

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

**Seventy-Ninth Session  
May 3, 2017**

The Committee on Government Affairs was called to order by Chairman Edgar Flores at 8:36 a.m. on Wednesday, May 3, 2017, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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](http://www.leg.state.nv.us/App/NELIS/REL/79th2017).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Edgar Flores, Chairman  
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:**

None

**GUEST LEGISLATORS PRESENT:**

Senator Julia Ratti, Senate District No. 13  
Senator Heidi S. Gansert, Senate District No. 15  
Senator Pat Spearman, Senate District No. 1



**STAFF MEMBERS PRESENT:**

Jered McDonald, Committee Policy Analyst  
Jim Penrose, Committee Counsel  
Isabel Youngs, Committee Secretary  
Cheryl Williams, Committee Assistant

**OTHERS PRESENT:**

Marlene Lockard, representing Retired Public Employees of Nevada; and Nevada Women's Lobby  
Tina M. Leiss, Executive Officer, Public Employees' Retirement System  
Christopher G. Nielsen, General Counsel, Public Employees' Retirement System  
Kim R. Wallin, Private Citizen, Reno, Nevada  
Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO  
Jack Harris, State President, Retired Public Employees of Nevada  
Mike Ramirez, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc.; and representing Nevada Law Enforcement Coalition  
Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada  
Danny L. Thompson, representing Professional Fire Fighters of Nevada; Teamsters Local 14; and City of North Las Vegas  
Terri Laird, Executive Director, Retired Public Employees of Nevada  
Priscilla Maloney, Government Affairs Retiree Chapter, Local 4041, American Federation of State, County and Municipal Employees, AFL-CIO  
Chris Daly, Deputy Executive Director of Government Relations, Nevada State Education Association  
Scott A. Edwards, President, Southern Nevada Conference of Police and Sheriffs; and President, Las Vegas Peace Officers Association  
Todd Ingalsbee, Legislative Representative, Professional Fire Fighters of Nevada  
Peggy Lear Bowen, Private Citizen, Reno, Nevada  
Laura Cadot, Private Citizen, Minden, Nevada  
Donald G.T. Gallimore, Second Vice President, Reno/Sparks Branch No. 1112, National Association for the Advancement of Colored People  
Val Sharp, Private Citizen, Las Vegas, Nevada  
Barry Smith, Executive Director, Nevada Press Association  
Andy MacKay, Executive Director, Nevada Franchised Auto Dealers Association  
Tray Abney, Director of Government Relations, The Chamber, Reno-Sparks-Northern Nevada  
Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce  
Kara Jenkins, Administrator, Nevada Equal Rights Commission, Department of Employment, Training and Rehabilitation  
Erika Washington, Nevada State Director, Make It Work Campaign  
Nancy Stiles, Leadership Council, American Association of University Women

Stacey Shinn, Policy Director, Progressive Leadership Alliance of Nevada  
Alanna Bondy, Intern, American Civil Liberties Union of Nevada  
Caroline Mello Roberson, Nevada State Director, NARAL Pro-Choice America  
Jared Busker, Policy Analyst, Children's Advocacy Alliance  
Patricia Ackerman, Private Citizen, Minden, Nevada  
Yolanda T. Givens, Deputy District Attorney, Clark County District Attorney's Office  
Lea Tauchen, Senior Director of Government Affairs, Retail Association of Nevada  
Ryann Juden, Assistant City Manager, City of North Las Vegas  
Darren Adair, Acting Finance Director, City of North Las Vegas

**Chairman Flores:**

[Roll was called. Rules and protocol were explained.] The first bill on today's agenda is Senate Bill 384 (1st Reprint).

**Senate Bill 384 (1st Reprint): Provides for the confidentiality of certain information in the records and files of public employee retirement systems. (BDR 19-506)**

**Senator Julia Ratti, Senate District No. 13:**

I am pleased to be sitting here today with Ms. Lockard, who represents the Retired Public Employees of Nevada (RPEN). Her organization came to me as I was aspiring to this office and discussed their concerns about the confidentiality of information for retirees who are in the Public Employees' Retirement System (PERS). You may recall that my predecessor, Senator Debbie Smith, brought forward a bill in the last session to try to address this issue [Senate Bill 356 of the 78th Session]. I personally believe in the role of the fourth estate and the media's access to information. For that reason, I had some concerns about having absolute confidentiality. It is important that our media organizations have the ability to do the investigative journalism that helps keep those of us in government honest and on our toes. At the same time, I think the concerns of retired public employees regarding identity theft is compelling. For that reason, I am working to have balance between media public access and protecting identifying information for our retired public employees. We want to make sure they do not live in fear of identity theft. A ruling by District Judge James Russell in *Reno Newspaper v. Public Employees' Retirement System of Nevada*, [No. 11EW000091B (Carson City Ct. Nev. Filed December. 20, 2012)] changed the long-held policy interpretation of public records. The order states that:

. . . PERS has an obligation to provide the entirety of the pension information.  
. . . Any such production, however, shall not include social security numbers, bank account information or contact information (such as addresses, telephone numbers and email addresses) for any recipient of PERS benefits . . . . PERS shall not redact or withhold any of the pension information for any recipient of PERS benefits, with the exceptions that PERS may redact the information on minor children and the names of recipients who are currently serving or served in sensitive law enforcement positions . . . .

However, some of the additional information that cannot be withheld under that interpretation includes date of birth; beneficiary information; gender; passport number; address of exspouses, including those in law enforcement; birth certificate; and marital status. That is a very long list of identifying information. We feel this additional information provides no public purpose and could put this vulnerable and elderly population at risk for identity theft and potential harm if we do not clarify the law.

Senate Bill 384 (1st Reprint) will clarify the public records law to ensure that identifying personal information or intensely personal collateral information, such as the names of beneficiaries who were never public employees, will remain confidential. We believe keeping this information confidential will lessen the risk of identity theft and people preying on the elderly. Also, clarifying the language in the law will provide guidance to the courts and reduce litigation. Again, I want to ensure that we are held accountable and that information is accessible for the media and public. I also want to protect retired public employees' information in PERS. This bill tries to strike a balance to preserve both ideals at the same time and have public disclosure and protection from identify theft ([Exhibit C](#)).

