

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Ninth Session
April 10, 2017**

The Committee on Government Affairs was called to order by Vice Chairwoman Dina Neal at 8:03 a.m. on Monday, April 10, 2017, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Dina Neal, Vice Chairwoman
Assemblywoman Shannon Bilbray-Axelrod
Assemblyman Chris Brooks
Assemblyman Richard Carrillo
Assemblyman Skip Daly
Assemblyman John Ellison
Assemblywoman Amber Joiner
Assemblyman Al Kramer
Assemblyman Jim Marchant
Assemblyman Richard McArthur
Assemblyman William McCurdy II
Assemblywoman Daniele Monroe-Moreno
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

Assemblyman Edgar Flores, Chairman (excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Irene Bustamante Adams, Assembly District No. 42
Assemblyman Tyrone Thompson, Assembly District No. 17



STAFF MEMBERS PRESENT:

Carol M. Stonefield, Chief Principal Research Analyst
Jered McDonald, Committee Policy Analyst
Jim Penrose, Committee Counsel
Carol Myers, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Rosa Mendez, Chair, Merit Award Board, Division of Human Resource Management,
Department of Administration
Peter Long, Administrator, Division of Human Resource Management, Department of
Administration
Beth Avery, Staff Attorney, National Employment Law Project
Monique Normand, Civic Engagement/Member Group Organizer, Progressive
Leadership Alliance of Nevada
Holly Welborn, Policy Director, American Civil Liberties Union of Nevada
Shawn Smith, Private Citizen, Las Vegas, Nevada
Cassandra Little, Private Citizen, Reno, Nevada
Susan Chandler, Private Citizen, Reno, Nevada
Delen Goldberg, Public Information Officer, City of North Las Vegas
Sean B. Sullivan, Deputy Public Defender, Washoe County Public Defender's Office
John J. Piro, Deputy Public Defender, Clark County Public Defender's Office
Wendy Stolyarov, Legislative Director, Libertarian Party of Nevada
Roxann McCoy, President, Las Vegas Branch, National Association for the
Advancement of Colored People
Yvette Williams, Clark County Black Caucus
Ender Austin III, Private Citizen, Las Vegas, Nevada
Anthony Gilyard Jr., Mentor Coordinator, Foundation for an Independent Tomorrow
John Fudenberg, representing Clark County
David Cherry, Communications and Intergovernmental Relations Manager, City of
Henderson
Austin Osborne, Planning Director, Storey County
Kelly Crompton, Government Affairs Officer, Office of Administrative Services,
City of Las Vegas
Don Soderberg, Director, Department of Employment, Training and Rehabilitation
Michael J. Baltz, Chief Compliance Investigator, Nevada Equal Rights Commission,
Department of Employment, Training and Rehabilitation
Thomas D. Dunn, District Vice President, Professional Fire Fighters of Nevada
Kenadie Cobbin Richardson, Director of Business Engagement and Communications,
Workforce Connections
Brian Connett, Deputy Director, Industrial Programs, Department of Corrections
Leo Murrieta, Advisor, Camp Anytown Las Vegas

Brad Keating, Legislative Representative, Clark County School District
Eric M. Johnson, Administrator, Division of State Parks, State Department of
Conservation and Natural Resources

Vice Chairwoman Neal:

[Roll was called. Committee rules and protocol were explained.] Our first order of business is Assembly Bill 467, which we will hear from Assemblywoman Bustamante Adams. Next, we will hear Assembly Bill 384 and lastly, Assembly Bill 461. I will open the hearing for Assembly Bill 467.

Assembly Bill 467: Revises provisions governing the Personnel Commission in the Division of Human Resource Management of the Department of Administration and the Merit Award Program. (BDR 23-551)

Assemblywoman Irene Bustamante Adams, Assembly District No. 42:

Assembly Bill 467 contains recommendations from the Sunset Subcommittee of the Legislative Commission. I would like to thank Assemblyman McArthur and Assemblyman Daly who have served on this Sunset Subcommittee in the past interims. The Sunset Subcommittee is authorized to review every board, commission, committee, and similar entities created by statute. Pursuant to *Nevada Revised Statutes* Chapter 232B, the Sunset Subcommittee is directed to recommend whether a board or commission be continued, modified, consolidated, or terminated. In this bill, we propose to make changes to the Personnel Commission, Division of Human Resource Management, Department of Administration; and the Merit Award Board, Division of Human Resource Management, Department of Administration. These were reviewed by the Sunset Subcommittee in March 2016.

The Personnel Commission was created in 1953 by this body in an advisory capacity. Over the years, it has been amended so that it now has rule-making authority. The Commission consists of five members appointed by the Governor. Three members represent the general public, one member represents labor, and one member represents employers or managers. Along with rule-making authority, the Commission is authorized to decide appeals from state employees.

The Sunset Subcommittee reviewed meeting minutes of the Commission and found that some appeals were acted upon when as few as three members of the Commission were present. Sections 1 and 2 of A.B. 467 relate to this situation. Section 1 provides for an alternative member to be designated for each member of the Commission. This is just like the Legislative Commission of the Legislative Counsel Bureau. Each member of the Legislative Commission has an alternate in case that member cannot make it.

Section 2 provides that five members, which may include an alternate member, constitute a quorum. A majority of the vote of five commissioners is required for any official action of the Commission, including deciding an appeal of an employee in the public service. Sunset Subcommittee members consider this an issue of fairness. If an employee files a grievance and follows the procedures to bring an appeal to the Commission, it is only fair that equal membership decides that appeal.

The remaining sections of A.B. 467 relate to the Merit Award Board. This Board was created in 1967 and has five members. Two members must be from the American Federation of State, County and Municipal Employees, AFL-CIO, one member from the Budget Division of the Department of Administration, one person from the Division of Human Resource Management, and one represents the Governor. The proposals in sections 3 through 7 were recommended to the Sunset Subcommittee by the Merit Award Board. Many of these recommendations clarify the Board's procedure.

Section 3, replaces the word "effect" with "practice." It states, "'Adoption' means the putting of an employee suggestion into practice." Section 4 deletes a reference to limits on appropriations. Starting the 2011 Legislative Session, the Merit Award Board budget has been provided in Budget 1345. Section 5 clarifies the timing for a suggestion to be eligible for an award. The word "currently" is struck out because a suggestion cannot be under active consideration or previously considered.

Section 6 provides that the time frame for feedback from the head of the state agency may be extended by the Board for good cause. Current law is 30 days. Section 7 relates to cash payments made to an employee or a group of employees as an award. It clarifies that the first installment will be made in the fiscal year after the State of Nevada realizes savings as a result of the adoption of the employee suggestion.

Assembly Bill 467 considers two entities that the Sunset Subcommittee has made recommendations on. It is my understanding that the Division of Human Resource Management has some concerns with the Personnel Commission membership recommendations. They will testify to a change they would like to see. Senator Settlemeyer, the chair of the Sunset Subcommittee, and I spoke, and we decided not to change the recommendations. This will be a policy decision by this Committee if you choose to do so. To my left is Carol Stonefield, the Chief Principal Research Analyst on the Sunset Subcommittee. I stand for questions.

Assemblywoman Bilbray-Axelrod:

I would like to hear more on your point about the Division of Human Resource Management's concerns.

Assemblywoman Bustamante Adams:

They are recommending two alternates instead of the five alternates recommended by the Sunset Subcommittee. They will speak to that. We did not recommend that, and it is a decision for this Committee to consider.

Vice Chairwoman Neal:

Section 4, subsection 5 strikes out the appropriations to extend the \$1,000 on expenses. What is the reason for the strikeout?

Carol M. Stonefield, Chief Principal Research Analyst:

I was the policy analyst for the Sunset Subcommittee. It is our understanding that since the 2011 Legislative Session, the Merit Award Board has been included in the State General Fund. The strikeout was a request made by the Merit Award Board because it is no longer relevant since it is no longer a one-shot appropriation. It is superfluous language.

Vice Chairwoman Neal:

In section 5, subsection 2, paragraph (a), "currently" was struck out, but "and has not been previously considered" was added. Was there a situation where the same group was being awarded over and over again? Is this to ensure a new group will be considered for an award?

Carol Stonefield:

Those language changes were requested by the Merit Award Board. Their explanation was that "currently" is redundant with the word "active." The language "and has not been previously considered" was a suggestion by the Board.

Assemblyman Ellison:

Section 6, subsection 3, paragraph (d) states, "Provide a report to the Budget Division of the Office of Finance and the Interim Finance Committee not later than" The days are increased from 30 to 90. Section 7, subsection 5 discusses the installment payments and the days are increased from 30 to 90. I can understand increasing the time frame for the Budget Division but not the installments to be paid to the employee. Is there a reason for moving to 90 days?

Carol Stonefield:

This is another request from the Merit Award Board. Thirty days does not allow enough time for the agency to implement the suggestion and for the state to realize the savings. The recommendation extends the time frame to 90 days, which can also be extended for good cause. The time frame depends on the suggestion and how long it takes to implement and realize savings.

Assemblyman Ellison:

Who appoints the five members of the Personnel Commission?

Carol Stonefield:

The five members are appointed by the Governor. Three members represent the general public, one member represents labor, and one member represents employers or managers. The Sunset Subcommittee is not recommending a change from three to five; they are recommending five members be present. The issue of concern was that three members

are necessary for a quorum, and a quorum can conduct all of the business before it. There were situations where an appeal from an employee was considered and decided with as few as three members. There are provisions in place that all five members must be present in order to adopt a regulation. The Sunset Subcommittee is recommending that five members be present when considering an appeal from an employee.

Assemblywoman Monroe-Moreno:

Section 6, subsection 2 adds the language "for good cause." Could you provide an example of good cause that would extend the report findings period?

Assemblywoman Bustamante Adams:

The question would be better answered by a Merit Board Award member.

