homes people can afford to purchase in the single-family market.

We strongly believe the inclusion of mandatory fire sprinklers in single-family homes does not accomplish the presumed life safety benefit. Fire sprinkler requirements for new homes versus homes built prior to 1985 address the wrong housing stock. It is the older homes where the vast majority of fire deaths occur. We have obtained data from northern Nevada fire departments that indicate during the years between 2000 and 2010, there have been zero fire-related deaths in single-family or duplex homes built since battery and hard-wired smoke detectors were required. Building codes over this time period have required more fire-resistant building products, better electrical systems, better heating systems and chimneys, safer appliances, safer fireplaces allowing mostly gas-closed systems instead of wood, and hard-wired smoke detectors.

Senator Settelmeyer addressed additional costs of the systems, and we have some similar numbers. According to the National Association of Home Builders, the average estimated cost for installation of these systems is \$2.93 per square foot. Added to a 2,000-square-foot home, which is an average size home, that would be \$5,860 per home. Add this to a 30-year-mortgage at a 6 percent rate, it is a \$450 increase to the homeowner and causes homes to become less affordable. Additional or potential fees and costs for consideration when you mandate these systems would be fire sprinkler permit fees, inspection fees and

design fees, additional water expense, a water meter or water rights, additional construction costs and the coordination of building fire officials, fire contracts with other trades, system testing and framing modifications to protect the system. The amount is probably closer to double the \$5,860 per dwelling for the cost of the system.

There is no fiscal advantage or cost benefit by mandating fire sprinklers because the insurance premium reduction is too low to offset the up-front costs of the mandate to install fire sprinklers in new homes. Most of this information has been provided to the Committee. We continue to build houses the public demands and can afford. That is why we urge support of S.B. 327.

SENATOR MANENDO:

You recited a list of safety features included in new homes. If they are already mandated, are you against any of these safety features?

MR. PARMER:

No.

SENATOR MANENDO:

So everything is good up to this point?

MR. PARMER:

We have continued to work with local jurisdictions with national standards that improve the safety of housing. We have also tried to work with the local governments to understand what the benefit of mandating fire sprinklers is in our communities. We have a difference of opinion with some of the fire agencies as to what the actual benefit to the resident would be versus the cost of the house, and the impact on whether a person can purchase a home or not. It is a work in progress. We continue to work with those agencies to reach an agreement, and we address these issues as they come up. The Builders Association of Northern Nevada has a local government affairs director working closely with the three entities in northern Nevada to address this and to delay the mandatory requirement of implementing fire sprinklers. These concerns are based on the current economy and justifying that cost benefit.

JENNY REESE (Nevada Association of Realtors):

The Nevada Association of Realtors is here in support of S.B. 327. We have concerns with mandating fire sprinklers when homeowners want to retrofit their

homes or put additions on their homes. If additions are over a certain square footage, there are concerns homeowners would have to retrofit entire homes to install fire sprinklers.

JIM FESER (Ridgeline Development):

I am here in support of S.B. 327. To address Senator Schneider's question about Lake Tahoe, defensible space is a big issue for homes at Lake Tahoe, especially for fires coming in as well as fires going out. Eliminating fire sprinklers is affecting design factors for not only construction in homes but construction of developments and lots.

I have spent 12 years in the land development side of the home-building business. We work closely with the local fire districts from the beginning of the project, whether for one single home or for a large subdivision. As builders, we are proactive in contacting fire districts regarding subdivision designs, roadway widths and fire hydrant locations to ensure these types of projects will not be detrimental to the services being performed by the community. We also work closely with these agencies, dedicating plans for fire stations and agreeing to provide additions on fire stations located closer to these new developments. We do not want to get through the entire process and find out they are against our project. It is very much a joint effort.

SHEENA BEAVER (Builders Association of Western Nevada):

We are in support of S.B. 327. The 2009 building codes mandate residential fire sprinklers in all new homes ([Exhibit I](#)). If this legislation is passed, it will give each local jurisdiction the ability to continue current requirements which work best for the community. This is shown in section 4 of the bill.

Senate Bill 327 will not prohibit local jurisdictions from regulating their current ordinances, but it will prevent a local fight on mandating sprinklers every three years as the building codes are adopted.

While we are sympathetic to fatalities in fires, we know that mandating fire sprinklers in new construction is not the solution to prevent death. Most fatalities are in older homes, which cannot hard wire and interconnect all smoke detectors. Smoke detectors alert homeowners more quickly to the presence of a fire. This requirement has reduced deaths by 60 percent over the last 40 years.

We support this legislation because fire deaths nationally have declined through the technological advancements in smoke detection. In 1960, there were a total of 7,645 fire deaths in the United States. In 1979, the total fell to 5,998. This decline has continued, and in 2001, there were 3,326 deaths. This decrease combined with the fact that the population in the United States had increased by 105 million proves that advances in construction and smoke detectors work. These statistics are taken from the multiple cause-of-death file maintained by the Centers for Disease Control.

Other advances include improved fire blocking and stopping, resulting in better fire containment. Also, better electrical and heating designs aid in reducing space heater fires and limit the number of dangerous extension cords. Further improvements consist of innovative draft reduction, emergency escape and rescue openings, and electrical circuit breakers. The U.S. Fire Administration and National Fire Protection Association data continues to affirm the majority of home fire fatalities occur when there are no operational smoke detectors.

Smoking is the leading cause of residential fire-related deaths as cited in a U.S. fire overview report produced by the National Fire Protection Association. The average cost of a standard residential fire suppression system is between \$2.66 and \$6.88 per square foot. There is disparity because there are dry systems and wet systems. Dry systems are utilized more often in colder climates. There is also a potential cost increase for a home on a well. The average 2,000-square-foot home would cost anywhere from \$5,000 to \$13,000. At \$2.66 per square foot, a conservative national estimate of one-time costs to install fire sprinklers in all new homes constructed in 2005 is approximately \$10.2 billion. On top of this cost, one must also factor in fees from water purveyors, tests and inspections, backflow devices, water storage tanks, additional pumps and maintenance costs.

Pricing consumers out of the new home market will place them in dangerous older homes that were not built with today's technological advancements. Fire sprinklers are more suited to protect property than lives. Therefore, it should be the home buyers' economic decision if they want to incur the additional cost when building their homes.

The solution to protect your constituents is not to mandate expensive fire sprinkler systems but to conduct public outreach to those who live in older homes, providing education about the dangers of smoking in a home and the

importance of smoke detector checks. Nevada is not alone in removing this mandate; a total of 23 other states have also agreed mandates are not the answer. I have provided a map for the Committee to review relative to the other states ([Exhibit J](#)).