**Marlene Lockard, representing Retired Public Employees of Nevada:**

We appreciate Senator Ratti for continuing the legacy of Senator Debbie Smith, who tried to help us resolve this issue. For more than 40 years, this was not an issue. The confidential information about employees—what ordinarily is contained in a personnel jacket in the old days—has remained private. However, the recent court cases resulted in making the retirees name, date of birth, gender, marital status, beneficiary information, passports, addresses of exspouses—including law enforcement exspouses—birth certificates, et cetera, available. That is not an all-inclusive list. On the Nevada Electronic Legislative Information System, you will find two expert witnesses from the different litigation that has evolved. I attached their information and their reports ([Exhibit D](#)) and ([Exhibit E](#)). The declaration I have submitted by Mayank Varia states, ". . . even though de-identified datasets appear to decouple information from a person's identity, they still contain enough content to form a unique 'data fingerprint'" [page 4, ([Exhibit D](#))].

By using just three fields—gender, marital status, date of birth—it can almost uniquely data fingerprint an individual within the PERS dataset. When you add the name to those fields, it is bingo. We have seen on a national level what has happened if they have a location and a birth date. They can zero down and find important private information. According to the Federal Trade Commission's 2016 Consumer Sentinel Data Book, Nevada has made the top ten of another bad list. We are rated ninth in the nation for identity theft. It does not stop there. Among the top 50 largest metropolitan areas ranked for identity theft complaints, Las Vegas is number 25 and Reno is 46. Even the *Wall Street Journal* says the fleecing of older Americans has become an epidemic ["For the Elderly, an Epidemic of Fraud," December 29, 2013].

People 60 years and older made up over 37 percent of the complaints, the highest group of any age. As seniors age, they become more enticing targets. Individuals whose identities have been stolen are victimized twice—once financially and the second time emotionally—as they try to unravel the damage and reassemble their lives. This task can take years.

We want to applaud Governor Sandoval for recognizing this escalating crime by proposing to make the Nevada Office of Cyber Defense Coordination within the Department of Public Safety [[Assembly Bill 471](#)]. Even the Attorney General for the State of Nevada has stated that what used to be confidential in the *Nevada Revised Statutes* (NRS), the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Just last month, I testified before committees concerning senior abuse and specifically Assemblywoman Joiner's [Assembly Bill 288](#). This bill would increase penalties for those who conspire to exploit and abuse the elderly and vulnerable persons. How ironic it would be to give those unscrupulous criminals the very tools and information they need in which to make over 50,000 PERS retirees sitting ducks.

I have also attached an opinion editorial piece by RPEN's President, Jack Harris ([Exhibit F](#)). It is a response to a recent *Reno Gazette-Journal* editorial opposing [S.B. 384 \(R1\)](#) ([Exhibit G](#)). The Retired Public Employees of Nevada members felt strongly that this editorial was completely misguided in targeting seniors for other personnel and management decisions that local entities make or that the state Legislature makes. We feel if there is concern about those collateral issues, those should be addressed separately and brought forward. We should not make seniors the victims of access to information. I would like to point out that there is not any information in Nevada or local government entities that does not provide a person's salary, their salary schedule, and their benefits structure. Thirty years later, when they retire and begin to receive that benefit is not the time to attack seniors. We could not put it more strongly. We feel this is a very important issue for the seniors of Nevada.

**Assemblywoman Neal:**

The way I read section 1, subsection 2, the public employee is confidential, but legislators and retired judges in the public retirement system are a public record. Am I reading that correctly?

**Senator Ratti:**

No, I do not believe that is the intent. Section 1, subsection 2 says, "The following information about a member, retired employee, retired justice or judge or retired Legislator which is contained in a record or file in the possession, control or custody of a public retirement system is a public record." The way the bill is structured is that section 1, subsection 1 says everything is private except everything in section 1, subsection 2, which is public.

**Assemblywoman Neal:**

Can you explain that more? Let us say my dad is retired and is in PERS. Is his information public because he is a retired legislator?

**Senator Ratti:**

His name and all other information is private except for the items listed in section 1, subsection 2. There is an identification number. There is no name associated with it, but there is a unique identifying number so, should information come to light through a third party advocacy group or a media investigation, PERS, if appropriate criminally, could attach that to a file. It is not a public record, it is just an identifying number. It includes the last employer of that member, the number of years of service, the retirement date of the member, the annual pension benefit, and which system they are participating in. What would be public is an identifying number and those data fields. What would not be public is a name or anything else.

**Assemblywoman Neal:**

Section 1, subsection 1 says, "Except as otherwise provided in this section, all information about a member . . . is confidential, regardless of the form, location and manner . . . ."

**Senator Ratti:**

One of the things that came to light during the *Public Employees' Retirement System of Nevada* case was this concept of when the information was in the PERS file, it might be confidential. Once it is pulled out of the file and put into a report or any other form, it is no longer confidential. In one of the cases, that information was put into a report sent out to an actuarial firm. Once it was put into the report, the argument was made that it was no longer confidential because it was no longer in the PERS file.

Section 1, subsection 1 says, ". . . contained in a record or file in the possession, control or custody of a public retirement system . . . ." It is regardless of form, location, or manner. It does not matter if it is in the PERS file or if it is an Excel spreadsheet for a private distribution between PERS and an actuarial body. All of that information is confidential. If the media or anybody did a public records request, they could still receive everything listed in section 1, subsection 2, paragraphs (a) through (f). That allows for a meaningful fourth estate function for the media to be able to do some analysis of the PERS data to look for trends or any piece of investigative journalism that they may choose to pursue without revealing the identity of those retirees. It gives some transparency and accountability to the PERS system and our oversight of that system so they can do that investigative journalism without revealing the name or any other identifying information.

**Assemblywoman Neal:**

My next question is about section 3, subsection 3, and section 4, subsection 3. This is where NRS 241.035 is cited. There is a strikeout provision in section 4, subsection 3 that says, "other than the files of individual members or retired employees," but NRS 241.035 is the public meetings, minutes, aural and visual reproduction, and transcripts. I was trying to get an understanding of the effect of the strikeout in regard to public meetings.