Vice Chairwoman Neal:

Is there anyone in Carson City or Las Vegas wishing to speak in support of A.B. 467? [There was no one.] Is there anyone in Carson City or Las Vegas wishing to speak in the neutral position?

Rosa Mendez, Chair, Merit Award Board, Division of Human Resource Management, Department of Administration:

I would like to note that the Merit Award Board is neutral on A.B. 467. The bill has to do with clarification purposes and changes of its operations. Senate Bill 72, which is in the Senate Committee on Legislative Operations and Elections, has similar properties for changing the Board's operations.

Assemblywoman Monroe-Moreno:

What would be an example of "good cause" for an extension by the Merit Award Board?

Rosa Mendez:

In some instances, the actual suggestions or recommendations made by the employee are complex, and the agencies will need more than 30 days to review the suggestion in its entirety. Oftentimes, these complex suggestions involve different divisions within an agency. The agencies will get back to the Board and request an extension of the 30-day period because 30 days is not enough time to allocate a full and comprehensive review and comply with statute. Normally, they will notify the Board and let us know they are not able to meet that 30-day interval and the Board will extend it.

Peter Long, Administrator, Division of Human Resource Management, Department of Administration:

I am here to request a friendly amendment ([Exhibit C](#)) to A.B. 467. Before today's meeting, I met with Senator Settelmeyer, Chair of the Sunset Subcommittee, and Assemblywoman Bustamante Adams to discuss our concerns on the proposed amendment. It was our understanding at the time that we did have their support of our request. We are requesting to amend sections 1 and 2 of A.B. 467.

Section 1 requires an alternate for each member of the Personnel Commission. This would result in five alternates to the regular commissioners. Our commissioners have an outstanding record of attendance, and the likelihood of needing alternates to serve at the meeting of the Commission is very slim. Typically, a commissioner has not attended because of a sudden illness or severe weather. In these types of situations, there is usually not enough time to arrange for an alternate to attend in place of the regular member. Additionally, to be an effective member of the Commission, regular attendance is necessary to ensure understanding and consistency of the applicable statutes and regulations relating to human resource management. It is also difficult to get regular members of the Commission with the appropriate background that prepares them to serve on the Commission. Getting five alternates would be very difficult to accomplish. The Personnel Division recommends an amendment that would provide for two alternates, one of whom would possess labor experience. In order for these alternates to be effective, we envision both would need to attend every meeting and only vote if one of the regular members could not attend.

Section 2 of the bill changes the quorum from three members to five members. *Nevada Revised Statutes* 284.055 requires the Commission to meet every three months. If the Commission must have five members even to meet, there is a risk that the Commission could not meet the statutory requirement in the event that the regular member and his or her alternate is not available. Section 2, subsection 2 would also require a majority of the five commission members to take any action. Previously, only the adoption amendment or a repeal of regulations would have required a majority vote. We believe changing the size of the quorum, requiring 100 percent attendance, and requiring a majority of the five members to take any action is unnecessary. Keeping three members as a quorum while requiring a majority vote of the five members on all actions will result in the same effect and would not unnecessarily tie the hands of the Commission to meet and take action. I appreciate your time and attention and would be happy to respond to any of your questions.

Assemblyman Ellison:

Has the sponsor of the bill agreed to the Personnel Division's amendment?

Peter Long:

It was our understanding at our meeting on Friday that they were okay with our proposed amendments.

Vice Chairwoman Neal:

Section 1, subsection 2, paragraph (d) creates the alternates. You are recommending only two alternates and that they have labor experience. In the presentation, we heard the members have different skillsets. Why are you limiting the two alternates to one particular aspect? Would that reduce the number required for a quorum?

Peter Long:

We are requesting two alternates and at least one of them to have labor experience. The second alternate would be either from management or the general public. We are asking the quorum to be left as is. A quorum would be three members versus five. If for some reason all members were not able to be present and their alternates were not able to be present, we would not be able to hold the meeting.

Vice Chairwoman Neal:

In the presentation, it was mentioned the Commission was taking action with three members present. It sounded like that was an issue because of the type of actions the members were voting on. Does this still allow the same activity to occur?

Peter Long:

No. Currently, it takes a quorum, which is three of the five, to pass a regulation with all three members voting in favor. It does allow a quorum of three to vote on any other action. It would require a simple majority of the quorum. Two out of the three could vote on an appeal of a classification study or a minimum qualification review, but what we are proposing is for it to require the full vote of the quorum to make any affirmative action. We are addressing the Sunset Subcommittee's concern that less than a quorum could take action.

Jim Penrose, Committee Counsel:

I do not have any position on the bill, but I want to make sure we are clear on what the proposed amendment would accomplish. With respect to the alternates, it is my understanding that the two alternates could act as any regular member of the Commission. Is that your intention?

Peter Long:

That would be our intention, but if the labor member was not present, the alternate labor member would need to be present in their place.

Jim Penrose:

With respect to the quorum, my understanding of the amendment is that you propose to keep the quorum at three members but will require that three votes would be needed for any action to be taken by the Commission.

Peter Long:

That is our intention.

Jim Penrose:

In an appeal case, if only three members were present and one member voted to reject the appeal, that would be the action of the Commission.

Peter Long:

Correct.

Vice Chairwoman Neal:

I do not see the issue the sponsor presented as being resolved by your recommendation.

Peter Long:

Our intent was not to get sideways of what the Sunset Subcommittee proposed. It is to allow the Personnel Commission to take action if all five members are not present.

Assemblyman Carrillo:

I am confused on the quorum piece. I apologize because I stepped in a little late. My understanding is a quorum is 50 percent plus 1. I am concerned that even with alternates, the Commission might have a situation where the labor member and the alternate labor member are not present. In that case, would another alternate be utilized? The quorum requirements may potentially be unrealistic.

Peter Long:

I may not have been clear. Five members have to be appointed—three from the general public, one from labor, and one from management. Currently, the proposal is five alternates to meet that same makeup. Our intent is fewer appointed alternates but at least one from labor and one from the other two categories. I do not think that if there are three or five members present it must be from the established makeup of the Commission. Any combination of regular members and alternates could make the appropriate vote.

Assemblyman Daly:

What I understand you to say is you are requesting a quorum of three in order to meet the statutory requirement of quarterly meetings. If a meeting takes place with three members, no action could be taken because a full majority is five members. It would have to be unanimous. That is similar to the makeup of this Committee. We have 14 members, and a quorum is 8. It takes a majority vote to pass anything regardless of how many people are present. If there were only 8 people present on our Committee, then all members would have to vote affirmatively.

Pete Long:

Yes, that is what we are proposing.

Vice Chairwoman Neal:

Is there anyone in Carson City or Las Vegas wishing to speak in opposition to A.B. 467? [There was no one.] Sponsor, please come back up for closing remarks.

Assemblywoman Bustamante Adams:

Senator Settelmeyer requested I present the recommendation as is, even though we had conversations with the Personnel Division. The concern of the members of the Sunset Subcommittee was to ensure an employee with a grievance receives a hearing before the full Commission. Unless five members are present, there is no way of knowing how those absent members would have voted.

I would have to take the bill back to Senator Settelmeyer. I think we can reach a compromise concerning five members being present on an appeal. That may be a suggestion he would be interested in entertaining.

Vice Chairwoman Neal:

I will close the hearing on Assembly Bill 467 and open the hearing on Assembly Bill 384.

Assembly Bill 384: Revises provisions governing the consideration of the criminal history of an applicant for employment by the State or a county or city. (BDR 23-33)

Assemblyman Tyrone Thompson, Assembly District No. 17:

I represent the diverse and growing community of North Las Vegas and some county islands in Clark County. I would like to start off by bringing you through a quick scenario. I want to introduce you to a job applicant named "Jim." Jim is applying for a job on the Internet. "I found a job I really like. Oh, got to put my name in and my address. This is the job I definitely want; I have the skills, abilities, and education. I will be an asset to this company. It is asking if I have ever been arrested or convicted of a crime." Pause.

I am excited to share with you Assembly Bill 384. This bill will revise provisions governing the consideration of the criminal history of an applicant for employment by the state, county, or city. There is a nationwide movement that is referred to as "Ban the Box." Beth Avery, with the National Employment Law Project (NELP), is joining us. She serves as the staff attorney, and her expertise is in criminal records and employment. I have been working with NELP over four years on "Ban the Box" legislation. They have been doing some great work. "Ban the Box" is a social justice issue, a worker's issue, and it is an opportunity. At this time, Ms. Avery will provide a brief presentation. After I walk you through the amendment, a few people will come forward to testify, and then we are available for questions.

Beth Avery, Staff Attorney, National Employment Law Project:

I work on criminal records and employment issues. The National Employment Law Project is a leader in the national movement of "Ban the Box" or fair-chance policies. The "Ban the Box" movement has been embraced across the country, beginning in the late 1990s with a law in Hawaii. It has now spread to 26 states [page 2, ([Exhibit D](#))]. There are three colors on the page, and the blue and yellow states are the ones with statewide laws. All of them apply to public sector hiring. The yellow states apply to private sector hiring. When you take into account locality, cities, and counties that have passed these types of policies, approximately two-thirds of the United States now lives in a jurisdiction with "Ban the Box." It is spreading across the country, and it is now in the majority of places.

This map [page 3, ([Exhibit D](#))] covers what happened last year and shows seven additional states that adopted "Ban the Box" policies. So far in 2017, two more states have adopted it, and the policy is being considered in about a dozen other states, including the great state of Nevada. In addition to the state movements and the localities, the bipartisan Fair Chance to Compete for Jobs Act of 2017 was reintroduced in Congress last week. The federal government is also taking a look at this issue.