Opponents of this bill will state you will have an 80 percent survival rate if sprinklers are present, but the reality is these figures do not take into account that smoke alarms alerted the occupants, ensuring a safe exit. If the opponents want to focus their efforts on saving lives, then they should be targeting older homes to encourage cost-effective retrofitting, not targeting new construction.

CHAIR LEE:

Mr. Feser, have you completed any construction in the Lake Tahoe area?

MR. FESER:

No, I have not.

MARK TURNER (Black Pine Construction):

We need to keep in mind that fire sprinklers are a tool appropriate for certain circumstances. They are not a cure-all and they are not a panacea. There has been discussion about home building near the Lake Tahoe region, but construction at Lake Tahoe is different from what is done in Carson City. In a normal subdivision of 2,000- to 3,000-square-foot homes, there are plenty of fire hydrants and easy access for fire services to access those homes. This bill will allow a local fire district to make the appropriate choices as to whether a given construction site would benefit from fire sprinklers or whether the existing public infrastructure already in place is adequate protection for a home.

Modern construction techniques have really changed fire danger in homes. Many parts of the home and the garage—where many residential fires start—have areas that are compartmentalized with sheet rock and fire doors. This allows more time for fire services to put out a fire before a catastrophic situation arises to harm the occupants. The construction techniques along with smoke detectors and modern building practices are effective in increasing occupant safety.

Cost is the major issue here. It is very hard to build a new home in the State and be competitive with resale and foreclosures. We want to build new homes that are energy-efficient and safe, but we need to make these homes affordable.

We need to give people the ability to purchase a home at the market price of existing homes. Adding an additional \$5,000 may not seem like a lot of money, but it actually is a decision factor for people not to purchase a home.

If people want to install fire sprinklers in their homes, they should have the ability to make that decision. It should not be mandated.

I also want to touch on the potential for fire system failure that results in property damage, and I have provided a document regarding a case in Truckee, California ([Exhibit K](#)). The fire suppression system malfunctioned. There was a blast that occurred due to an improper mixture of fire suppressive material in the system. When the material was sprayed on the fire, it ignited and exploded, causing death and injury. Fire suppression systems do not always work the way they are intended to work.

An insurance agent from Lake Tahoe provided me with information regarding two of his clients in Incline Village where a fire protection system failure caused catastrophic water damage. There was \$500,000 worth of damage in one home where a small pin hole in a fire suppression system generated a leak. While the home was unoccupied, the leak continued until it caused major damage. Fire suppression systems can fail, especially here in northern Nevada where we have freezing temperatures. A fire suppression system can freeze, break and then cause some significant damage.

Another problem occurred at an insurance agent's office. During a maintenance appointment, the fire sprinkler system went off and soaked four offices, causing \$25,000 in damage and several days of lost productivity. There are instances where fire suppression systems are appropriate, and there are plenty of instances when they are not necessary.

JAMES M. WRIGHT (Chief, State Fire Marshal Division, Department of Public Safety):

I am here to voice concerns about provisions in S.B. 327 regarding residential sprinklers. Residential sprinklers are an important fire and life safety tool which protects lives and property. Sprinklers have been proven to save lives, and you have heard testimony about protecting the property. In conjunction with the alert of the smoke detection system in the house, the quick-acting sprinkler heads provide a valuable escape route protection for those occupants to get out of the structure. That is the important piece of this legislation that sometimes



gets lost during these discussions. It is not to immediately extinguish the fire but to provide a safe exit for the occupants of the structure.

Each side has facts and figures, and it becomes a battle of statistics. I would focus on the real world and what we are seeing out there on a daily basis. We have discussed safer homes and we all agree. Our codes have provided us the ability to have safer homes. Once that home is sold, we cannot control what that occupant puts in the home that could deter some of those safety features. Combustible furnishings and fixtures can start a fire or enhance a fire because they are flammable. That is something we are unable to control.

Unfortunately, we have had fire fatalities. Last year, we had 12 total fire fatalities statewide. Of those 12 fatalities, 7 occurred in a residential setting. Within the first 90 days of this new year, we have had eight fire fatalities, all in residential settings.

In the real world, there are people dying in residential fires. I appreciate Senator Schneider bringing up the point of a fire originating within a structure escaping into the wildland areas and threatening a community. Real world situations do happen. From the fire service perspective, we have real concerns because fire sprinklers are a valuable life-saving tool.

MR. MCALLISTER:

We also stand in opposition to this piece of legislation as currently written. Section 1, subsection 1 states: "a governing body shall not adopt a building code or take any other action that requires the installation of an automatic fire sprinkler system in a new or existing residential... ." Does that mean any future code that is passed ever? We all have building codes and fire codes that have been adopted. The State Fire Marshal has adopted the minimum International Fire Code, but if the code is amended in the future to include this, does it mean that every local entity in the State of Nevada cannot upgrade to a better and safer code? It seems this would prohibit entities from ever adopting a better code. We can exchange statistics on both sides. There is no questioning the statistic that each year roughly 3,000 people die in fires.

I heard testifiers indicate smoke alarms are the answer. They are not the answer. We are driving around neighborhoods giving out free smoke detectors because many homes do not have them. Even homes with hard-wired smoke detectors, currently required by code, are not operating on many occasions.

I have been in house fires where there is no smoke alarm going off in hard-wired facilities. Smoke detectors, even if hard-wired, over time no longer work. They get filled with dust and become nonoperational.

Research completed by the National Fire Research Laboratory from the National Institute of Standards and Technology shows that when fire sprinklers alone are installed in a residence, the chances of dying in a fire are reduced by 69 percent. When smoke alarms are in a residence, it reduces the chances of death by 63 percent. When both are used together, it reduces the chances of dying in a fire by 82 percent.

A prior speaker stated we are building safer houses and building construction has improved, but there are some things that have not improved. The furnishings within the home are extremely flammable. In 1975, the average time available for someone to get out of a house safely was roughly six minutes. As of 2003, that time has decreased to three and one-half minutes. Furnishings are making houses less safe. We are decreasing the time for people to get out of their homes safely during a fire.

This does not take into consideration lightweight truss construction in new homes. Almost half or two-thirds of houses are being built with lightweight truss construction in the roof. That in itself is an extreme fire safety danger, not only for the residents but for the firefighters who are going in to battle that fire.

Studies have shown it takes four to six minutes for fire impingement upon lightweight trusses before they fall apart and the roof collapses because the trusses are held together with gusset plates. When you have a 1,500-pound air-conditioning unit sitting on the roof, it is not good to be inside the house and underneath that unit.

Twenty-five percent of all firefighter fatalities happen in residential structures. That does not say they are all sprinkled or not. You have heard about the cost and even the testifiers have provided different prices. Data from the U.S. Fire Administration indicates the average cost ranges around \$1.60 per square foot. It is similar to the cost of changing out the carpet in your house or installing a new whirlpool bathtub.