**Senator Ratti:**

This is connecting the existing law to the exception provided for in section 1. Now we are explicitly saying in section 1 of this act that these records are confidential. It is connecting the rest of NRS Chapter 241 to that section.

**Assemblywoman Neal:**

How does that work if it is a public meeting or official correspondence? Can a person not get that information if it is in a public meeting? What kind of official correspondence are we talking about that is limited? That is what I am not understanding. I need you to give me a real example of what the real life application of that means in a public meeting format.

**Senator Ratti:**

I think I will ask for assistance from your legal counsel, but my understanding is that this statute is the overall public records statute. What you are reading there is the normal conduct of an open meeting. The example would be the agenda items and exhibits put forward in any typical public meeting. We are not changing any of that, and PERS would never produce a report for a public meeting that included identifying information for their members. That is not their practice. There is no compelling governance reason for them to do that. The information we are trying to protect would typically not come forward in a public meeting setting. Where it has been coming forward is through public records requests. That is where the legal question has been. It has been litigated through the courts, not through the transparency that happens through a public meeting, but this information is released through a public records request.

**Jim Penrose, Committee Counsel:**

The kind of correspondence that would be confidential under the provisions of the bill include correspondence between PERS and an individual member that discussed information protected by section 1 of the bill. That would be an exception to the general language of section 3 and section 4 of the bill. That correspondence is confidential. Similarly, I believe if there was a hearing before the PERS board that involved the individual beneficiary, although those minutes are generally under the statute as a matter of public record, to the extent that they contained information that was confidential under section 1 of the bill, that information would be confidential.

**Assemblyman Kramer:**

It seems like when you began your presentation, the concern was about identity theft. I am proud of my public service, and I get a PERS pension. If someone knows I get a pension, then they know I put time in serving the citizens of Nevada. The pension I get is part of the pay I get for that. I am a little concerned that it is not necessarily about identity theft, but that people may know they are getting a pension at all because their name is there. I am not familiar with the details of the Nevada Supreme Court decision on *Public Employees' Retirement System of Nevada*. Please discuss what the lawsuit was and the decision.

**Senator Ratti:**

For me, and I think what the research and studies Ms. Lockard cited [([Exhibit D](#)) and ([Exhibit E](#))] showed it is about targeting. When you make enough information public for the media to do their due diligence or for third party advocacy groups to have the ability to do some analysis, typically they need enough data to have a meaningful dataset to look at the overall trends. In the conversations I have had with them, they typically want to know the retirement date because they need to know which system they are under. We have changed the PERS rules along the way, so which set of rules were they falling under?

They want to know the years of service because obviously those are computations that go into our PERS benefits. Now you know the date that someone retired, their years of service, and what their benefit is. Someone retired in 1986, they served for 40 years, and they have a pension benefit that is \$75,000 a year. You have an awful lot of information to target in terms of identity theft. You know that is a person who is probably a certain age, and who has a certain amount of money available to them.

To me, it is an issue of targeting. We do not need to be announcing to the world that there is an 80-year-old woman who probably lives alone and has access to resources. That was the issue around identity theft for me. I think you heard Ms. Lockard say that it is a relatively small amount of information that allows some of these sophisticated identity thieves to hone in on their victims. I do not feel like we, as the State of Nevada, should be providing more access to information that makes elderly individuals vulnerable.

**Marlene Lockard:**

The *Public Employees' Retirement System of Nevada* decision really split the baby somewhat. The Supreme Court of Nevada ruled in one portion and remanded another piece of the ruling back to Judge Russell of the First Judicial District. I would like to ask someone who litigated that legislation from PERS to step up.

**Tina M. Leiss, Executive Officer, Public Employees' Retirement System:**

I will back up the history a little bit. In 1977, the Legislature enacted our current statute, which says all the records of PERS are public except for the files of the individuals. Judge Russell's order provided that the information request by the *Reno Gazette-Journal* was public and everything else was private. They requested six data fields that Judge Russell said were public. He ruled everything else was confidential. The Nevada Supreme Court decision reversed that decision in part and affirmed it in part.

The Nevada Supreme Court decision says that the files of retired members are confidential. That part remains intact, but the Nevada Supreme Court decision went on to say there was an exception. If the information in the file exists in another medium, for instance in a report outside the file, it is no longer private. If we had to send the information to our actuary to value the system, which we are legally required to do and need to do for funding purposes, that information is public.



The Nevada Supreme Court decision said if you take the information out of the file in an administrative report, that report is public. That was contrary to about 37 years of advice from the Office of the Attorney General, which was that the information was private no matter how we had it.

The issue for us is that all the information is private as long as it remains in the file. If we have to take it out of the file and put it in a report to do an audit or actuarial function, the Nevada Supreme Court ruling would make that public. The clarity PERS is seeking because of that decision is because we do not believe an administrative decision we have made to conduct our business should be what decides whether information is public or private. We believe the best spot for that decision is here at the Legislature. No matter how we hold the information, it does not get transferred to public information just because we have put it into a report that we need to run for our business. Does that clarify the Nevada Supreme Court decision?

**Assemblyman Kramer:**

It does. Then I see where it seemed that PERS came out with an addition to that and conceded part of what was going on. It seems like that is where this identifying number came along. It is not really identifying, it just allows information to be analyzed. Then PERS came back with an opinion about how things could go forward. In essence, the Supreme Court of Nevada said information in a file is private and if it has been made available some other way it is not private. Judge Russell went along with that. Is that correct?

**Tina Leiss:**

Correct. It is not that it has been made available, but if we needed to run a report for an audit function, we have to identify all the retirees that retired in a certain time period. It is for our internal business purposes, but once we have run the report, we have made the information public. We sent all the data to the actuary to value the system. Judge Russell, on the remand, determined that the file was public record.

**Senator Ratti:**

The identifying number was something that came as part of the compromise conversations in writing this bill. That was me. I want to ensure that is clear. The bill in its original form included three data pieces: name, last public employer, and benefit amount. It was a narrow set of data. As I was corresponding with third-party advocacy groups and conversations with media representatives, the concern was that the very narrow dataset protected identity because it was such a small amount of data, but it did not give much transparency. I came up with the idea of having an identifying number to track back to the data and create a broader set of information available for analysis. I wanted to be clear that this was part of the compromise process of the legislative process and not something that came from the Nevada Supreme Court decision.