You heard me say "Fair Chance Act," and that leads me to a terminology point [page 4, ([Exhibit D](#))]. "Ban the Box" and the Fair Chance Act are used interchangeably, but it is important to note that these laws, including A.B. 384, do more than remove the question from the application or delay the inquiry. The Fair Chance Act requires that certain common-sense factors such as the nature of the offense, the nature of the job sought, and the age of the offense be considered. I think we can all agree an offense directly related to the job sought and a recent offense should be considered more relevant than a very old offense. In addition to endorsing "Ban the Box," the U.S. Equal Employment Opportunity Commission (EEOC) published in a 2012 guidance that employers should conduct such an individualized assessment and consider these factors if they want to avoid violating federal civil rights laws [Enforcement Guidance on the Consideration of Arrest and Conviction Record in Employment Decisions Under Title VII of the Civil Act Rights of 1964].

Why have so many jurisdictions and legislative bodies supported "Ban the Box?" Because across the country, 70 million people have an arrest or conviction record. In Nevada, almost 600,000 people have an arrest or conviction record; that is over one in four Nevada adults [page 5, ([Exhibit D](#))]. We are not talking about a stereotypical criminal. We are talking about our neighbors, community members, grandparents, and uncles.

In addition to the staggering number, this issue is important because it disproportionately affects people of color [page 6, ([Exhibit D](#))]. African Americans are incarcerated at over four times the rate of white Nevadans. Those are Federal Bureau of Investigation (FBI), U.S. Department of Justice numbers. Nationally, African Americans are arrested at twice the rate as white people. This is an issue that affects our communities of color and is having a devastating effect on them. That problem is huge in and of itself, just the number of people with records, but it magnifies how hard it is to get a job with a record.

This page [page 7, ([Exhibit D](#))] represents one point of research. Professor Devah Pager from Harvard University looked at job callbacks after an applicant submits an application. She found that white applicants with records received callbacks after submitting an initial application at half the rate of white applicants without records. For African-American, men it dropped to approximately one-third. That illustrates the real need for "Ban the Box." The person is not given a fair chance to explain their qualifications.

It is not just people with a record who are affected. Nearly half of children in the U.S. have at least one parent with a record [page 8, ([Exhibit D](#))]. More than half of incarcerated men were the primary financial source for children before they were incarcerated. This is affecting our families, our next generation of citizens, and our economy [page 9, ([Exhibit D](#))].

Some estimates put the reduced gross domestic product (GDP) in one year from \$78 billion to \$87 billion because people with records do not have jobs. They do not have the ability to participate in our economy fully. That is depriving us of tax dollars and costing our criminal justice system more money to keep people incarcerated because unemployment is one—if not the most—important factor in reducing recidivism and keeping people from going back to prison or reoffending [page 10, ([Exhibit D](#))]. One study found a really close connection between the unemployment rate and a reduction in recidivism—if one drops, the other drops.

Does "Ban the Box" work? Does it help people get jobs [page 11, ([Exhibit D](#))]? The data is trickling in. It requires jurisdictions to collect the hiring numbers before and after of people with records. Places such as Durham County, North Carolina; Atlanta, Georgia; and Minneapolis, Minnesota; are finding increases in hiring people with records after they have passed these laws. One thing that needs to be driven home is that it does not mean they are not checking backgrounds. It means they are waiting until later in the process to do a background check. They are giving them a chance to get their foot in the door. That gives you a sense of the national scope. Thank you for allowing me to provide this information.

Assemblyman Thompson:

We have met with the key stakeholders, and this is something new for our state. Whenever you are dealing with something new, there is a level of discomfort. The National Employment Law Project has been working with 26 states and over 150 cities and counties. Their "Ban the Box" policies are different depending on the jurisdictions in which they live.

Section 2 of the conceptual amendment ([Exhibit E](#)), deals with state government employment. I want it to be clear this is the area we are discussing. Section 5 refers to any county within the state of Nevada. Section 6 refers to Nevada cities, and we will be adding *Nevada Revised Statutes* (NRS) Chapter 269, which includes Nevada's unincorporated types of cities. It is as inclusive as possible of the mix and balance of jurisdictions within the state.

Section 4, subsection 2 of the bill will not be amended. At the time, we were thinking about the passage of recreational marijuana, and we wanted to jump ahead, but that will not be in the bill. Several key areas are section 2, subsection 3; section 3, subsection 3; section 5, subsection 3; and section 6, subsection 3. These inform the state, cities, and counties that an appointing authority shall consider certain aspects of the criminal record in connection with an application for employment and not consider arrest without a valid conviction. We all know many times people are arrested and they are not convicted. They may be arrested for driving under the influence (DUI) or possession of drugs, but they were not convicted. Convictions which have been sealed, dismissed, or expunged should not be considered.

A person may have made a mistake when they were younger. They are older and wiser, served their time, and the conviction has been expunged, sealed, or dismissed. Infractions and misdemeanor convictions where no jail sentence was imposed, these should not be looked at. We worked with NELP and developed the verbiage, "A conviction record will not necessarily be a bar to employment. Factors such as the age of the offense, the age of the individual at the time of the offense, the seriousness and nature of the violation, the relationship of the offense to the position, and evidence of rehabilitation will be taken into account." We would like the appointing authority to include the language on their applications.

Section 2, subsection 4; section 3, subsection 4; and section 6, subsection 4 state, "If the criminal history of an applicant is used as a basis for rescinding a conditional offer of employment" The rescission must be made in writing, specifically state the evidence presented, the reasons for the rescission of the offer, a copy of a background check report, notify the applicant they may follow up with the hiring personnel to discuss the specifics of the rescission, and if any appeal or complaint procedures are available.

Section 2, subsection 4; section 3, subsection 4; section 5, subsection 4; and section 6, subsection 4 relate to all the state, city, and county applicants that may file complaints concerning violations of discrimination with the Nevada Equal Rights Commission (NERC), Department of Employment, Training and Rehabilitation pursuant to NRS 613.405. The applicants may file pursuant to established procedures, and such complaints shall be timely processed and adjudicated. Ms. Avery will be able to state on the record that she has spoken with NERC. People need an outlet if they feel the application process was not done properly.

Exempted positions are peace officers, school district personnel, and firefighters, and definitions are provided. Additionally, we have had discussions concerning personnel working within a law enforcement agency or a fire service industry. We did not want to exclude those areas because that is a great opportunity for people to excel and have a job.

We have testifiers from the Progressive Leadership Alliance of Nevada and the American Civil Liberties Union. Shawn Smith, a gentleman with a record who I have known for a long time and who has been successful in finding employment, and some others will be testifying in Las Vegas.

Monique Normand, Civic Engagement/Member Group Organizer, Progressive Leadership Alliance of Nevada:

I am a graduate social work student at the University of Nevada, Reno. As we have heard, one in four adults in the U.S. has a criminal record. Research also shows it is difficult for previously incarcerated folks to find work after being released. This contributes to high recidivism rates and to our homeless population. Many employers are unwilling to consider a previously incarcerated individual as a candidate for a job or look at their resume. This bill does not keep an employer from asking about criminal history or from running a background check. It provides an applicant a fair chance at being heard.

Many do not realize that unemployment not only hurts individuals, but families as well. One study by NELP found that the year after a previously incarcerated person has been released, the family income drops by approximately 15 percent from what it was before the incarceration. This bill could be essential to families and many communities all over Nevada. Similar policies have worked well in other states. We must ensure that previously incarcerated individuals have an equal chance to be productive citizens in society and to provide for themselves and their families. This is even more true for our community members of color in Nevada. The Progressive Leadership Alliance of Nevada believes this bill will help many previously incarcerated folks who are searching for work and people who have yet to leave our prison system. We hope the Committee will truly consider this bill, and we lend our full support.

Holly Welborn, Policy Director, American Civil Liberties Union of Nevada:

This bill will take state and local government one step closer to being model employers for people with records and beyond even what is available at the federal level. Employers reviewing multiple applicants are likely to automatically use criminal history to screen people out, even though the individuals are fully qualified for the job. Twenty-four states and counting, and nearly 100 municipalities have passed similar policies.

Screening applicants without considering their qualifications or their rehabilitation prevents people who have served time from getting a fair chance at a fresh start. Republican Senator Roger Chamberlain of Minnesota, who cosponsored nearly identical legislation, stated that the best thing someone on parole or probation can do to reintegrate into the community is get a job.

An estimated 70 million Americans have criminal convictions. Disclosure of that conviction reduces the likelihood of being called back for a job interview by 50 percent. "Ban the Box" legislation will improve employment opportunities, the economy, and public safety. Employment is the most important factor in decreasing recidivism. "Ban the Box" legislation would reduce barriers to successful reentry by ensuring that applicants support themselves and their families. In 2014, poor job prospects for formerly incarcerated individuals reduced the gross domestic product by approximately \$87 billion. That statistic is from the Center for Economic and Policy Research. We thank Assemblyman Thompson for bringing this legislation forward. It will protect a lot of formerly incarcerated individuals and keep them from re-entering the prison system.

Shawn Smith, Private Citizen, Las Vegas, Nevada:

My name is Shawn Smith, ex-offender 25242048. I am here to testify in support of A.B. 384 and my experience dealing with nonopportunities of employment due to my incarceration. Finding employment after my incarceration has been a difficult task. I recently secured employment after an extensive search. I work with ex-offenders helping them gain employment as they come out of the system and assist them in maintaining their employment.

Cassandra Little, Private Citizen, Reno, Nevada:

I have worked in this community for over 25 years as a licensed social worker and as a therapist. My last place of employment was at a foster care agency that I founded in 2002 called Ujima Youth Services. In 2010, my agency was closed by Medicaid and Washoe County. In 2013, I was indicted and sentenced to serve 33 months for health care fraud. On September 5, 2015, after serving 23 months in prison, I was sent to a halfway house in San Francisco for 5 months. I was finally able to return home with an ankle monitor February 5, 2016. Needless to say, it has been a long, hard, traumatic journey.

Once I returned home, I was instructed to contact my probation officer within 48 hours and go over the guidelines to my re-entry and probation. The first item on the list for remaining compliant with probation is to secure employment. The next are to pay your fines and restitution. Regardless of what others may have said about me in the past, I have always been a rule follower. For months I diligently applied to work anywhere for any amount of money. I just wanted a job, to get back to taking care of myself and my son, and once again being an active participant in my community.