There is a Fire Sprinkler Incentive Act and numerous attempts to pass legislation at the federal level to help increase fire safety. If homeowners installed a fire suppression system, they could accelerate the depreciation as a credit for the

cost of the retrofit. It is 27.5 years that you could depreciate a house for installing a sprinkler system, and the new law would allow you to recover your costs within 5 years.

Scottsdale, Arizona, has adopted a residential sprinkler code. During a 15-year study, the officials found over 50 percent of homes were sprinkled. They estimate over 13 lives were saved and over \$20 million in property loss was prevented. The average fire loss was \$2,166 in fire sprinkler residences and \$45,019 in nonsprinkler residences.

From the professional firefighters standpoint, we believe this is a local governmental issue, and local governments should have the ability to adopt any code that would make their communities safer living environments.

RAY BIZAL (National Fire Protection Association):

Fire sprinklers save lives. You reduce the risk of dying by about 80 percent when you have fire sprinklers in your home. The issue at hand is not whether sprinklers are good. Everyone will agree they are a good safety tool. Regarding the IRC in Nevada, jurisdictions have the opportunity to adopt whatever code they want and whatever provisions are within that code. The national standard is voluntary. When it comes to Nevada jurisdictions that want to adopt fire sprinkler systems, those provisions are voluntary until the jurisdiction adopts it. We are only talking about new construction. We are not talking about retrofit or if I have a house and I am adding a bathroom to my house. We are not talking about forcing people to retrofit homes.

I hear that homeowners should have a choice. How many newly built homes are sold before they have an owner? At that point, the homeowners do not have a choice on whether there are sprinkler systems installed in their homes. If the homeowners decide they do not want sprinklers, it does not help the next owner of the home. It could be the next owners' first home, and they do not have a choice. The choice issue is not even an issue.

We have safety laws where cars are required to have seatbelts. Seatbelts and airbags are not a choice of the consumer; all vehicles must be manufactured with seatbelts and airbags. There are some issues which are much too important to leave up to citizens who may not be safety experts. The homeowner is more interested in plush carpeting or granite countertops.

Most insurance companies will allow a rebate on the premium if you have fire sprinklers. The way the Insurance Services Office (ISO) rates building departments and fire departments now, most all are mandated to adopt the requirement for fire sprinklers. I heard of a jurisdiction that went through the ISO rating, and the rating was worse because the jurisdiction did not adopt the fire sprinkler requirement. That means there will be higher overall insurance premiums for that community based on the rating schedule published by the ISO. Does it cost money to install sprinklers? Absolutely.

There is a national study that says the average cost is about \$1.61—a range from \$3.85 to 28 cents per square foot. The cost will vary depending on the type of material and the type of system, but an average of \$1.61 also includes all the fees associated to the installation. If more fire sprinklers are used, it will reduce the cost in the area.

I also heard 23 states had outlawed fire sprinklers, and that is simply not true. Seven states have restricted how fire sprinkler adoptions are handled. Utah decided not to adopt the fire sprinkler requirement in the IRC. When it comes up for consideration in three years, it will be discussed again. Seven states have partial restrictions and in 2011, 12 states introduced similar legislation but only one bill passed—and that was in Arizona.

A great deal has been said about smoke alarms, but in the majority of fires, operating smoke alarms are not in the structure. In the fatal fires in 2008, 37 percent of the fire fatalities occurred in homes that had operating smoke detectors. They are great passive devices because they alert you, but they do not help people who are disabled, children and those who are voluntarily inebriated.

New construction is not necessarily safer. In the reports from the 1970s, the document indicates you had about 17 minutes to escape a fire. Today, you have about 3 minutes to escape. The contents of the building have changed dramatically. We have a higher heat content for the things we put inside our buildings and those furnishings catch on fire. Those are the things that kill you. It can be the smoke or it can be the flame itself. The buildings may be safer, but the contents are not. We are trying to address this issue with fire sprinklers.

The testifier also mentioned lightweight truss construction, which is a very serious issue for our firefighters. The reason 25 percent of the firefighters die in

residential occupancies can be attributed to lightweight construction and lack of fire sprinklers.

RON LYNN (Director, Development Services, Clark County; Nevada Organization of Building Officials):

I want to review how codes are adopted and how they are implemented. There were arguments against fault interrupters, saying they cost hundreds of dollars more and they did. But the costs were driven down. Ground fault interrupters were also fought against, even hold-downs and tie-downs for structural wind resistance were actively fought. In some jurisdictions like Florida, they were omitted from the code, and look what happened after Hurricane Andrew. That was not an error on the part of the inspectors, but the local jurisdiction chose not to adopt the code. There is a consequence to accepting and rejecting portions of the code.

In the 2012 IRC, there are significant tradeoffs economically for using fire sprinklers built into the code. By plucking one item out of the code, you can affect the performance of a structure, making it less safe. Unprotected openings are permitted. Setbacks are reduced. The types of materials of construction, which many of the home builders associations have tried to make more economical, can be less safe.

Irrefutably, fire sprinklers will save lives. I have been with the jurisdiction for over 30 years, and I am not looking at Arizona and I am not looking at California. I remember the debate after the MGM Grand fire in 1980 in Las Vegas. There was a fight to put sprinklers in commercial structures. We won that battle, and we became one of the safest communities in the United States. In fact, we became a leader in this Country in instituting fire and life safety provisions. Those safety provisions have been imitated throughout the Country, but there are still jurisdictions that do not adopt those kinds of standards and codes.

You hear about nightclub fires and every year an apartment fire because the jurisdiction has not implemented those provisions. Let us continue to be the leaders.

BRIAN KERZETSKI (President, Plumbing, Heating and Cooling Contractors of Nevada; Vice President, Universal Plumbing and Heating Company):

The Plumbing, Heating and Cooling Contractors are part of the Residential Sprinkler Coalition comprised of the Mechanical Contractors Association, Plumbing Industry Promotion and Education, United Association (UA) Local 669 Sprinkler Fitters and UA Local 525 Plumbers and Pipefitters. I want to express our opposition to this bill and any similar legislation. You will be hearing from a number of experts in the field, and all of them will demonstrate why fire sprinklers, even in residential applications, save property and, more important, save lives. There seems to be three main objections to requiring fire sprinklers in residential homes: price, catastrophic failure and the right to choose.

Briefly, our contractors are receiving about 80 cents per square foot to install fire sprinklers in residential homes—a far cry from some of the figures quoted in prior testimony. As to catastrophic failure, one in about 6 million sprinkler heads are defective. Eliminating fire sprinklers will not eliminate the cause of water damage. The right to choose how your home is built certainly seems reasonable, but it has been stated many times how the homeowners have not been given a choice by the home builders.