**Assemblyman Kramer:**

If I were the press and I wanted to do an exposé on PERS, what I would try and get at is if the plan is solvent. For that, you need to know how many people are in it, what their ages are, how much they are making, and what the probable return on the portfolio is. To do that, it seems like I do not need the birth date, but the birth year of the people in it. That is not part of your list. It seems to me like there is no way you could do even a close approximation of what an actuary would come up with to determine whether the plan is solvent. I do not know, frankly, whether date of retirement is needed or which plan it is. It seems like there is some information you would need to determine that, and I can understand why a reporter doing an article would want to do that.

The second thing is, sometimes when you see a list of amounts people get in PERS, you wonder how anyone could get that high of a pension. Then you find out it was the athletic director for the university system. Of course, they make so much money, and they produce. Then you get an idea of what is justified as you go through when you see what the names are. When you do not see the names and you do not know the position, people wonder why their pensions are so high when they do not understand what positions they were in. Sometimes, a little more information will stop a lot of questions. That is where I am with it. I am concerned that the dataset you are looking for does not include enough. I am for more information rather than less. I do not want to give away the critical information that would allow someone to be targeted for their financial data. I am not suggesting including their bank account. I do not think they need the birth date or even retirement date. Some of these others are perhaps needed.

**Senator Ratti:**

In listening to your analysis, I think you are saying somewhat the same thing. How do we find that balance? How do we ensure the most important information is not out, but there is still enough information? Through the process of creating this legislation, I tried to be very inclusive. I did ask for the media organization representative to add to the list if there are things that would help in the analysis. I do not know that there is a perfect balance where you have full transparency and protection. I would like to echo something Ms. Lockard said, which is the process of making laws.

The Open Meeting Law as it is applied to local governments, and the policymaking process, still have transparency. If people are interested in understanding why an athletic director gets a benefit, they can go look at the salary schedule or do a public records request for the salary schedule for the athletic department for the university. They can get that information. What I think is not essential is knowing the athletic director's name. If we are really talking about the athletic director, they can figure that out by reading a newspaper story about the winning or losing season. I do not think you need to know the name of the athletic director's executive assistant who worked for 30 years out of the spotlight. There is no compelling interest there.

You will know who all the people are at the highest level because other things will bring their information forward. You will have all the access to the policymaking. You will know what the laws are about how we set the benefits. You know what the salary schedules are. You will know all of the policy elements. What we have seen by tying it to an individual is less investigative journalism and more public shaming. I just do not think that is a public interest. I think there is plenty of information out there that meets the public interest.

**Assemblyman Marchant:**

Do you have any examples of identity theft up until now?

**Senator Ratti:**

I think people are asking to prove a negative with that question. The investigations that go into identity theft typically do not ask where they got the original information to target the individual. In identity theft investigations, we are lucky to find out where they got the information in the first place. Short of a reader at a gas station that picked up credit card information, we very rarely know. We cannot prove a negative, but I think it is common sense that if you know someone's age, location, name, and amount of money they have, that person can become a target.

**Chairman Flores:**

Is there anyone wishing to testify in favor of the bill?

**Tina Leiss:**

I would like to make a few comments. The Public Employees' Retirement Board has taken a position to support S.B. 384 (R1). Because of the timing of the vote, the position of support was for the bill as originally introduced and amended. The reason for taking a position of support in both those versions is because what the Retirement Board is looking for is clarity in the law. We are not necessarily recommending to the Legislature what data elements should or should not be deemed confidential or public. We obviously have opinions that we have very sensitive data, and we think a certain amount of that data probably should be confidential, but we believe the Legislature should be the one to make that decision.

We are looking for clarity. We get public records requests every day, and the current status of the law does not give us clarity on what is and what is not confidential. If we make the wrong decision, we risk being sued either by the retirees because they felt the information was confidential, or we risk being sued by the public record requester. The Retirement Board is looking for clarity here. What they would like is for the Legislature to decide what is and is not confidential in a way that would cover whatever data we have in our files.

We do have a statute that makes the member files confidential. The issue has become the Nevada Supreme Court decision that says yes, that information is confidential, but once it is pulled from the file, it is not confidential anymore. We do not believe we should be making the decision of what is confidential and what is public by the fact that we need to run our business. We do not feel that is what the Legislature intended. I think that is forcing us to

make an administrative decision that is not appropriate for us to be making. That is why the Retirement Board is supporting both versions of the bill. We are looking for a list of what is and is not confidential so that we can be responsive to public records requests and also fulfill our fiduciary duties to our members and retirees.

I will note that anecdotally I have been told by a few retirees that they have had false tax returns filed in their names with their exact benefit amounts. For income, they listed the appropriate income and refunds were given to the person who filed the false tax return. That is an anecdotal story. I have had two people provide that to me a few years ago. I had another anecdotal story of credit card applications being filled out using the exact income of a retiree. I think it is difficult to determine where the person got the information, whether it was from our records or some other record, but those have come to my attention.

**Christopher G. Nielsen, General Counsel, Public Employees' Retirement System:**

Senate Bill 384 (1st Reprint) attempts to resolve access and transparency in a reasonable fashion and balance the interests of the Public Records Act [NRS Chapter 239] and the interest of third parties, whether it is the media or anyone else. With respect to legislative intent, it is my understanding that this bill will deem certain pieces of individual member and retiree information confidential, but keep the rest of the nearly infinite amount of information confidential regardless of whether the information is kept in a so-called individual file or is generated as a part of an audit or report. From my perspective, I do welcome this legislation that attempts to refine and clarify what is and is not confidential.

To put things in perspective, PERS receives public records requests on an almost daily basis. As general counsel, part of my job is to assist and advise staff in addressing and processing such requests. Recently, I spent nearly an entire day with our chief investment officer, whose job it is to manage the investments of around \$38 billion. I spent the vast majority of my day with him addressing one request. This is not a complaint of mine; it is just a reality. I want to emphasize to the Committee that for the vast majority of public records requests received by PERS, we comply in a timely fashion, as we do recognize the importance of a public records act.