After six months of submitting numerous applications and honestly checking "yes" on the conviction box, I was finally hired by Patagonia, Inc. as a customer service representative. After two and half months of employment, someone posted an article regarding my indictment from 2013, and I was immediately fired. Today, I sit here before you a year and a couple of months after returning home, and I have yet to be able to secure adequate employment. It does not matter that I am educated, have a tremendous amount of work experience, and a passion for serving my community. What I realized after all I have endured is that there is no such thing as a second chance for many of us in our own communities. Not being employed to the fullest and not being an active participant in my community is very difficult for me.

My experience has given me a true understanding of the causes of recidivism. I fully support this bill for many reasons. I have worked since I was 15 years old. Prior to my felonious label, I have always been able to find a job. I am aware of the fact that the bill may not solve all the problems for formerly incarcerated individuals, but it does start a very important conversation on how we can curb recidivism. Being able to provide for ourselves and our families financially is a priority for many of us.

Susan Chandler, Private Citizen, Reno, Nevada:

For the last 20 years, I have been on the faculty at the School of Social Work, Division of Health Sciences at the University of Nevada, Reno. One of my areas of expertise is incarceration. For the last two and a half years, I have worked as a volunteer, teaching creative writing at a medium-security Nevada prison. It is from the perspective of someone who meets weekly with men in prison that I want to say a few words today.

We are fed a seriously distorted picture of the men and women in U.S. prisons. I wish I could take you into one of my classes to see the care with which they read poets and writers from around the world and take on the challenges of writing. Men come to the classes for many reasons, but a critical one is a determination to keep their brains active, so when they are released they can be ready. Of course, freedom is on their minds, but much, much, much, more is their determination to take up their everyday responsibilities they feel to their loved ones. They speak of it all the time—to provide for their children, to support their wives, to be responsible sons to mothers, reliable members of the community, and mentors to young people. For all those everyday opportunities—opportunities that many of us take for granted—a job is critical. Assembly Bill 384 gives men and women who have completed their sentences a fair chance to present their qualifications to potential employers. I support it wholeheartedly and thank Assemblyman Thompson and members of the Legislature for opening this critical dialog.

Vice Chairwoman Neal:

We are going to do one question and one follow-up because we have two other bills on the agenda to hear.

Assemblyman Carrillo:

I want to give kudos to Assemblyman Thompson; this is a wonderful bill. During the presentation, delaying inquiry was mentioned, and that concerns me.

Beth Avery:

"Ban the Box" may be a bit of a misnomer concerning fair chance. It is more of a "delay the inquiry." The study I mentioned earlier about the research from Devah Pager [page 7, ([Exhibit D](#))] looked into what is the bias of judging someone based on a record up front when all that is available is an application and a checked box. The answer is, it has a big effect. Before the person is able to meet with the employer or hiring manager to present their qualifications, show their personality, and explain their record, the stigma is already there.

I do not believe anyone here thinks "Ban the Box" is a silver bullet to our problem of employment for people with arrest or conviction records. It is a very important first step to allow people to have a fair chance. To get their foot in the door and explain their qualifications and not just have those applications tossed aside at the get-go. Even when employers have the best intentions, there is such an implicit bias and unconscious bias towards people with records. The first impression should be that this is not a person with a record, but this is a person with a resume and qualifications. That can have an impact and help open doors for people. It is appropriate to learn about the record later.

Assemblyman Carrillo:

Ms. Little's situation, where a fellow employee Googled her and all of a sudden it is out there, will always be the case. That is a mistake that happened, but it does not dictate you. I am heartfelt for your situation, for what you are doing in trying to get past it. It has come back full circle now, and you are dealing with it.

Cassandra Little:

Thank you.

Assemblyman Ellison:

A couple of sessions back language was added under regulation concerning situations that turned really bad because background checks were not being done. Could something be added to the application for the applicant to explain the arrest or conviction versus a checkbox? I will give you an example. There was an individual running emergency services. While on a call, he stole prescription drugs from the house. He was sent to prison, got out, was rehired, and stole jewelry from a senior citizen's home. My concern is repeat offenders are rehired. I hire people based on their ability not based on what they have done in the past. I think there is a way to fix this on the application to allow for an explanation. If an applicant had a DUI, would that be looked at 10 or 20 years later versus someone who was just released from prison for robbery and they want to work at a bank?

Assemblyman Thompson:

I think you have illustrated a real reason why A.B 384 is needed. Many employers have a space for an explanation on their application. However, it stops right there. The applicant is not able to have a face-to-face interview with that prospective employer. Assembly Bill 384 is saying the employer needs to meet "Jim." You want to meet "Jim" with all the values that he can provide your organization. Have a conversation and say, You know what you did 17 years ago has no bearing on the great work you can do for our company. That is not what is happening, and that is a big part of "Ban the Box."

Beth Avery:

I think Assemblyman Carrillo hit the nail on the head stating that an individual will still be faced with the stigma of a record. There are only so many things that can be explained on an application. Without meeting an individual in person, the applications may very well end up in the garbage before reading the individual's qualifications. I will also highlight one kind of tangential but important issue. Records here are confusing. I do not know how many Committee members have looked at a record or a rap sheet.

I graduated from Harvard Law School, went to work for a court, and reviewed records on appeal. They are confusing. It is hard to figure out what actually happened, and I am a lawyer. The applicant often has trouble accurately answering the arrest or conviction question because there are expungements, dismissals, and sealing of records. Oftentimes, people do not understand the differences between an arrest and a dismissal. Applicants misrepresent their records unintentionally. I think to give them the opportunity to show themselves up front, as more than their record, is a fair chance at employment.

Assemblyman McCurdy:

I want to refer back to Assemblyman Ellison's concern about the rehiring of individuals. My understanding is the bill allows an employer to get to know a potential candidate first through their application without the disclosure of an arrest or conviction of the applicant. If the applicant interviews with the employer, they would disclose their past then.

Assemblyman Thompson:

That is exactly it. The bill, as it is written, is at the time of offering employment. "Jim" is the person you want to hire because you have gone through your hiring processes and now you will have the arrest or conviction conversation.

Assemblyman Daly:

What I understand from the conversation today is that postoffer employment allows the employer to ask a lot more questions as well as perform a background check. For example, during preoffer employment, an individual cannot be asked about their medical history, any worker's compensation claims, et cetera. During postoffer, questions such as can you physically do the job, may be asked. I can see where the application will go in the round file or gets set aside if the arrest or conviction checkbox is marked. If people can get to the second stage on their merits, then the employer can evaluate, do their due diligence, and perform a background check. For the record, this bill takes nothing away from an employer's right to perform due diligence.

Assemblyman Kramer:

In my life, I have had the opportunity to help quite a few people find work and find nothing more satisfying than trying to help find someone gainful employment. I have worked with people who have had records, and it is difficult for them. It does not matter how far back in their life it is; it seems like it is the first thing listed on an application. From my standpoint, if the bill does not pass, there should be a couple of half-steps that can be taken to move in the direction of "Ban the Box." Maybe the application language can be modified to state, arrested in the last five years.

Vice Chairwoman Neal:

In section 4, subsection 3 of the bill, the language, "Has been guilty of any crime involving moral turpitude or of infamous or notoriously disgraceful conduct" has been struck out. I would like an explanation for that.

Beth Avery:

That language was struck out because it is broad, vague, and confusing. It opens it up for an applicant to be disqualified for almost anything. This type of language has made its way into laws across the country and legislatures are taking steps to be more specific by providing guidance on what actually disqualifies a person.

Vice Chairwoman Neal:

Have you considered convictions that are reversed upon appeal? Would they also be considered?

Beth Avery:

Yes, of course. If the language needs to be adjusted to be more specific to the situation, that can be considered. That might fall under a conviction that has been dismissed. That language should be made specific to Nevada to include that situation.

Vice Chairwoman Neal:

I know that Clark County adopted this in the interim. Do you know how well it is functioning?

Assemblyman Thompson:

It is the City of North Las Vegas in Clark County. I believe Ms. Goldberg from the City of North Las Vegas is here today. I would like to share that many municipalities and jurisdictions are doing some version of "Ban the Box." Assembly Bill 384 is the opportunity to make it a statewide policy. For example, Clark County has a gang intervention program. Mr. Smith was an employee of the gang intervention program. Who is the best person in the world to help young people who are facing gang issues other than a person who has been involved in a gang? The challenge is they have been incarcerated. We applaud Clark County for being able to do that. Since we are talking about jurisdictions, the City of Las Vegas had the EVOLVE program, and Mr. Smith was a mentor. He was an employee of the City of Las Vegas receiving a salary and benefits working with people who were previously incarcerated. Unfortunately, due to budget cuts, the program was dissolved, but those are some key examples.

Delen Goldberg, Public Information Officer, City of North Las Vegas:

I am proud to say that on January 1, 2017, the City of North Las Vegas became the first government entity in Nevada to "Ban the Box." We removed from the majority of our city employment applications all questions about a candidate's prior conviction in order to ensure that all applicants receive a fair shot at employment and are evaluated only on their qualifications and skills. Mayor Lee first learned about "Ban the Box" last session when Assemblyman Thompson introduced a similar bill to "Ban the Box" on applications for people seeking employment with the State of Nevada [Assembly Bill 348 of the 78th Session]. North Las Vegas was the only government to testify in favor of the bill. Afterward, people said we were really brave. We did not see it that way.

We think this policy makes sense, not only for the people reentering our communities but also for all of our residents. I want to thank Assemblyman Thompson for his leadership on this issue. A couple of exceptions to North Las Vegas's "Ban the Box" policy are police and fire personnel. The City still conducts background checks on all potential hires. However, no inquiries are made about a criminal conviction until after there has been personal contact with a candidate during the first interview or later. Delaying disclosure allows candidates to be evaluated on merit alone without the potential stigma of a past conviction. Delaying disclosure until personal contact has been made also offers a candidate the opportunity to explain the specific details and circumstances of his or her conviction which could possibly impact the hiring decision.