The position of the United States Fire Administration is that all citizens should be protected against death, injury and property loss resulting from fire in their residences. Are fire sprinklers recommended in all residential buildings? Yes. Should they be required by law? Not necessarily. In areas such as Clark County, Las Vegas and Henderson where homes are allowed to be built within six feet of one another, the risk of fire jumping from home to home has dramatically increased. The more we can do to protect against such catastrophic events, the safer our community and residents will be. We are not here to fight for passage of fire sprinkler requirements. The issue is much broader than that. Should this bill become law, it will set a dangerous precedent for restricting the effects of existing building codes. The building codes are not haphazardly thrown together to make life difficult for the common man. They are designed, reviewed, revised, reviewed and revised again by contractors, experts and building officials in an attempt to provide a minimum standard and a safe and economical way to construct buildings.

All codes allow for an alternative engineered design as long as it provides an equivalent level of quality, strength, effectiveness, fire resistance, durability and

safety as the code requires. If we prevent a municipality the ability to require fire sprinklers today, tomorrow it may be smoke alarms, then ground fault circuit interrupter electrical outlets, relief valves on water heaters, notch instructional members, vacuum breakers on hose bibs, proper pipe and duct sizing. All have a small additional cost, but all are proven to protect the lives and health of our public.

If you have not considered what life in this Country would be like without building codes, take a look at Haiti. An extreme case—but the loss of life and property could have been dramatically reduced if the government held builders to a building code. Instead, we had the tragedy that is still having ramifications to this day. We have the right to pursue our dreams with limited government intrusion and make our own choices. We also have the right to freedom of speech. But we do not have the right to endanger our fellow citizens by yelling fire in a crowded theater or by erecting substandard buildings when the right tools are so close at hand. Please keep our building codes strong and our citizens safe. I urge you to oppose this bill.

RICHARD LISLE (Executive Director, Mechanical Contractors Association of Southern Nevada):

Our Association is concerned about this legislation but may be more concerned with the way we adopt and promulgate our codes. Our members are the ones who build the high-rise hotel-casinos, and a slight code change can cost thousands and thousands of dollars on a project if the code can be changed by someone other than the political subdivision. In the past, the State would adopt the national code standards as a minimum standard, then the individual political subdivisions would adopt the rules and regulations. We want to make sure that remains the same. If this bill is passed, it would change the process and set a dangerous precedent.

CHAIR LEE:

Could Ron Lynn please return to the table? There was mention of homes in subdivisions being only six feet apart and dangerous. Why have we allowed the setbacks to get so close together? Should we be constructing tilt-up concrete walls between the structures? Has Clark County adopted residential codes to require all houses to be sprinkled?

MR. LYNN:

We are very supportive of local home rule. We have worked hard with our codes with the local entities, the fire departments, the manufacturers, the home builders, the Nevada Resort Association, etc. We have adopted 2009 codes but postponed the implementation of the sprinkler provisions, working on trade-offs. This is an eventual adoption but instead of using the date that has been recited, we are actually pushing it back to 2012.

As an example statewide, northern Nevada jurisdictions are adopting the 2006 code—in lieu of 2009—which does not contain the fire sprinkler portion. These are local issues. The local jurisdictions are looking at local economic ramifications as well as physical conditions. Many of those are land use determinations. We have provisions in the building code that allow for the three-foot setbacks as long as certain safety precautions are implemented. The National Institute of Standards and Technology reports recent tests show that a three-foot setback is no longer safe. After our structures were earthquake-tested in Northridge, California, we looked at the steel connections. They were all compromised, so the code had to change, which is why the code changes every three years. I cannot support the three-foot setback without a sprinkler provision for protection. That is something that will not be a product in the future unless sprinklers can be implemented.

CHAIR LEE:

The code says you have to have heads eight feet apart, but you said they are three feet apart. The building codes and zoning allow these houses to be built close together without sprinklers.

You mentioned Clark County has not implemented sprinklers because there was a give and take with other building requirements. Will the Clark County Commissioners not approve this change? It sounds like you would like to change the requirement, but you have been following this direction for the past 30 years.

MR. LYNN:

Residential sprinklers were not implemented until the last code cycle in 2009. During the code cycle and meetings with all of the interested entities, we looked at all of the ramifications, considerations and modifications for geology, geography, climate, etc. It takes about a year for us to work through those debates as well as providing education. Because the code is brought forth on a



particular day, it cannot be implemented without training our people. We also have to train the industry. We have to make sure the products are available that are indicated in the code. When we adopted plastic interrupters, we needed to have a six-month delay because the product was not available when we adopted the code.

What we have done is put a date into the future in order to have everything in place prior to implementation. None of the 2009 code will be implemented until January 5, 2012, but the effective date for permit and design is July 5. We are going forward. It is true, debates go before commissions and counsel. That is where they should be because they are most sensitive to their environmental and economical conditions.

PETER KRUEGER (Subcontractor Legislative Coalition):  
We are opposed to the bill.

STACEY GIOMI (President, Nevada Fire Chiefs Association; Fire Chief, Carson City):

We are not asking for you to adopt a statewide requirement to put in residential sprinklers. We are for it from a safety perspective. From a local government perspective, we spend a great deal of time working on the adoption of codes in each of the jurisdictions from a regulatory perspective and an economic perspective. This law takes away our ability to make those determinations at the local level.

There are provisions for currently enacted ordinances, but those ordinances and the model codes change every three years. Essentially, if we have an ordinance on the books that requires residential sprinklers in some capacity, and in Carson City we do, when we go to another code cycle update, that component of the residential sprinkler system would not be allowed to go forward and would be eliminated. We would rather you did not pass this bill, but if you must pass the bill, please do not restrict the ability of local governments to pass laws and interact with our citizens.

TERRY TAYLOR (Northern Area Director, Fire Prevention Association of Nevada; Nevada International Association of Arson Investigators):

Our concern is over the definition in the old law of a residence that is being changed. Our codes consider residences things such as board and care facilities, day cares, etc. Potentially, it is possible with this law to eliminate fire sprinkler

protection for homes used to care for Alzheimer's patients, the elderly, the disabled and children in day care. That is absolutely unacceptable. I am a local fire official, and we should have the opportunity as our conditions change to pass legislation that would require fire sprinkler systems in our residences.

CHAIR LEE:

If it now takes three minutes to get out of a home rather than six minutes, why would the fire department not require fire hydrants to be 100 feet apart in new developments instead of 300 feet?

MR. GIOMI:

The code cycle is reviewed every three years. There was a comment made that every three years we have to fight or defend for or against something. I would say that is a mandatory part of the process. You must have the give-and-take discussion because everything you have heard today would be included in the debate. Yes, there are lives at stake, but there are also economies at stake. You work together as a group, opponents and proponents, and you struggle to find a happy medium.