For instance, PERS currently provides individuals, companies, the media, and other interested parties with information involving individual retiree benefits, investment information, accounting information, financial information, et cetera. Due to the voluminous and oftentimes sensitive nature of personal information, we sometimes have to spend an enormous amount of time just to determine whether a request can be complied with by taking into account not just the Public Records Act, but the current longstanding PERS-specific confidentiality rules that apply to information contained in an individual's file.

Due to some of the sensitive information we have in the files for our individual members and retirees, we have to be careful of the cybercrime aspect of it. I believe that we have close to 300,000 individuals in our system. Some of them were never public employees; they were spouses, children, and other beneficiaries. While I am certainly not a cybercrime expert by

any means, this is a concern not just based on unfounded fears. In fact, we got the opinion of two cybersecurity experts [([Exhibit D](#)) and ([Exhibit E](#))]. They essentially said the more information that is out there, the easier it is for a cybercriminal to steal their identity and do harm.

I believe PERS should not be in the position to determine what is and is not confidential. I believe that should be policy made by the Legislature. The Legislature put in the Public Records Act, and they also put in the exceptions in NRS 286.110 and NRS 286.117 for PERS. We are here in support not so much for the substance of what is and is not confidential as currently defined in the bill, but for the fact that we believe it provides clarity in the law. Unfortunately, that sometimes leads to litigation.

**Assemblyman Daly:**

The actuarial report you create is a public record once the report is done. Is that correct?

**Tina Leiss:**

The report itself that the actuary creates based on the data when they have valued the system is absolutely a public record. It always has been. Now, based on Judge Russell's ruling, all the raw data that we send to the actuary is also a public record.

**Assemblyman Daly:**

I understand. That is what the bill is about—to try and find the balance between the court decision and public records. To follow up on Assemblyman Kramer's question about needing more information, I want to clarify on the record that the actuarial report is done by an independent agency and they explain the methodology in the report. They have to make an independent decision in the report under the actuarial standards of that industry overseen by the federal government. There are all sorts of industry guidelines on what they do. Essentially, the assumptions that are found in the report, including the mortality tables, rate of return, et cetera, are determined by the actuary under those standards to be reasonable. They are not decisions made by the board. If the board has an unreasonable determination, the actuary will tell you they cannot support that.

Anyone doing an exposé can read the actuary report and almost all that information is in there. It is an independent agency determination that is not influenced by the Retirement Board or dictated by the Retirement Board. It gives you all the information to ensure the PERS system, and any pension plan that goes through an actuary report, is making sound decisions that are found to be reasonable by an independent actuary body. I just want to get that on the record.

**Tina Leiss:**

Yes, that is correct. The independent actuary is provided for in the *Nevada Constitution*. I would also note that it is not only the independent actuary report that has charts and breaks down the retirees by benefits and age groups. We also have our audited financial statements,

which provide further information, and an independent auditor reviews those as well. They have actuaries on their staff because there is actuarial information. There is an independent audit as well.

**Assemblyman Daly:**

There is a great deal of information for the public to determine if the plan is being properly administrated without having to name a retiree. I think the data points in this bill will suffice.

**Assemblyman Carrillo:**

We have a lot of bills right now that seem to be privatizing information for certain dignitaries and public positions. They are making their information private to safeguard. Some of this information is available and they could probably figure it out with enough bits and pieces. Would these dignitaries and public employees be subjected to the same rules of exposure? If their information was private, would they be protected in PERS as well?

**Chris Nielsen:**

I am not familiar with all the bills you are referring to. I am aware of some of them. At the end of S.B. 384 (R1), there are lots of references to exceptions currently in statute. It varies depending on what a particular agency does or does not do. I think our concern is that we are dealing with retirees who are a unique subset. Many of these other exceptions currently in place do not necessarily deal with that population.

**Assemblyman Carrillo:**

Let me try to clarify. I do not want to take away from the retirees currently sitting in the room. Some of them may not be in law enforcement or in the court system at all, but some of them may be. The bills currently going through the Legislature have certain provisions to ensure their privacy. Let us say this bill did not go forward. Would they still have that privacy in PERS? Would that jump over? They may not be retired now, but will the privacy jump to PERS when they do retire?

**Chris Nielsen:**

It depends. The statutes I am familiar with typically address current employees. I do not think it would necessarily spill over to the retiree and give protection to the retiree portion. For example, I believe there are statutes and regulations out there that protect certain law enforcement information. I believe there are individuals here who can address that better than I can.

I believe most of the exceptions and proposals out there address current employees, whether at the state or local government level. I think not having a bill like this will still leave PERS in a gray area to provide the information requested. That is why we are seeking clarity. I think this benefits people who are requesting the records as well. We can get the information to them more timely. This bill is necessary to ensure certain retiree information is kept confidential.

**Kim R. Wallin, Private Citizen, Reno, Nevada:**

I am a member of RPEN and a duly licensed certified public accountant. I am here to support S.B. 384 (R1). I have a very personal reason to support it besides it being the right thing to do for all of our retirees who are a very vulnerable population for not only identity theft but for getting ripped off in general. I worry about my father, who receives PERS. I worry about him being taken advantage of by his caregivers or any other unscrupulous people out there. Before we let the caregivers into the house, we got rid of any financial documents showing what he has, but he is still vulnerable because these caregivers can look up what he receives. Not only that, they have access to his social security number because they take him to the doctor, and they can get in his wallet. They know his date of birth. Knowing what he makes, they could very easily take out a loan under his name on the internet.

Luckily, my dad has a daughter who is a certified public accountant and knows how to lock his credit down, but most of our retirees do not have family members who know what to do. In fact, one of his caregivers—who the agency had just let go—figured out what my dad was getting in retirement and had started hitting him up for more money based on what she was being paid by the agency.

There is no reason to display a retiree's name. Having the name of the retiree is not going to eliminate waste and inefficiency in government. If the public feels they should know what people get paid when they retire, just show the position and years worked. Furthermore, the exercise that this will prevent double dipping is not a good reason. I do not recall seeing any headlines of people double dipping with PERS. There are procedures in place to prevent it from happening. Also, just because someone has chosen to work for the government, that does not mean they have to give up their privacy. After all, we do not ask the vendors for our government to display the names and salaries of their employees or their retirees just because we paid them with public funds. Because of my dad and what almost happened to him, I urge you to support S.B. 384 (R1) for the rest of our current and future retirees.

**Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO:**

We represent a number of members in PERS. I am in PERS myself. In my earlier career, I spent 33 years working for a public employer here in Nevada. I also sat on the Retirement Board and listened to these issues for a long period of time. A question always popped into my head as people discussed this topic. When is my money, my money? I spent 33 years in public service as an employee. The taxpayers paid my salary. In Nevada, the pension system is a 50-50 system: 50 percent is contributed by the employee, and 50 percent is contributed by the employer. When you start receiving your benefit, 10 percent of your benefit is paid into by the employee, 10 percent of it is paid by the employer, and 80 percent of it is investment return.

Once I leave employment, when do I get to cut the cord and be done? Only 10 percent of that money was put in by the taxpayers. The rest of it was put in by me and investment return. There is no need to have my name. It is purely for the purposes of selling media. If you are really concerned about the pension system and the financial stability of it, the

information in the actuarial reports is made public. You do not need names to ensure the numbers are right. For those reasons, we are in support of this. We hope you will move this bill forward.

**Jack Harris, State President, Retired Public Employees of Nevada:**

We have been through these hearings for many years now, at least for the last 12 years I have been a part of RPEN. The question always comes down to transparency, but this actually goes beyond transparency. I will give you an example. There are other players out there besides the ones we are familiar with, the Nevada Policy Research Institute, the *Reno Gazette-Journal*, and the *Las Vegas Review-Journal*.

We realize there have been abuses and those have to be addressed, but four years ago, we were approached by a national company who specializes in retiree benefit packages. They guaranteed us that they could improve our membership by 1,000 members in one year. We asked how they were going to do that and what the magic formula was. They use data mining. How does that work? They go to the PERS files and get the information they can. Then they track those people down and do a recruiting process.

This last summer we were over at our sister organization in California. Recruiters from that same organization were there. We attended a class they put on, and they explained how they would go to PERS and plug in the information. As long as they have the name and their employer, they can identify them as a public employee. Their people will go through and add the addresses. You can go back on the Internet and find them. They sent out a mailer to 121,000 potential members for the organization. They also provide employment opportunities for retirees who want to go to work for them. It is not just the transparency part, it is that anyone can go in and plug into the system and download the information. They are out there. This is a big money maker for them.

That is one of our concerns about displaying the names. It gets confusing for us. We have 18 chapters within RPEN. I have been to 15 of them so far this year. There is always the question of why this is so important. Why is it so important that they need this information? We can explain that the reason is because we are public employees, but at the same time, why is it so important that anyone can have access to that information? That is a concern that is lost in the conversations we have. We focus so much on transparency that we forget about the economic benefit to certain individuals outside of our system.

**Mike Ramirez, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc.; and representing Nevada Law Enforcement Coalition:**

We want to thank Senator Ratti for bringing this bill forward. We are in support of this. We support anything to help our seniors regain their privacy and improve their protection. I go on calls all the time where we are arresting people for fraudulent information. Nine out of ten times, the information is coming from the senior community. We interview these



people, and they say they target assisted living homes and different areas because they know seniors get retirement and seldom go out. When they do go out, they do not check their bank, so it is often easier to target the senior community. Therefore, we are in support of this bill.

**Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada:**

To echo the comments that my friend Mike Ramirez put on the record, we are in support of S.B. 384 (R1). We thank Senator Ratti on behalf of Senator Debbie Smith for bringing this bill forward. I have a few quick notes. With information on any of our retirees, all of us in this building are basically public. You can find out any information you want on any of us because we have been exposed, but to the people sitting behind me and these retirees whose names are not known, all you need is a name. From that, you can find out information on their families, their background, their houses, et cetera. A name is not relevant to the information that needs to be distributed to the media. Everything else is transparent and open. The names are not needed.

**Danny L. Thompson, representing Professional Fire Fighters of Nevada:**

I want to give you a real example from my life. My wife is a retired police officer. She started her career as a corrections officer in the City of Las Vegas Detention Center. If you have ever been to the jail in Las Vegas, it is about a block long. It probably has about 1,400 inmates in there. She worked there about four or five years. She came in contact with every person who came through that jail for whatever reason. She then went out on the street as a bicycle cop on Fremont Street. If any of you had ever been to Fremont Street in those days, she has been in more fist fights than any person in this room combined. She made a lot of friends there, I am sure.

From there, she went as a lieutenant to internal affairs. Internal affairs investigates police officers for wrongdoing. You do not make a lot of friends there. She went from there to a deputy chief. The command staff has to make tough decisions about people's lives and the people who work for them. There are consequences to those decisions. From there, she went to the chief of detention enforcement. From there, she went to the director of the Department of Public Safety for the City of Las Vegas. The point is, when you have those kinds of jobs, you make a lot of friends and you probably make more enemies. For those people, this makes no sense. I agree with Mr. McAllister. At what point in time is taxpayer dollars my money?

In my previous job, I probably hired thousands of people, and I paid them with dollars from union dues. If you talk about tax dollars, you should talk to those people about union dues because there are a lot of laws associated with that money. Once I paid those people, that was not anyone's money anymore except their money. I submit to you that once you pay people with tax dollars, it is not your money anymore. I understand Mr. Kramer's comments about wanting to know if the system is solvent, but there are ways to find that out without divulging too much information. I have to tell you, in the Internet age that we live in, there is someone sitting at home watching this meeting on their computer who can create an

algorithm to find out what kind of wine you like to buy. Putting this information together is not a difficult thing. In fact, it is easy. I know in the political world it is called microtargeting. We used it. I think making this information private is a prudent thing to do.

**Terri Laird, Executive Director, Retired Public Employees of Nevada:**

Our organization would like to concur today with all the statements made already in support of S.B. 384 (R1). We would also like to thank Senator Ratti for bringing this bill forward for us. One issue that has not been mentioned today is that similar information is not readily available in the private sector through the Social Security Administration. Anyone trying to gain access to your personal information has to jump through all kinds of hoops. I can testify to that. It has happened to me before. It is almost impossible to get that personal identifying information on yourself, let alone for people trying to reach it. We feel that it is not right or fair that just because you are a retired public employee that this information should be so readily accessible.