Simply put, "Ban the Box" is good public policy. Studies show that recidivism rates dramatically dropped when employed. By not giving people a fair chance at employment, by not giving them the opportunity to support themselves and their families in a productive way, we are setting them up to reoffend. That serves nobody, and in fact, is a grave injustice to all of our residents by working against public safety. I agree with the comments made by those who spoke previously in support of this bill, and I want the Committee to know that North Las Vegas supports A.B. 384.

Vice Chairwoman Neal:

Is there anyone in Carson City or Las Vegas wishing to speak in support of A.B. 384?

Sean B. Sullivan, Deputy Public Defender, Washoe County Public Defender's Office:

We are in full support of A.B. 384. First and foremost, we want to thank Assemblyman Thompson for bringing forth this very critical piece of legislation. My colleague to my right, Mr. Piro, and I are public defenders who represent these persons we have been speaking about this morning. They have extensive criminal records, and it is very difficult for these persons to seek gainful employment. In fact, when they are standing before a justice of the peace or a district court judge, oftentimes, they are ordered as a condition of their sentence to be gainfully employed. The judge will set forth another set of conditions that they must also abide by such as pay restitution; attend counseling, whether that be for alcohol or mental health counseling; and things of the like. But it all starts with being gainfully employed. If they are not gainfully employed, they cannot pay their fines, fees, restitution; do their counseling; be productive members of the community; or satisfy the conditions of their sentence.

This is a hugely important piece of legislation, at least on our end, to help these people. In fact, I have received phone calls from persons I have represented either a year ago or ten years ago saying I served my sentence, and now I am seeking gainful employment. Please, Mr. Sullivan, can you help me? This piece of legislation will make great strides towards those efforts, and we wholeheartedly support this legislation.

John J. Piro, Deputy Public Defender, Clark County Public Defender's Office:

I echo the sentiments of my colleague Mr. Sullivan. I would call this piece of legislation a light at the end of the legislation tunnel. When we represent our clients, we always like to say, No offense, but I never want to see you again. Meaning I do not want to see you standing next to me in handcuffs. I would rather see you out at the store or at Walmart doing something with your family, and I can catch a coffee with you. I think this legislation will go a long way towards making that a reality. I thank Assemblyman Thompson for bringing this bill forward and urge this Committee to support this bill.

Wendy Stolyarov, Legislative Director, Libertarian Party of Nevada:

I think everything has already been said, but the Libertarian Party strongly supports this bill. We believe that it gives people with criminal records a way out of the catch-22 they currently find themselves in.

Roxann McCoy, President, Las Vegas Branch, National Association for the Advancement of Colored People:

I am here to thank Assemblyman Thompson for bringing the "Ban the Box" bill forward, and we are in total support of it. I think it goes a long way in terms of reducing recidivism for minorities who have been incarcerated. Also, I would like to take it one step further and include not just those who have been incarcerated, but giving those individuals who have been arrested, and their records thrown out, or those who have been falsely accused, an opportunity. On the application, if it asks, Have you ever been arrested? it goes a long way into making that person ineligible for employment; right off the bat, the applicant is looked down upon. The employer may automatically throw out the application when sometimes there are mitigating circumstances surrounding the arrest or conviction. I would like to say, I applaud Assemblyman Thompson for bringing this bill forward, and I hope to see it pass.

Yvette Williams, Clark County Black Caucus:

We were very excited to see this bill come before the Legislature. Two years ago, we were very disappointed that it did not pass. We have been waiting two years for this bill to come back. We have taken surveys within our membership and those that follow our organization via an online survey. "Ban the Box" was one of the top three issues they were most interested in seeing pass this legislative session. I would also like to commend Assemblyman Thompson for his vision and all of those who are supporting the bill—the sponsors in the Legislature and the community members who worked with him on the language, especially some of the changed amendments that we see in today's meeting. I hope with earnest that each of you will support this bill.

Ender Austin III, Private Citizen, Las Vegas, Nevada:

I would like to thank you, the Committee, for your time and attention to this matter and especially Assemblyman Thompson for bringing this up. I am a pastor, and I will speak from that vantage point at the end of my testimony. I will tell you a brief story. In 2003, I was arrested, and if you have time later and need a good laugh, I will tell you about that.

Parenthetically, the arrest would have likely been prevented if Assembly Bill 384 was in place. In 2005, I began a job with a company that was in the process of merging with another company. About twelve months later, I began a job in a political campaign. At the end of the political campaign, I went back to that same company to reengage my employment there. Unfortunately, their application had changed; they added a line asking if the applicant had ever been arrested. Although there was no conviction from this arrest, I had to mark honestly in that box. Because of that, I was not able to gain the job that I once held very competently and performed very proficiently. This was very hard for me to understand.

However, I will speak from my point as a pastor now. This really affects those who are transitioning back into society after paying debts owed to that same society. As a pastor, I am concerned that folks whom I serve, especially in parts of Assemblyman Thompson's district, are not allowed to move out of low-income jobs and, moreover, as a civil rights issue. We have to be honest and say that black men are six times more likely to go to jail

than their white counterparts. On Thursday, after testifying in this same building, I ran into one of my classmates who now has a record. He told me he simply wants a chance. A few weeks ago, I was privileged to go and serve at Summit View Youth Center. I encouraged the gentlemen to be optimistic about the prospect of their future; I promised them that the community is anxiously waiting on their impact and positive influence. Please let me add to my next presentation that we have included "Ban the Box."

Anthony Gilyard Jr., Mentor Coordinator, Foundation for an Independent Tomorrow:

I would like to thank and commend Assemblyman Thompson for bringing this discussion to the table. Foundation for an Independent Tomorrow has been hired as an advocate specifically for those returning citizens looking for employment. I myself was arrested and convicted in 1995 and spent 12 years and 6 months incarcerated. It had taken about 9 months before I was offered this position. I was hired, primarily, because I had a skill that could not be taught. My life experience could bring something to the table, and the community could hold me accountable for doing better.

I am in the limelight, and I have no sense of trying to hide anything that I have done in the past. At the same time, I am moving forward and continuing to educate myself regularly. I am not a unicorn; there are many others, hundreds that sit across my desk on a regular basis seeking an opportunity. We are noticing that they are becoming a lot more discouraged. Removing the arrest or conviction question from an application would be a gift to all of us that are returning citizens to the community.

Assemblyman Carrillo spoke to the issue that our blemish was not who we are, it was a mistake in the past, something that happened. It definitely does not say what we bring to the employment table. We bring so much more, our skills that transfer over from previous employment, what we learned while incarcerated, and the maturity that many of us have gone through. It would speak volumes by removing this question from the application process. Assemblyman McCurdy articulated the idea behind this bill that would allow for the employer to hold the returning citizen accountable. They would know up front that this was an issue.

Early on in the today's conversation, someone made mention of a previously incarcerated individual coming back into the workforce and reoffending. I must be frank, but individuals who have never been convicted also create havoc. In recent times, individuals who were convicted of sex crimes were allowed to work in our school districts. No one knew what he or she was capable of. If this issue had been addressed then, the employer would have known what they were dealing with up front and held the applicant accountable. "Ban the Box" provides for the potential of having made a mistake lessened while moving forward.

Vice Chairwoman Neal:

Is there anyone in Carson City or Las Vegas wishing to speak in opposition to A.B. 384?

John Fudenberg, representing Clark County:

First, I would like to thank Assemblyman Thompson for bringing this bill forward and working with us on the verbiage. We support the concept of A.B. 384. As a matter of fact, we implemented "Ban the Box" in Clark County in 2015. We already do most of what the bill calls for. We have removed any reference to a criminal history from the application, and we do not run a criminal history or a background check before the job offer is made.

There are a few areas of concern that we have. Section 5, subsection 2 references notifying the applicant about the details of their criminal history. The Clark County Office of Human Resources was told they could not release those details, and I believe that was by the Department of Public Safety. I would have to verify that, but it has to do with the FBI's National Crime Information Center access, and we cannot just release those records.

Furthermore, in section 5, subsection 3, paragraph (a), the vagueness of how the criminal offense relates to the position could be a potential problem, and we feel this issue could be litigated quite often because it is vague. We feel we would have to continually try to justify and litigate how the criminal offense actually relates to the position that the applicant is applying for. Section 5, subsection 3, paragraphs (b) through (e) have similar concerns to the previously mentioned. These four sections would be difficult to apply fairly across the board with all the recruitments and could potentially end up in litigation. Section 5, subsection 4 is similar to section 5, subsection 2 where it states an applicant could be rejected based on criminal history, and we must supply those details to them. We are concerned that we are not able to give the details of their criminal history based on some guidelines that the Department of Public Safety has notified us about. Clark County has "Ban the Box," and we support the concept.

**David Cherry, Communications and Intergovernmental Relations Manager,
City of Henderson:**

I would like to thank the bill sponsor for allowing us to be part of the stakeholder meetings concerning A.B. 384 and for allowing us to share our concerns with the bill as it was drafted, the amendment language, and what is being discussed before the Committee today in a conceptual form. We also appreciate his willingness to exempt police officers and firefighters from the requirements of the proposed legislation. Most importantly, we recognize the goal that is being sought and the benefits that it would bring to our community in providing an opportunity for an individual to make their best case when they are coming in for an interview. Allowing them to show their qualification and that they are not just a name on a page or a checked box.

However, as Clark County indicated, there are still a few issues we would like to see resolved when it comes to moving this legislation forward. First, how does the bill handle a complicated scenario where a candidate fails to truthfully answer something in their background and later it is determined to be a criminal act? In that scenario, we believe the employer should still be able to take action without appeal. This would be consistent with how such a situation would be treated in a hiring process where information discovered about education, credentials, past employment, or other areas of an applicant's history are

discovered to be false. This situation takes place after a contingent offer is made. An applicant is asked about his or her background, including any type of criminal record, and agrees to a background check. Human resources staff reviews the information in the background check to determine if there is any false information.