Yes, we could put a police officer in every home, but is it economically feasible? No. You could put a fireman in every home, but is it economically feasible? No. Would I like it from a fire professional standpoint? Absolutely. But we have to deal with reality of what is economically feasible and what is not economically feasible. That has to be balanced against everyone's lives. As fire officials, that is the struggle we have every single day when doing our jobs. We must take the funding available and provide the highest level of citizen safety. Those discussions are welcome on a three-year basis because the industry progresses on a three-year basis. You must have those dialogues.

SENATOR MANENDO:

In regard to smoke detectors: Are they required in homes right now?

MR. GIOMI:

Yes, they are required to be hard-wired and they are required to be tied together.

SENATOR MANENDO:

How long ago was that implemented in Nevada? A couple of decades ago?

MR. GIOMI:

Smoke detectors began being wired together about six years ago.

SENATOR MANENDO:

I just pulled up some information about the National Association of Home Builders, and there was an article about how it is calling smoke detectors a failed experiment. I understand the issue of having mandates and increasing the price of homes, but I am worried that there may be a national movement to take away smoke detectors.

I am reading there may be a push to get rid of smoke detectors and that causes me some concern. I understand no one wants to increase the price of homes. Homes with or without smoke detectors will be pricey because of the economy. The price is going down because sellers cannot sell homes due to the economy. In some areas, they were priced out of the market. Do you have any comment about that?

MR. GIOMI:

The more you can do to protect your family, the better the chances of survival. Is it better to have smoke detectors hard-wired together? Yes, because we found when the smoke detectors were not linked together, a fire could actually start in a bedroom when the smoke detector is in the hallway and someone could perish in the bedroom because they were not notified. It would concern me also if we were going backwards. We have already heard there are flaws with smoke detectors. There are flaws with sprinkler systems also. I am not here to tell you that either one of them are panaceas. They all work together in a component system to save lives. I have not heard of a push to eliminate smoke detectors. We would not support removing smoke detectors.

SENATOR MANENDO:

Quotes at the national level say it has been a failed experiment. It really concerns me that people would think that smoke detectors are a failed experiment.

MR. GIOMI:

I would not agree with that statement. Are there flaws with smoke detectors, and do they have failures? Yes, they do. Some of those failures are mechanical and some of those failures are human. I can not imagine living in a home without a smoke detector.

MIKE MYERS (Fire Chief, City of Las Vegas):

I am in opposition to this bill and voice my support for the testimony of my fire colleagues in Carson City. It was best stated earlier that cost seems to be the major issue. I wonder if installing fire sprinklers was cheap or did not cost anything, would we install them in our buildings? Fire officials have a serious responsibility to provide life safety, scene stabilization and property conservation for the public. This should be the main goal for those of us trusted to protect the public. In the future, there will be fires in our communities. If this bill is adopted, we need to understand that deaths will occur. There will be human injury where fire sprinklers in residences could have saved a human life, stopped human injury or stopped property loss. Knowing this, I must oppose this bill. I would be remiss in my duty as a fire chief if I did not.

KELLY BLACKMON (Deputy Fire Chief, Clark County Fire Department):

We are also in opposition to this bill mainly because the base IRC, which includes the resident fire sprinkler provision, is based on the new home sprinkler requirement. Reductions made elsewhere within the code will cause issues if that one provision is pulled out. As you have heard, the statistics show 20 years ago we had 20 minutes to get safely out of a home, and today we have only 3 minutes. That is a significant decrease. Statistics also indicate the average sprinkler head activation in a residence is two minutes. That gives the occupants in the building enough time to exit the building and call the fire department; many times they do not have that opportunity if they only have three minutes to leave.

We would not say smoke alarms are ineffective, but the statistics show one out of every three fire fatalities occurs in a home that has a working smoke alarm. This is just the next logical step in the process of protecting the occupants of our homes and our residences. Twenty-five percent of firefighter deaths occur in residential fires and 84 percent of all fire deaths occur in residential fires. In Clark County, we have adopted the idea that any fire death is not acceptable, and we believe this is the next step to make that occur.

FULTON COCHRAN (Deputy Fire Marshal, City of Henderson):

The bill itself references building code but does not differentiate between the residential code and the building code. The building code and the residential code are two separate documents, yet this bill does not provide clarification. My comments predominately regard technical flaws in the language. The City of

Henderson may be unique because we have already adopted the IRC, including the sprinkler provision. It is set to become effective July 5.

Obviously, section 4 applies directly to the City of Henderson. If you are inclined to pass this bill, we would recommend the following change at the minimum. In section 4, lines 26, 27 and 28, put a period after the words "governing body" and delete the remainder of that section. If you pass this bill and allow it to continue, you are preempting the City of Henderson from adopting the 2012 edition of the IRC and the benefits it may contain. An unintended consequence deals with the energy aspect of codes. The newer codes focus greatly on energy conservation, sustainability and green buildings. All are key elements in our fight for survival as a state with our current economy. The new codes address these issues. We want to increase the level of safety for the City of Henderson residents. Our council has already found the code necessary, and we would be preempted from that by section 4 of the bill.

This bill will remove the ability for the City of Henderson to adopt safety regulations ([Exhibit L](#)). Fire sprinklers are a local issue, and the decisions should be left to the local authority. The prohibition for taking other actions within section 1 that would require the installation of automatic sprinklers removes the ability of the City of Henderson to mitigate hillside developments containing long dead-end roads, dead-end water mains and developers' desires for narrower streets. These are all trade-offs we can accept, but they are mitigated through the use of sprinkler systems. This bill may remove that authority. An example is our local council battle between two candidates who talk about the single most visible example of this in Henderson, the Ascaya estate residential community.

This bill will create a conflict with NRS 449.037, which already requires fire sprinklers in residential homes used for elder care and Alzheimer's patients in assisted living. These are requirements from the Department of Health and Human Services. The intended target of this bill is the IRC. Interesting enough, the State through the Fire Marshal's Office adopts the International Building Code to set a minimum standard for the State of Nevada. The State Fire Marshal's office does not adopt the IRC. It leaves that decision to the local authorities to make the decision for each of their communities. That presents another reason not to pass this bill.

There is an unintended consequence as the bill will cause sections of the International Building Code to become null and void because it does not

differentiate between this and the IRC. This means single-family homes built under this code and homes 10,000 square feet and larger would no longer be required to be sprinkled because the building code already requires all residential buildings to be sprinkled. The IRC, which typically covers the small tract homes and structures smaller than 10,000 square feet, is the other code now under debate.

The definition of a residential building as covered in section 1, subsection 3, paragraph (b) consists of not more than two residential units that include, without limitation, a residential dwelling unit, duplex, condominium or townhouse. What do you mean? The bill says two units and then it says without limitation. The IRC does not cover condominiums and is not intended to cover them. An example of a condominium building is the Cosmopolitan Hotel, recently opened on The Strip. That high-rise building is a condominium. Do we not sprinkle that building in the future because it is covered under this definition? The bill is flawed.