I would also like to relay a personal experience. Assemblyman Marchant asked if there was anyone who had been subjected to identity theft. I can attest to that as a member of the private sector. One weekend I used my debit card to purchase a plane ticket over the phone. One day later, all my accounts—my banking account, my checking account, personal account, and savings account—were wiped out. I had no access to any money for two weeks before my bank was able to put that money back in my account. Until that happens to you, it is hard to equate what that feels like. I would like to relay that experience to you today. This group is even more vulnerable than someone who is still working. For these reasons, we would like to urge your support for S.B. 384 (R1).

**Priscilla Maloney, Government Affairs Retiree Chapter, Local 4041, American Federation of State, County and Municipal Employees, AFL-CIO:**

We are also in full support of this bill. I do want to say for the record that Dr. Kent Ervin of the Nevada Faculty Alliance asked me to apologize to the Committee. He had to go to another hearing. He has submitted written testimony in support of S.B. 384 (R1) ([Exhibit H](#)).

We want to thank Senator Ratti and RPEN for all the wonderful and hard work they did on this bill. I was privileged to speak with Senator Ratti about this bill before session started about the concerns of her beliefs that we need to preserve our First Amendment freedoms in this country. We need to have a free, active, and engaged press. She was very concerned about balancing that with the needs of our senior population.

As Mr. Nielsen, General Counsel for PERS, stated, we are dealing with a narrow subset of Nevada's citizens, which are retired public employees. I would like to point out that in the past, this Legislature has, as a policy matter, valued and passed legislation in other areas of the law protecting the confidentiality of personal information for all the reasons you have already heard this morning. There is a fear of fraud and identity theft, and there is also simply a desire to be left alone. They do not want to face a lot of targeted solicitations because of their arguably vulnerable status as a senior living on a fixed income.

I did not do the legislative history, but it is clear from the statutes that there was a public policy concern similar to what we are discussing today. We are now talking about the private sector. For example, if you look at Chapter 52 of NRS, Trade Regulations and Practices, under which is NRS 603A, Security of Personal Information, I can circle back to the concerns of Assemblywoman Neal and Assemblyman Carrillo. Why names? Why that particular identifying piece? In subsection 1 of NRS 603A.040, someone's name is one of the first things they ask businesses to keep confidential in a database for business purposes. There are other areas of Nevada law where this body has decided that security of personal information, in the day that we live in, is a policy goal that this Legislature feels is important. We need to balance why we are driving so hard to the hoop to expose people to all kinds of potential areas of problems when we do not have a strong, valid public policy purpose on the other side of this discussion. People from PERS staff have said that a lot of what is sought by the press for a good, thorough investigation is readily accessible.

**Chris Daly, Deputy Director of Government Relations, Nevada State Education Association:**

Ditto ([Exhibit I](#)).

**Scott A. Edwards, President, Southern Nevada Conference of Police and Sheriffs; and President, Las Vegas Peace Officers Association:**

I echo the sentiments of Mr. Thompson. His wife was very tough. She was a great investigator. Thankfully, I made it past the process. We do have some concerns with the inmates we have coming through and the information that is out there, so we support this bill.

**Todd Ingalsbee, Legislative Representative, Professional Fire Fighters of Nevada:**

We support this bill.

**Peggy Lear Bowen, Private Citizen, Reno, Nevada:**

You asked who has been involved in identity theft. Since the records went public after the *Public Employees' Retirement System of Nevada* decision, onslaught after onslaught of calls and schemes came in. Because my 98-year-old mother-in-law, who left us on December 19, 2016, is a part of my record, when they hacked in through me, she got the phone call. There was a scheme about her grandson being held in Texas, and they needed \$5,000 in bail. She did not have \$5,000, so she helped them out and gave them my phone number. She does not have a computer. She did her banking in person. The only way they could have gotten any of her records was through a release of my information that included her name.

I have to tell you, it is no fun fighting for your personal identity. I was in my home three weeks ago, and I had only one computer. It was built by my students from F.W. Traner Middle School for me as a teacher, thanking me for what I had done. I had it on my desk. That was my access to the Internet. I sat there at my desk, and I felt like calling the police for breaking and entering. All I could do on that computer anymore was get my emails and do research because it was so old. Because of the hacking, I never send anything out on my computer. It had been violated. I watched my computer shut down because they

finally put enough malware and viruses on it that it died. I can no longer access or do anything on my account because the press and the courts put me out as fair game for people to profit off my name and information.

I am begging you, please go back in and fix this problem. We worked hard. We are a part of you. You would not want people breaking and entering into your home or your family's home and getting the information. That is what it is in cyberspace. The Legislature has opened us up to robbers and thieves. For some of us, the cow is out of the barn. But for the rest, please put the protections back in place. Protect our lives.

**Laura Cadot, Private Citizen, Minden, Nevada:**

I came this morning just to hear Senate Bill 397 (1st Reprint). I feel compelled to come forward and toss in a "Ditto" because I am a retired public employee and feeling very vulnerable right now. I did not know this bill was being heard. I want to express gratitude for everyone who brought it forward to look after my interests. I urge each of you to protect my identity and those of other PERS members.

**Donald G.T. Gallimore, Second Vice President, Reno/Sparks Branch No. 1112, National Association for the Advancement of Colored People:**

Some of you know that I am a proponent of student privacy also. I think these security measures would protect them as well as retirees because they can be conjoined. You can get information on students based on their grandparents. I do support this bill.

**Val Sharp, Private Citizen, Las Vegas, Nevada:**

Ditto what Rusty McAllister said. When is my money, my money? I support this bill.

**Chairman Flores:**

Is there anyone wishing to testify in opposition to the bill?

**Barry Smith, Executive Director, Nevada Press Association:**

I am testifying in opposition to S.B. 384 (R1) for one word. It is a significant word, obviously. First, I want to thank the sponsor, Senator Ratti, for working to achieve a balance of privacy and public accountability to resolve this. We are simply in disagreement on one thing, which is the names. I understand the concerns of PERS members over the potential of identity theft. I want to reiterate that it was never the intention of the newspapers to put people at risk. The information sought in the public records requests by the newspapers was limited to the information we thought was necessary to examine the health of the system, shed light on any potential abuse of the system, and nothing more. We still believe the names, the last public employer, years of service, retirement date, annual pension, and type of allowance are a matter of public record and should remain so. Instead of names, the bill substitutes identification numbers. I am not really clear on how that works yet, but I do believe the names are the key for the rest of us. The public needs the names to understand what the rest of the information tells us.