We have a concern about the appeals process since it creates a process that is not available to applicants who are not chosen for other reasons outside of having a criminal record. If an applicant believes they were discriminated against, there is a process in place whereby they can file a complaint with NERC. We would suggest that there be language added to the bill to make it clear that an employer is not prevented from a decision about a job applicant based on untruthfulness or misrepresentation, whether that concerns their education status, their past employment, or a criminal record.

How would this bill contemplate somebody that is seeking a job while midstream in a criminal proceeding? There is potential they would be facing a conviction. For example, they applied and could potentially get that conviction later on down the road. Would we still be forbidden from seeking that information when they apply? Could we tell them to come back after their case is resolved?

We look forward to working with the sponsor of the "Ban the Box" bill and appreciate his continued willingness to receive input on this proposed legislation. One final statement is that there has been a lot of discussion that this is intended to allow someone to get a fair chance to present themselves. It seems with the additional language on misdemeanors, the language would prevent that from being applied during the hiring decision— for instance, if a DUI did not have any jail time attached to it. That is a distinct change from what is currently in law.

Austin Osborne, Planning Director, Storey County:

We are opposed to the bill as it pertains to counties and local governments and the exclusion of convictions. We believe it will have a negative impact on employers and employees. The process outlined here could potentially create a situation where the number one applicant who does not have a conviction may find another position because it takes time to determine if the criminal conviction has a nexus to the job position. This would be exacerbated by the competitive environment we have today. Our biggest concern is most employers are aware of the EEOC process, the desperate impact prevention requires, and they make a big effort to ensure that when looking at an applicant's criminal background, there is a nexus between what has happened and what the job is. We have a strong concern that the appeal process and the disclosure processes in A.B. 384 will open us up to NERC and litigation for every single case where we have to disclose the details of why a position or an applicant was denied an opportunity. That is why we oppose this bill.

**Kelly Crompton, Government Affairs Officer, Office of Administrative Services,
City of Las Vegas:**

I would like to echo some of the sentiments my colleagues from southern Nevada have proposed. I would like to thank the bill sponsor for bringing this bill back. We are in support of the concept, and like Clark County, we worked with the bill sponsor the last session to help weed out some of our concerns. The City of Las Vegas also has practices where we currently do not look at the first application, and we have put in a lot of what the bill proposes into our practices.

Some concerns we have, and why we are here in opposition, is that we believe the exemptions should include individuals who are working with youth. We have a lot of afterschool programming we hire for and have concerns there. We were in support of the original bill, but have some concerns with the amendment. We look forward to working with the bill sponsor to resolve these issues.

Assemblywoman Monroe-Moreno:

Ms. Crompton, you mentioned the City of Las Vegas was okay with the original bill. What are your concerns with the amendment?

Kelly Crompton:

One of the suggestions we brought to the bill sponsor was the final decision being subject to a formal appeal and complaint process. We believe this would create delays in the hiring processes. We are very appreciative that firefighters have been included as part of the exemptions, but believe that some positions in the City of Las Vegas that deal with youth should be included in that exemption.

Assemblyman McCurdy:

What is the process at either Clark County or the City of Henderson when an individual is not selected for a position? If they are not selected, is there a process the applicant can follow up on? It was mentioned they could file a complaint with NERC.

John Fudenberg:

The current process outside of the "Ban the Box" issue is an applicant receives a letter that they were not selected. They may remain on the eligibility list depending on where they scored.

Assemblyman McCurdy:

Is Henderson the same process?

David Cherry:

It is my understanding that if someone feels they have been subject to discrimination for whatever reason in his or her job application or job application process, he or she has the ability to go before NERC. That is why we feel there was no need for an additional appeals process if the discrimination might be related to criminal history. If we run a background check under the Fair Credit Reporting Act (FCRA), [15 U.S.C. § 1681 et seq.] we are

required to give them certain information from that background check. Our human resources staff is always available to discuss with an applicant the reason they were not selected. However, the one thing they cannot discuss is other applicants. If someone comes in and says, John was selected, and I was not, the staff cannot discuss why John was selected, but they can discuss why they were not selected. Those are some of the limitations that we face and some of the things that are available to applicants if they need another venue to make an appeal to. That is what is available to them.

Vice Chairwoman Neal:

The City of Las Vegas mentioned youth as a concern. I do not see how that is triggered because the bill is ensuring the applicant is not discriminated against based on criminal history. If you find there are clearly crimes against children, that should be a denial.

Kelly Crompton:

The information I have with me is that we consider these positions of working with youth sensitive jobs that are subjective to disclosure at the time of application. We categorize those with the job classifications that are currently in the exemptions.

Vice Chairwoman Neal:

The language in the bill concerning NERC is to put a classification into law that if an employer discriminates against an applicant based on their criminal history, there is an appeal process. The bill intends for the employer to review the criminal history after the application has been submitted. Somehow, an applicant was discriminated against because they were arrested for burglary. How would the employer ensure the discrimination did not happen? What appeal process would occur?

John Fudenberg:

We do not disagree that the appeal process should not go through NERC. I think NERC could potentially be overwhelmed, but in Clark County, we do not have a problem with NERC being the location for the appeal.

Austin Osborne:

I would like to respond to Assemblyman McCurdy's question with regard to Storey County. We have a box that says, "Please check here if you have a criminal conviction." It does not have any reference to arrest. I do not believe Storey County would have any opposition to any reference to arrest as it is more about a conviction. There is space for an applicant to explain what has happened. Oftentimes, we will see something written in that line. A lot of times it is something that happened when the person was quite a bit younger. We do hire those people based on the nexus. If we find that the conviction that occurred 10 to 15 years ago does not have a connection to the job they are applying for, we have always been very grateful to bring these people on board. For the most part, they have been excellent employees. Our concern is that we have to provide a letter to every single applicant

who is not the right person for the job if we find there is a nexus between the criminal conviction and the job. If we have to go through an appeal process that is outside of EEOC or NERC then every one of these people might file a complaint. Both NERC and Storey County will be overwhelmed trying to select applicants while we are in pending litigation or pending NERC for these cases.

Vice Chairwoman Neal:

Is there anyone in Carson City or Las Vegas wishing to speak in the neutral position?

Don Soderberg, Director, Department of Employment, Training and Rehabilitation:

To my left is Michael Baltz, the Chief Compliance Investigator for NERC. As an Executive Branch agency, we are neutral on this bill until such time as the Governor has made a public opinion for or against the bill. Having said that, this is another bill that has been before this Committee and various other committees that we feel has a strong workforce component.

The workforce industry, per se, has been looking at the "Ban the Box" concept for some time and is generally supportive. We believe applicants should be judged on their merits, and if there is a criminal conviction, that should be done on a case-by-case basis. As you have heard in the testimony from a number of local jurisdictions, the bigger problem is the private sector with the blanket "no felonies" requirements that they have put on recruitment. In California, companies blanket "no felonies" for seven years. That is the bigger problem. I am not aware of any jurisdiction within the state that blatantly will say, We will not hire anyone with felonies.

The State of Nevada application has a check box, and there is an area to explain the situation. We believe that there is a chilling effect on that box. Our agency is sitting at 20 percent vacancy. Many of you who are on other committees have already heard that the state of Nevada is not getting the applicants that it once did. The various things that have occurred with regard to the Great Recession and the financial crisis the state found itself in, the state of Nevada is not as attractive an employer as it once was. I know the Governor and many in your leadership are looking for ways to combat that. Either way, I am sitting at 20 percent vacancy right now, and I run the agency that has the state's largest recruitment apparatus.

What I have to ask myself is with that box, and that application, how many qualified people are not applying for positions at the Department of Employment, Training and Rehabilitation? Is it because they see that box and assume they will be discriminated against or excluded because of their prior convictions? Peter Long, who testified earlier, is the Administrator of the Division of Human Resource Management. He has told me and allowed me to represent that his Division is not opposed to this bill.

With regard to the issue of NERC handling these types of complaints, we did meet with Ms. Avery and Mr. Mischel from her organization via email to express that we have no problem with that. We do not see a lot of filings occurring in this area when you look at the basis of the bill. The current discussion appears that some people may interpret NERC as an

appeal board. The Nevada Equal Rights Commission does not do hiring or termination appeals. It solely investigates whether there has been discrimination or evidence of discrimination in an articulated category. The Nevada Equal Rights Commission would not take cases for those wishing to appeal a hiring decision. We do not believe there will be a significant number of cases on the "Ban the Box" principles.

Clearly, there are concerns brought forward by local jurisdictions on the procedure of what happens after a conditional offer has been made. From the testimony today, we would probably agree a little bit more work needs to be done, so we do not come up with a situation where hiring decisions are somehow now for the first time appealed to a state agency. If that were truly the case, we would have to put a fiscal note on this. We do not believe the actual wording of the bill would require a fiscal note because we think there will be very few cases.

There is an ample amount of time provided in the bill for the effective date for all jurisdictions to comply. As we heard from a number of jurisdictions, some of our larger local jurisdictions are complying with the spirit of the bill already, and so we think it will be *de minimis* amount of cases. I would like to turn this over to Mr. Baltz to talk about the general discrimination principles that the "Ban the Box" issue is attempting to combat.

Michael J. Baltz, Chief Compliance Investigator, Nevada Equal Rights Commission, Department of Employment, Training and Rehabilitation:

The Nevada Equal Rights Commission is neutral on A.B. 384. Arrest and conviction policies may have an unintended disparate impact on Hispanic and African-American individuals. Citing from the EEOC's enforcement guidance of April 5, 2012, *Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Acts Right of 1964*:

Arrest and incarceration rates are particularly high for African American and Hispanic men. African Americans and Hispanics are arrested at a rate that is 2 to 3 times their proportion of the general population. Assuming that current incarceration rates remain unchanged, about 1 in 17 White men are expected to serve time in prison during their lifetime by contrast; this rate climbs to 1 in 6 for Hispanic men; and to 1 in 3 for African American men.