What is the effect of the term "without limitation"? The IRC only applies to one- and two-family dwellings, duplexes and townhouses. Condominiums are not addressed in the IRC. Townhouses are by definition more than two dwelling units separated by fire separations. This text demonstrates that the bill is ill-conceived with respect to how it relates to the model code that it seeks to amend. The IRC was built as a package. Other fire provisions inside the IRC were taken out as mitigation simply because sprinklers are intended to be there. If you delete this, we will no longer have some of the separations between the garage and the rest of the house ([Exhibit M](#)).

J. DAVID FRASER (Executive Director, Nevada League of Cities and Municipalities):

This hearing has certainly established that this topic deserves deliberation. The bill as written is so strict it would eliminate any opportunity for deliberation to take place at our local city councils. The deliberation of if, when and how fire sprinklers are installed in residential units is best discussed at the local level where different localities have different needs and different circumstances exist. The League would oppose this bill primarily based on its taking away the ability of the local city councils to deliberate these issues, particularly when we spend so much time during the interim studying the powers delegated to local governments and what might appropriately be delegated in terms of functional authorities of local governments.

CHAIR LEE:

Could David Bowers please come to the table. You are sure this is taking away the authority of local governments. I do not understand the City of Las Vegas. I built a very nice home in Las Vegas and I wanted to install fire sprinklers. I only wanted to install a fire sprinkler in the kitchen. I went to the planning section and found out if you install a fire sprinkler system, you need to include the whole house. I installed the fire sprinkler system. Because I am in the trade, I understood how to purchase and install the sprinklers myself. There is an inspection blow-off test, so if you drop pressure, the bells go off and if there is a fire, you vacate the house. After the initial inspection, it was never inspected again by the City of Las Vegas. I could have turned the system off and you would have never known. How does the City of Las Vegas anticipate regulating the inspection of these homes? You are requiring these homes to complete an inspection test. What regulation would be conducted after the sprinkler was installed?

DAVID BOWERS (City Engineer, City of Las Vegas):

I appreciate the question but unfortunately cannot answer it. I will follow up on the question for you. I do not know if there is a requirement for that system to be checked periodically once it has been installed.

CHAIR LEE:

I could not understand why the City of Las Vegas has these stringent rules I had to follow and then no one ever came out to inspect it again. In the future, will other homeowners have the right to turn off their sprinkler systems?

DOUG STEVENS (Fire Chief, City of Henderson):

I would ask that we retain the authority at the local level for fire chiefs, fire marshals and elected officials to deliberate and review the tools in our tool box to provide for the safety of our citizens, which we take very seriously. As a fire department, we respond to these tragedies and we see people's lives devastated. There is a lot more at stake here than simply lives lost and deaths. There are significant burn injuries that cause people a great deal of pain and suffering. In the City of Henderson, we did deliberate this issue as a local government. We had a hearing that lasted more than an hour before our City Council. There were proponents of fire sprinklers and opponents to fire sprinklers, and our city council listened to both sides. After a long deliberation, they voted 5 to 0 in favor of adopting the IRC, including the residential sprinkler requirement.

I provided a 30-minute PowerPoint presentation to the Council that night so they could understand the benefits of fire sprinklers through video and photos. We certainly do not have time to make that presentation today. That is another good reason to keep these decisions at the local level—in order to take the time needed to deliberate.

There has been a change in the fire service. We need this because fires burn hotter, they burn faster and they spread more quickly than ever before. The smoke produced from these fires is absolutely toxic and has much more volume than we have ever seen. The reason is because the stuff we choose to put into our homes is made from petroleum products, plastics of all sorts and synthetic materials. A couch is no longer made from cotton or wool. The couch is filled with foam products that are petroleum-based. These furnishings are literally solid gasoline. We have talked about that number—17 minutes in the mid-1970s to escape a home fire and now it is 3 minutes. That is an alarming statistic.

In the City of Henderson during the last six months of the last calendar year, our fires in residences were up 50 percent over the prior year for the same time period. We have done a lot to make our homes safer over the last 30 years, working with the building community. We have made significant improvements, but once you put people and contents into those homes, it creates a very dangerous situation. We have the potential of seeing more deaths and injuries in the future.

CHAIR LEE:

Is there anyone else who can add something new to the discussion rather than they think it should be under local control?

KEVIN McOSKER (Manager of Building Inspections, Clark County Department of Development Services):

I come from the building construction side of this issue. We talked a little bit about how homes are constructed. Homes are built a little differently than they have been in the past. The lightweight trusses were discussed. Another issue is the glue used in those trusses. These glued components do not withstand fire as well as the old sawn lumber trusses. New homes have open floor plans that allow the spread of fire from one area to another as opposed to older homes with distinct areas that slow the spread of fire. Homes have now become much more energy-efficient, not allowing heat energy to transfer. This traps the heat



inside the building and expedites flashover. For these reasons, the 2009 IRC requires fire sprinklers in new residential construction. Senate Bill 327 is in conflict with this requirement.

There was a great deal of discussion about costs. When the national report indicating the average cost of \$1.61 per square foot filtered down for slab-on-grade construction typical of southern Nevada, that number decreased to 81 cents. In Scottsdale, Arizona, after 15 years of its ordinance, officials discovered a 52 percent reduction in the cost for the residential sprinklers.

CHAIR LEE:

This bill will be brought back for a work session and I will allow more testimony at that time. I will close the hearing on S.B. 327 and open the hearing on Senate Bill 297.

[SENATE BILL 297](#): Revises provisions relating to preferential employment in the construction of public works. (BDR 28-1056)

SENATOR ALLISON COPENING (Clark County Senatorial District No. 6):

Senate Bill 297 is a bill designed to keep Nevadans employed on local public works projects. My opening remarks ([Exhibit N](#)) explain that many public entities are taking advantage of low construction costs and engaging in public works projects to improve their infrastructure. These projects not only help improve the quality of life for our citizens but also provide jobs for the community. Studies show that public works projects generate approximately \$1.57 for every \$1 spent. We need to ensure the money is reinvested in a community where the job is being performed.

NRS 338.130 addresses this issue by giving preference first to veterans who are citizens of the State of Nevada and then to all other citizens of the State. Some public entities are hesitant to enforce this statute because of questions regarding interstate commerce law.

The first part of S.B. 297 addresses these concerns by changing the language from "State of Nevada" to "county in which the public work will be constructed." The proposed amendment to S.B. 297 ([Exhibit O](#)) would give the public body that is entering into the public works project the ability to use local hire language in their request for proposals or bid documents. There is legal precedent stating if certain criteria are met, such language is appropriate. This

language is designed to enable the government entity to use this language as they choose and is not a mandate or requirement.

This bill operates differently from A.B. 144 in that S.B. 297 addresses the issue of the craftsmen on the project, whereas A.B. 144 addresses the contractors that are awarded public works projects.

**ASSEMBLY BILL 144**: Makes various changes relating to bidder preferences on state and local public works projects. (BDR 28-64)

GREG ESPOSITO (Business Representative, Plumbers, Pipefitters and Service Technicians Locals 525 and 350; Southern Nevada Building and Construction Trades Council):

My job is to connect skilled craftsmen with employment and public works projects, which is the only game in town. As Senator Copenig stated, the economy is boosted when a public works project is implemented because the money gets reinvested into the community where the project is taking place. Unfortunately, when we look at certified payroll reports and job site inspections of license plates on the job, you can see that this boost to the economy is not taking place because the workers are coming in from other communities. We had conversations with city council representatives, mayors and county commissioners regarding this subject because they are commissioning the work. They were all supportive of having the money remain in the community where the work is taking place.

We were referred to their attorneys in an attempt to realize a solution. Attorneys are hesitant to be aggressive on this issue due to Dillon's Rule, the U.S. Constitution's Commerce Clause and Privileges and Immunities Clause. We had discussions with our attorney, Richard McCracken—who is a premier labor constitutional attorney across the Country—to work on a solution.

NRS 338.130 states that in all cases where persons are employed in the construction of public works, preference must be given—the qualifications of the applicant being equal—first to persons who are Nevada veterans and second to other State citizens.

The first part of the bill changes the "State of Nevada" to "county in which the public work will be constructed." The reason this is necessary is because of a court case that happened in Camden County, New Jersey ([Exhibit P](#)), which is

often referenced when citing labor law and local hire provisions. In the Camden case, the court held that a local hiring requirement—local means at the county or city level—does not violate the Privileges and Immunities Clause because it discriminates as much against other residents of the same state as it does against residents of other states. The reason local hiring does not violate the Commerce Clause is because the government is acting as a proprietor which is spending its own money. As long as the government is a client, it can implement local hire language; as long as it keeps it to the local level, it becomes legal according to the Camden Case. This summary is relying on Richard McCracken's analysis, which you can find in the document distributed to the Committee, [Exhibit P](#).

The amendment, [Exhibit O](#), which would create subsection 6 in section 1, states "The governing body may make hiring citizens who reside in its jurisdiction to perform the work under contracts for construction of public works a condition of qualification to bid." I need to emphasize the word "may."

There is no requirement or mandate in this amendment. By including this language, the local governing bodies will have permission to investigate this issue. They will have to do some serious legwork. You cannot simply put language in a bid document—you have to hire local people. According to the memo, [Exhibit P](#), there are conditions that a city or county must meet in order to have local hire provisions. These are very important. This language would enable local officials to proceed with that option if they so choose. It also gives them a way to address the issue of jobs, which has become very important in so many communities.

This bill does not compete with [A.B. 144](#), which deals with out-of-state contractors and the bidders' preference standards. This bill does not address where the contractors are from; they can be from anywhere. It does address a contractor's efforts to hire workers from where the work is being done. We kept the language "citizens" because that is in existing statute. Citizen is not defined in NRS, so when I discussed the issue with the Legislative Counsel Bureau, when NRS is silent, staff goes to the typical definition of the word. Merriam Webster defines "citizen" as an inhabitant of a city or town, especially one entitled to the rights and privileges of a freeman. On the Internet, freedictionary.com defines "citizen" as a resident of a city or town, especially one entitled to vote and enjoy other privileges there. I ask that you adopt the

amendment to S.B. 297 and pass this bill as an effective tool used by public entities to put people back to work.

CHAIR LEE:

If a job begins in Lincoln County, it would be great to give those people a chance to go to work. Referencing Nye County: all of the people on that side of the mountain would be coming over; will that put Clark County workers out of work since Pahrump is a bedroom community to Clark County?

MR. ESPOSITO:

It will not effectively put them out of work. There is nothing prohibiting people from Pahrump coming over the mountain and working on Clark County public works projects. The reverse is actually happening more often. There are public works projects going on in Nye County where residents of Pahrump are being excluded because builders can get Clark County labor to come over the mountain. In the construction of the high school and the prison, Clark County residents are the majority of the workers on those projects.

CHAIR LEE:

I am reviewing current language in section 1, subsection 2, "nothing in this section shall be construed to prevent the working of prisoners by a public body on a public work." I think that should be to clean up parks, but I want to get a clarification of what that means.

SENATOR HARDY:

Laughlin is 100 miles away from the county seat. Sometimes on a public project, there is time spent commuting to the job site. Is that addressed? I do not want to be in a position having to pay people to travel to work on a public works project. How would that affect this bill?

MR. ESPOSITO:

That may be addressed in existing language, which is not being changed, when it states the qualifications of the applicants being equal. You may be referencing workers coming from across the river in Mojave, Arizona.

SENATOR HARDY:

Yes.

MR. ESPOSITO:

If you have to pay extra for someone to travel, it may not mean the qualifications are equal. Since we are talking about public works projects and prevailing wage requirements, the standards of travel pay and zone pay cannot be altered because they are set in statute.

SENATOR HARDY:

Can somebody come across the river and get the job done with less money than people coming 100 miles each direction receiving travel pay? The bill states it is the qualification of the person, not the place where he resides.

MR. ESPOSITO:

I am not disagreeing with you. The fact that someone is coming from Arizona to work in Laughlin may not make their qualifications unequal. Wherever that worker comes from, the prevailing wage mandates what they are paid.

SENATOR HARDY:

I will take this discussion off line.

CHAIR LEE:

You are stating since there are only 8,000 people living in Laughlin, who may not have the skill sets needed for a public works project, project representatives are pulling workers from Arizona because it is cheaper for the municipality than having someone from Las Vegas receive travel and subsistence pay. If that is your question, we will get that answered for you.

SENATOR SETTELMAYER:

The bill says if all things are equal, you prefer to go with the bid of the project that is going to employ local workers.

MR. ESPOSITO:

It has nothing to do with the bidding process.

SENATOR SETTELMAYER:

Whoever gets the bid is going to use local workers if available.

MR. ESPOSITO:

Yes.

SENATOR SETTELMAYER:

I need to understand how this affects me since I am the only Senator on this Committee who represents multiple counties. I have to look at all of them because none are more important than the others. I need to weigh my highest unemployment rate, which is 20 percent in Lyon County, against my lowest unemployment rate, which is 12 percent in Douglas County. I must balance the interests of all constituents. I still have concerns regarding this issue.