As such, considering arrest and conviction records prior to a conditional offer of employment can impact these individuals disproportionately.

Thomas D. Dunn, District Vice President, Professional Fire Fighters of Nevada:

We are signed in as neutral. Some of our concerns have been brought up by the opposition. We appreciate Assemblyman Thompson's bringing this amendment forward. Specifically, we would like to see the current definition of "firefighter" within the state statute added. Our other concerns are dealing with public safety agencies and public trust.

Some of the records our public safety agencies are required to maintain for police, fire, and dispatch could spark a legal challenge when a candidate with a conviction might be a better fit for one department versus another department, based on the nature of their conviction. We do not want to see a legal challenge from a candidate who was not hired in our public safety agencies when they might have a better opportunity in one of the other city departments. We want to ensure that our dispatchers and dispatch support staff are included in the exemptions because some of the positions are not covered by law enforcement or fire agencies and may be under their own specific department. Some of our local governments may not have realized that and we wanted to get that on record.

Vice Chairwoman Neal:

To clarify, in the amendment ([Exhibit E](#)) where the exemption for peace officers, firefighters, and school district personnel is located, you want to ensure that dispatchers and other staff are included?

Thomas Dunn:

Yes, as long as it does not destroy the spirit of Assemblyman Thompson's amendment. We would like to see some other positions added for clarity among our public safety agencies. We understand that nobody wants a laundry list from A to Z of exemptions, but there are probably some positions within our public safety agencies that should be included. For example, prevention personnel, code enforcement, dispatch, and positions of that nature.

Vice Chairwoman Neal:

Why would code enforcement be an exemption from eligibility if the applicant had a criminal background?

Thomas Dunn:

It would depend on the type of information within the code enforcement realm and possibly the job description.

**Kenadie Cobbin Richardson, Director of Business Engagement and Communications,
Workforce Connections:**

We are neutral as a quasi-government agency. This moment is full circle for me, as I had a conversation with Assemblyman Thompson three years ago about this important matter. As a person who speaks with employers on a daily basis, this is an issue that they grapple with. Many in their heart would like to do better at that, and this policy allows them to do it. The question is, How long must people with records suffer? If you have done time, is it necessary that you wear the scarlet letter for the rest of your life?

Assembly Bill 384 states that Nevada state and local governments believe in the transformation and the rehabilitation of our returning citizens. The breakdown of our society has its roots in the breakdown of the family. Did you know that 70 percent of all who are incarcerated have had a foster care experience, and most have suffered from adverse childhood events? This says a lot about why they ended up in jail in the first place. It also speaks to ways we can support our prison population instead of abusing them even more while they are on the inside.

Assembly Bill 384 supports our returning citizens by restoring their dignity and giving them a chance to become gainfully employed. Otherwise, we are setting them up for failure and contribution to recidivism. Thank you for being a help and not a hindrance. Thank you for being a buffer and not a barrier. Thank you for giving them a chance instead of cheating them out of a future.

Brian Connett, Deputy Director, Industrial Programs, Department of Corrections:

As an executive agency, we are testifying in the neutral position. We want to go on record as saying employment is one of the most difficult barriers to overcome for an ex-offender. The box is an obstacle to the Department of Correction's mission of providing vocational skills to inmates so they might gain employment once released. Employment of ex-offenders reduces recidivism and victimization.

Vice Chairwoman Neal:

Assemblyman Thompson, please come up for closing remarks.

Assemblyman Thompson:

There are a couple of things I would like to point out. Assembly Bill 384 is going to address recidivism due to the lack of employment. People who are employed are significantly less likely to be arrested. Persons who have paid their debt to society deserve a fair chance at employment, and A.B. 384 is intended to give those individuals with a criminal record an opportunity to be evaluated on their own merit. It is the intent and purpose of this bill to improve the economic vitality, health, and security of Nevada communities and assist people with conviction histories to reintegrate into the community, allowing them to provide for their families and for themselves. I wanted to bring that point across.

Unfortunately, those whom this would affect could not come here today in support. That is problematic, but it is also an opportunity. Those of you who know me know I am a very solution-oriented and focused person. In some of the testimonies, I heard "can't do," in other testimonies I heard, "might be able to do."

I want to offer that we will work diligently within the next few hours to come up with a solution. I heard that people have been doing bits and pieces of this, but there are some discomfort zones. That is okay. Whenever there is bold legislation, it is going to happen. I heard the word litigation, and there is always a chance that will happen, but if we make the legislation as tight as possible, I think we are going to have a great piece of legislation.

The Nevada Equal Rights Commission is on board to help. Thank you for your time, attention, and comments regarding A.B. 384. We can do something great for our state with "Ban the Box" legislation.

[([Exhibit F](#)), ([Exhibit G](#)), and ([Exhibit H](#)) were submitted but not discussed and are included as exhibits for the meeting.]

Vice Chairwoman Neal:

I will close the hearing on Assembly Bill 384 and open the hearing on Assembly Bill 461.

Assembly Bill 461: Designates the third week of January as "Peace Week" in the State of Nevada. (BDR 19-1037)

Assemblyman Tyrone Thompson, Assembly District No. 17:

My testimony will be short and sweet. I want to read three quotes. Albert Einstein said that peace cannot be kept by force, it can only be achieved by understanding. Mahatma Gandhi said that there is no path to peace, peace is the path, and nine-year-old Maura said that she would rather have peace on earth rather than pieces on earth. These quotes best illustrate why we need to develop a culture of peace.

Assembly Bill 461 designates the third week of January as "Peace Week" in the state of Nevada. I want to let you know that "Peace Week" is not new to Nevada. Years ago, I worked for Clark County in southern Nevada. We always promoted "Peace Week," and it was held the third week of January, the day we commemorate Martin Luther King, Jr. Day. It was an opportunity for us to go into our schools. Back then, we had school peer-mediation programs, but unfortunately, through budget cuts or other decisions, those were removed from our schools. We need that back in our schools.

We see the landscape of our communities, our world, and we need peace. That is really the full premise of this bill. The Peace Alliance is an advocacy group that works throughout the nation and takes the work of peacebuilding and the margins of society into the centers of national discourse and policy priorities. Their network includes volunteer grassroots teams in cities, towns, colleges, and high school campuses across the nation. These are their five cornerstones to peace, and this is what we should have within our state: first, empowering community peace building; second, teaching peace in schools; third, humanizing justice systems, which the previous bill, Assembly Bill 384 outlines; fourth, cultivating person peace; fifth, fostering international peace.

I will walk you through the provisions of A.B. 461. The bill provides proposed guidelines for activities that can be done during "Peace Week." The most important thing is we want to designate it as a week. Then, we would include the five cornerstones.

Vice Chairwoman Neal:

In section 1, subsection 2, paragraph (c), subparagraph (2) it seems like some of the guidelines for "Peace Week" are codifying moral behavior in law. Could you discuss that a little bit? Specifically the statement, "Heal community wounds and relationships"

Assemblyman Thompson:

That paragraph starts with the word "encourage." It is not inclusive; it is not requiring, just providing some suggestions. This is based on my research and personal and professional experiences. When we talk about healing a community's wounds and relationships, it is referring to community protests. There has been a lot of violence happening in communities. Communities have to heal. As an example, in the Las Vegas Metropolitan Police Department Bolden Area Command, there was a shooting in the community. The Command brought the community together to discuss what happened and to ensure there is not further violence. The Safe Village Initiative is an excellent testimony in our communities, especially in southern Nevada. It was a movement that occurred in Chicago because in one summer there was an alarming number of shootings by young boys in the community. That is a good example of healing wounds and relationships because we do not want violence to beget violence. We want to be able to handle that at the time it occurs.

Vice Chairwoman Neal:

Is there anyone in Carson City or in Las Vegas wishing to speak in support of A.B. 461?

Leo Murrieta, Advisor, Camp Anytown Las Vegas:

I am here in support of A.B. 461 as an advisor to a youth program called Camp Anytown Las Vegas. It is a three-day youth program that takes place in Lee Canyon, Las Vegas, roughly twice a year. We promote compassionate leadership within our youth throughout southern Nevada. It is also a national program. We support this bill because it trumpets Camp Anytown's core values of promoting breaking down barriers and building up the community, encouraging young people and adults alike to reflect on how they can individually and collectively make the world a better place.

I first attended Camp Anytown six years ago as a camp counselor. Even though it is a program intended to benefit and shape the lives of our student delegates, it has left a permanent mark on my own life. This program gave me hope that one day we would have a generation of leaders in our communities who would strive to promote compassion and empathy in the advancement of those who are less fortunate than they are.

We support this legislation because we believe peace is the only way to create positive change in society. We need young people and adults focused on how they can be a part of making our communities better places. I realize this sounds like a lofty fantasy-filled goal, but if you have ever attended Camp Anytown, you would realize how possible our goals truly are. On behalf of the countless Camp Anytown graduates and volunteer staff, we humbly ask for your support for this legislation.

Thank you for the opportunity to speak. Thank you, Assemblyman Thompson, for presenting this legislation and for the opportunity to support you.

Wendy Stolyarov, Legislative Director, Libertarian Party of Nevada:

Thank you for hearing this important bill and for the opportunity to speak. Less than a month ago, I had the privilege of visiting Dr. King's tomb, a National Historic Site in Atlanta, Georgia. While I always admired Dr. King, coming face to face with his courage, patience, sacrifice, and love gave me a new reverence for the person and for the difference he made for peace in the world. In 1957, Dr. King wrote,

I am convinced that love is the most durable power in the world. It is not an expression of impractical idealism; but of practical realism. Far from being the pious injunction of a Utopian dreamer, love is an absolute necessity for the survival of our civilization. To return hate for hate does nothing but intensify the existence of evil in the universe. Someone must have sense enough and religion enough to cut off the chain of hate and evil, and this can only be done through love.

The Libertarian Party of Nevada believes that A.B. 461 is a meaningful step towards spreading love, compassion, understanding, and peace in our community. Many of us feel fractured or broken after the bone-rattling experiences of 2016, and our communities are polarized and divided almost beyond recognition. We must heal them. "Peace Week" is practical, but it is also a symbol. To paraphrase Senator Segerblom, symbols mean something. Cutting off the chain of hate and promoting peace can only be done through love, and this bill is our chance. The Libertarian Party of Nevada wholeheartedly supports A.B. 461. Thank you, Assemblyman Thompson, for bringing it forward, and we urge you to pass it.

Brad Keating, Legislative Representative, Clark County School District:

I am honored to be here this morning in support of A.B. 461. We truly appreciate what the bill sponsor has done in bringing this bill forward. As was mentioned previously by a few speakers, talking about compassion, understanding, and relationship building—this is what needs to happen in schools on a daily basis. We need to see more of it every single day. We have implemented social and emotional learning programs throughout our schools to try and create those relationships at a young age. We feel the designation of a "Peace Week" will only strengthen those efforts that we are making in schools. We truly appreciate Assemblyman Thompson for bringing this bill forward.

Vice Chairwoman Neal:

Is there anyone in Carson City or Las Vegas wishing to speak in opposition to A.B. 461? [There was no one.] Is there anyone in Carson City or Las Vegas wishing to speak in the neutral position? [There was no one.] Assemblyman Thompson, please come back up for closing remarks.

Assemblyman Thompson:

Thank you so much for listening to the things that we can do to create a culture of peace in our state. I would be remiss if I did not mention that I also was a Camp Anytown delegate from way back in the 1980s. I was blessed to serve as a director of Camp Anytown. There are other camps in the community that take our kids and literally transform them within a weekend. We have Camp Brotherhood and Camp Sisterhood.

In closing, I want to mention in memory Shannon West-Redwine. She was one of our drum majors for justice in our community, a strong supporter, and she headed up the Culture of Peace Program for Clark County. All of the suggestions listed in the provisions of the bill came from what the Culture of Peace Program set out to do. I would appreciate your support for A.B. 461.

Assemblyman Ellison:

I agree Mr. King did a lot for civil rights and bringing everybody together. Black History Month is in February; would that be an appropriate place for "Peace Week" to occur?

Assemblyman Thompson:

This bill is not an ethnic or cultural bill; it is about peace and is inclusive of everyone. I pointed to Martin Luther King, Jr. Day because I wanted to provide an understanding of the exact week. That was the week we observed in Clark County. "Peace Week" commenced on Martin Luther King, Jr. Day and ran through Saturday. It would have no purpose being in Black History Month because there needs to be a culture of peace every day. This is not about me being black and bringing forth this bill. We need peace in our state. We need peace in our nation. If we do not reinforce peace to our children and our communities, we will continue to have tension.

Vice Chairwoman Neal:

I will close the hearing on Assembly Bill 461 and open the hearing on Assembly Bill 490.

Assembly Bill 490: Revises provisions governing the expenditure of money from the Account for Maintenance of State Park Facilities and Grounds. (BDR 35-902)

Eric M. Johnson, Administrator, Division of State Parks, State Department of Conservation and Natural Resources:

I will summarize my testimony ([Exhibit I](#)) rather than read it verbatim. In my office, we call this the "Pine Creek bill" because the funds were generated from a 2009 sale of property. The property was in Las Vegas, near but not inside Spring Mountain Ranch State Park. The proceeds of the land sale were put into a special account totaling \$14.5 million. *Nevada Revised Statutes* 407.0763 was developed to allow the Administrator of the Division of State Parks within the State Department of Conservation and Natural Resources to spend interest only on that account for projects related to maintenance of state parks.

Assembly Bill 490 is an amendment requesting a change to the language and to allow the administrator to spend the interest and up to \$2 million of the principal per biennium. State parks nationwide rely on well-timed bond initiatives to function and to specifically address deferred maintenance. In 2002, Statewide Question 1 [Proposal to Issue Bonds for Conservation and Resource Protection] was approved by voters, but we have spent most of the money that was allocated toward state parks. Freeing up the principal in this account would allow us to continue to address our deferred maintenance without a break in our process. With that very brief description, I am happy to answer any questions.

Assemblywoman Bilbray-Axelrod:

What is the amount of deferred maintenance we are currently facing at our state parks? Is it the principal you want to use? Will it go to a particular property or all state parks?

Eric Johnson:

Our total statewide deferred maintenance is about \$8 million. It is going down instead of going up because we are addressing our maintenance with an organized and prioritized approach. Our goal is to get to preventative maintenance, and these funds will allow us to address some of the larger issues. It will not be once and for all, but it will get us to that preventive maintenance point. The funds are used statewide for deferred maintenance, utilities, building envelopes, et cetera.

Assemblywoman Bilbray-Axelrod:

Can you give me some examples of those prioritized deferred maintenance projects?

Eric Johnson:

Funds have been spent on beach erosion issues at Big Bend in the Colorado State Recreation Area; a structure at Spring Mountain Ranch State Park that had a foundation issue; replacement of campground restrooms; campsite stabilization; utility work; and we spend quite a lot of money adhering to water system quality standards in upgrading our water systems.

Assemblyman Daly:

How much money is in the account? What is the average for the last couple of years of the income and interest? How long will the funds last if you spend \$2 million a year? I am assuming you will be spending more than you are taking in.

Eric Johnson:

There is \$14.5 million in the account. The first fiscal year after the account was established was 2010. That year the account generated \$181,000 in interest. That is an appreciable amount of money, and we can do some substantial work with that amount. Over the last five fiscal years, it has averaged about \$65,000 per year. Since 2009, we have completed 85 projects and spent about \$598,000. To your last question, in theory, \$2 million per biennium should get us about 15 years down the road when the interest is included. I do not know what the interest rates will be down the road, but my estimate is 15 years.

Assemblyman Daly:

What is the plan after 15 years?

Eric Johnson:

Nevada has a general obligation bond initiative about every 12 to 15 years. Those bond initiatives generally go to parks, wildlife, land acquisition, et cetera. I do not have a solid answer but the odds are, and it is my hope, that in that next 15 years another general obligation bond initiative will occur. Basically, that is how we have been funded since our inception.

Assemblyman Ellison:

Have you talked with the Office of the Governor about moving those funds around and taking it out of the State General Fund? Is this strictly your budget only? That is a lot of money sitting in the State General Fund. I know your capital projects are usually funded from the interest. Who controls that fund ahead of you as the Administrator?

Eric Johnson:

The Office of the State Treasurer controls the investment of the funds. I have spoken with the Office of the Governor about this, and my understanding is that the investment protocol is driven by statutes, which I am not familiar with. I wanted to explore the latitude of putting this money into an account that would bear a greater interest, and to my knowledge, we cannot do that based on statutes. As the statute is currently written, I can only use the interest from the account. My request is to use the principle and the existing funds; I am not requesting any additional funds.

Assemblyman Ellison:

My concern would be that you would be able to take any amount of funds from this account. The Office of the State Treasurer would have a cap on the funds.

Eric Johnson:

The amended language limits the amount that can be spent per biennium at \$2 million. It cannot exceed that. That \$2 million is a combination of the principal and whatever interest is accrued during that biennium.

Vice Chairwoman Neal:

I have a question about your letter ([Exhibit I](#)). Currently, the funds generate \$64,000 in interest. Is the interest amount going down?

Eric Johnson:

The last four years, the interest has averaged about \$64,000.

Vice Chairwoman Neal:

Do you expect that to improve now that the economy is adjusting?

Eric Johnson:

I do not. I look at trends, and I looked at where the accrued interest started in 2009. It has been a relatively steady decline.

Vice Chairwoman Neal:

Is there anyone in Carson City or Las Vegas wishing to speak in support of A.B. 490? [There was no one.] Is there anyone in Carson City or Las Vegas wishing to speak in opposition to A.B. 490? [There was no one.] Is there anyone in Carson City or Las Vegas wishing to speak in the neutral position? [There was no one.] Mr. Johnson, do you have any closing remarks?

Eric Johnson:

I believe this bill will allow us to make further gains in addressing our deferred maintenance and some of our larger projects. This will get us closer to preventative maintenance, which is where we ultimately would like to be.

Vice Chairwoman Neal:

I will close the hearing on A.B. 490. Is there anyone here for public comment? [There was no one.] This meeting is adjourned [at 10:42 a.m.].

RESPECTFULLY SUBMITTED:

Carol Myers
Committee Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is written testimony dated April 6, 2017, requesting a friendly amendment to Assembly Bill 467, authored and presented by Peter Long, Administrator, Division of Human Resource Management, Department of Administration.

[Exhibit D](#) is a copy of a PowerPoint presentation titled "Testimony in Support of AB 384," dated April 10, 2017, presented by Beth Avery, Staff Attorney, National Employment Law Project.

[Exhibit E](#) is a proposed amendment to Assembly Bill 384, presented by Assemblyman Tyrone Thompson, Assembly District No. 17.

[Exhibit F](#) is a letter dated April 9, 2017, in support of Assembly Bill 384, authored by Zachary Conine, Principal/Co-Founder, Joseph Beare & Company.

[Exhibit G](#) is a letter dated April 10, 2016, in support of Assembly Bill 384, authored by Jon D. Ponder, Chief Executive Officer, Hope for Prisoners.

[Exhibit H](#) is a letter dated March 7, 2017, in support of Assembly Bill 384, to the Assembly Committee on Government Affairs, authored by Jim Hoffman, Nevada Attorneys for Criminal Justice Legislative Committee.

[Exhibit I](#) is written testimony dated April 10, 2017, in support of Assembly Bill 490, authored and presented by Eric Johnson, Administrator, Division of State Parks, State Department of Conservation and Natural Resources.