MR. ESPOSITO:

You provided an example. What if a person from Lyon County bids on a job in Douglas County? If this is held too strictly, it may cause some issues in some of the smaller counties without geographical separations. I would imagine the residents and the county commissions of any locale where the work is being done would appreciate having this tool in their tool belt. Contractors may be coming from other counties, but the county commissioners are trying to help their local citizens. It may upset commissioners from other counties because they are trying to get their citizens to work also. The location of the population hub in the State needs to be addressed.

CHAIR LEE:

A contractor hires someone but finds a worker in the county who had equal skills was overlooked. The goal was to get the worker in your county back to work. Section 1, subsection 5 states any contractor engaged on a public work or any other person who violates any of the provisions of this section is guilty of a misdemeanor.

MR. EXPOSITO:

We purposely did not touch the vast majority of language in the existing statute because it had already been decided upon years ago. We did not address the penalty phases or the enforcement phases. The language proposed is an attempt to provide the municipalities a new tool to get their people back to work. We want to give the municipalities the ability to review a report and see where the workers are coming from. This will allow them to ask for local workers to be utilized.

SENATOR HARDY:

I hear the urban nature of your tone while you are talking. Have you looked at the concept of amending to municipality or population cap that might get the same result? I am thinking of Fernley, Storey County, citizens coming over to

Washoe County because those people make a living by driving into Reno. Have those discussions taken place?

MR. ESPOSITO:

No one has discussed a population cap. We would not be opposed to considering that as an option. I think even the smaller counties would appreciate the opportunity to put their people to work. Having all of that crossover may be hurting those smaller counties. We would be willing to address a population cap if necessary.

SENATOR HARDY:

The memo you are alluding to by Richard McCracken is the one that begins with "The cases cited by the Nevada Legislature's ... ." The one that is unsigned by anyone?

MR. ESPOSITO:

Yes.

DAN MUSGROVE (City of North Las Vegas):

I am representing Mayor Shari Buck as well as the City of North Las Vegas. Ms. Buck is very much in support of S.B. 297. We have tried a public relations campaign to get residents to utilize businesses within the City and we think this complements those efforts. We are in support of utilizing local workers for public works projects within our community and in the county.

MR. KRUEGER:

We are in support of this bill and like the choice factor. It is enabling legislation allowing local entities to do what is right.

RANDY SOLTERO (Sheet Metal Workers Local 88):

We are in full support of this bill. One of the things discussed in the hearings for A.B. 144 was when you visit and monitor a job site, you see out-of-state license plates. I know it is a bipartisan issue to bring Nevadans back to work. This bill helps the existing language as there were some constitutional challenges because of interstate commerce. As far as a person being a resident of the State, this bill further clarifies and encourages local workers to be employed on some of the local public works projects.

DANNY THOMPSON (Executive Secretary Treasurer, State AFL-CIO):

The reality of the budget and the situation we are in in the State will only be solved by putting Nevadans back to work. As unfortunate as that is for those who live on the borders, we are not going to solve the problems with this budget until you put people back to work. We support this bill.

PAUL MCKENZIE (Building and Construction Trades Council of Northern Nevada, AFL-CIO):

I want to answer Senator Hardy's question about the workers from Arizona and Las Vegas working on the job in Laughlin. Under the prevailing wage provisions of State law, it does not matter if the worker lives in Elko, Clark County or in Arizona. The worker doing carpentry work on a job in Laughlin will be paid the same rate of pay. It does not matter where the worker lives, the rate of pay is going to be the same. The idea about a worker driving from Clark County to Laughlin instead of bringing someone in from Arizona—while the contractor may have a personal agreement with workers where to pay them to commute—is not mandated under the law. Under the law, the rate of pay would be the same regardless of where that worker comes from. This bill is trying to ensure the worker in Clark County gets the work in order to keep the money in Clark County instead of taking it to Arizona. We support the bill.

CHAIR LEE:

We do not know of any projects in Laughlin or anywhere else. This was just the example used for discussion.

MR. LISLE:

Our entire group, labor and management, union, nonunion and subcontractors do support the bill and want to keep the money in the State and in the county.

MODESTO GAXIOLA (United Union of Roofers, Waterproofers and Allied Workers, Southern Nevada Local 162):

In returning to the intent of the bill, we were addressing out-of-state contractors not necessarily county by county. As a local trade, we have come into many prevailing wage projects where we see a lot of out-of-state license plates, such as Minnesota, Texas, California and Arizona. In this bill, we are trying to address a way to keep local tax dollars in Nevada and not going to the state the contractor came from. We are trying to address out-of-state contractors, not necessarily the counties. We want to give a tool back to the end user to hire local Nevadans. We are in support of the bill.



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MR. KERZETSKI:

Our membership is mostly open-shop plumbers, and we support this bill.

TERRI BARBER (Chief Legislative Advocate, City of Henderson):

We are in support of this legislation. This bill is in line with the desire expressed by our City Council to promote local employment.

MR. BOWERS:

Mr. Esposito has been working with our Council, Mayor and City Manager. We also support the bill. We want to support our community as well, and recent projects have shown we have had workers from out-of-state. We would like to keep the work in the State.

WES HENDERSON (Deputy Director, Nevada Association of Counties):

We are not in opposition to this bill, but we do have some concerns about how this might work in some of the smaller counties and even in Washoe County. Many of the employees in Washoe County come from the outlying counties, but we are in support of anything that puts Nevadans back to work. The testimony indicated the language is enabling, but I see the word "must" in the language.

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CHAIR LEE:

If we continue testimony on this bill it will be during the work session. The meeting is adjourned at 11:02 a.m.

RESPECTFULLY SUBMITTED:

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Martha Barnes,  
Committee Secretary

APPROVED BY:

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Senator John J. Lee, Chair

DATE: \_\_\_\_\_

<b><u>EXHIBITS</u></b>			
<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 10	C	Michael Stewart	Work Session Document
A.B. 103	D	Michael Stewart	Work Session Document
S.B. 231	E	Michael Stewart	Work Session Document
A.B. 17	F	David S. Noble	Explanation for AB 17
A.B. 17	G	David S. Noble	Proposed Amendment to AB 17
S.B. 377	H	LaShannon Spencer	Telemedicine
S.B. 327	I	Sheena Beaver	Testimony in support of SB 327
S.B. 327	J	Sheena Beaver	National Defeated Fire Sprinkler Mandates
S.B. 327	K	Mark Turner	Newspaper article relative to Truckee, CA, blast
S.B. 327	L	Fulton Cochran	Opposition Memorandum
S.B. 327	M	Fulton Cochran	Follow-up e-mail document
S.B. 297	N	Senator Allison Copening	Introductory Remarks
S.B. 297	O	Senator Allison Copening	Proposed Amendment to S. B. 297
S.B. 297	P	Greg Esposito	Court cases re: hiring preferences