The most obvious issue is the practice of double dipping, but the accountability extends to the system as a whole because of the potential liability for taxpayers. You may agree or disagree on how the state has handled double-dipping policies, but it should be a matter of public scrutiny when an employee can retire with a state pension and come back to work on a state salary.

The larger issue to me is the confidentiality of former state employees. I believe it should be a matter of public record who has worked for the state as well as where they worked, for how long and how much they were being paid. The *Public Employees' Retirement System of Nevada* ruling has two issues to decide. Did the information being sought put the retirees at risk of identity theft? The court found that there is no convincing evidence that the concerns are anything other than hypothetical and speculative. The second issue was if the privacy interests of those individuals outweighed the benefits of making that information public for transparency and accountability. Again, the courts said that the alleged cybercrime risks posed by the disclosure of the requested information do not outweigh the benefits. I believe those are the policy issues before you to decide. The same question exists when you want to change or clarify this law. I urge you to come to the same conclusion that the Supreme Court of Nevada did on these policy issues.

I have one other thing I want to raise specifically. In the bill, section 1, subsection 4, paragraph (d) includes a definition of "member" as defined in NRS 286.050. "Member" as defined in that statute includes both former and current participants in the PERS system. I think it is understood here, and I think the sponsor has made it clear, but I want to make sure that it is on the record that we are only talking about retirees, not current members and employees of the State of Nevada.

**Assemblyman Kramer:**

This bill would replace the name with an identification number. Are you saying you need to know the name to be aware of double dipping? I do not know how pervasive that is, and maybe that is part of the story. Maybe it is pervasive, maybe it is not, but in order to find out, you need names. Tell me again, what incidences do you see where the name would be required and an identification number that did not correspond to a name would be necessary? That would be the real argument for the name.

**Barry Smith:**

Those are the two instances. I would not be able to tell from an identification number whether a person is drawing a pension and is currently employed in another position. The other example is what you mentioned earlier. When you look at the list, it is pretty easy at the top of the list to identify those individuals by name and recognize who that is, what position they are in, why they are getting that essential pension, et cetera. The name answers more questions than it raises.

**Assemblyman Ellison:**

Because the lower and higher courts have ruled on this subject, can this body overrule the decision presented by the courts? What I am reading says constitutional government has three separate branches of government, and each of these branches should have defined abilities to create the power of the other branch. The idea was called "separation of powers." The philosophy heavily influences the writing of the *U.S. Constitution*, which establishes the Legislative, Executive, and Judicial Branches of the United States. The separation of powers is also intended to keep the districts in order to prevent abuse of powers. Since the courts have ruled on this issue, are we overruling the courts with this bill?

**Jim Penrose:**

There is no constitutional impediment overruling in whole or in part the Nevada Supreme Court's decision. The decision in this case was simply an interpretation of statute as it exists today or at the time of the court's decision. The Legislature is entirely free to change the law as it deems appropriate, as long as it does not run afoul of the *Nevada Constitution* or the *U.S. Constitution*.

**Chairman Flores:**

Is there anyone wishing to testify as neutral to the bill? [There was no one.]

**Senator Ratti:**

I will reiterate that in bringing this bill forward, I tried to strike a balance. I do not personally believe that there is a perfect balance that can be struck. In some cases, we have to weigh the pros and cons of both interests and make a decision. In this case, I think there is a compelling public interest to keep the vast majority of the information private. I think the testimony today clearly demonstrated that. I think there is also a compelling interest to allow for a limited dataset to be public without names. That is the balance I tried to strike.

Speaking to Assemblyman Carrillo's question, I think the other bills we have seen throughout the session regarding privacy for people who are in particularly precarious public positions like law enforcement, district attorneys, public defenders, et cetera, have been more about the recording process when you purchase property. That is one dataset out there. If this bill passes, that bill would not be affected in any way. That would still stand. This bill would ensure the PERS information is not public. I think if names are confidential across the board, that will help law enforcement and everyone else. I urge your support.

**Chairman Flores:**

At this time, I will close the hearing on Senate Bill 384 (R1). I will open the hearing for Senate Bill 160 (1st Reprint).

**Senate Bill 160 (1st Reprint): Revises provisions relating to administrative regulations.  
(BDR 18-610)**

**Senator Heidi S. Gansert, Senate District No. 15:**

I think the easiest way to walk through this bill is to use this diagram ([Exhibit J](#)). This bill is about our regulatory process. It begins with an analysis of a proposed rule or regulatory change. A workshop is then required to be held. A stakeholder-impact review and draft rule is then completed. Last, a public hearing is held. When there is going to be a public hearing on a proposed regulation, there is a required posting at 30 days. Those regulations will be posted at that time.

Three days prior to the public hearing, there is another hearing announcement, as required by the Open Meeting Law. What this bill does is require another posting of the regulations. The reason it requires another posting is because what has happened consistently is that regulations will evolve from the 30-day notice to the hearing itself. If there are regulations before the Nevada Tax Commission in the Department of Taxation or the Real Estate Division in the Department of Business and Industry, often they change between the 30-day posting and the hearing. When individuals come to testify at the hearing, many times they have a different copy. What this does is allows any drafts that have been updated to be provided to the public so that at the hearing, everyone is working off the same document and can respond appropriately to the proposal. The cycle just continues. Eventually, the proposed regulations are seen by the Legislative Commission or a subcommittee and potentially filed with the Office of the Secretary of State. The heart of the bill is just to provide greater notice and an update of regulations if they have evolved between the 30-day notice and the hearing itself.

**Chairman Flores:**

The diagram is perfect. It is self-explanatory and it puts it into perspective. It is very easy to read. Are there any other questions from the Committee? [There were none.] Is there anyone wishing to testify in favor of the bill?

**Andy MacKay, Executive Director, Nevada Franchised Auto Dealers Association:**

We are in complete support of this bill. As many of you know, I ran a regulatory agency. Rulemaking is only effective if you have involvement from the participants and the people you will regulate. Quite frankly, this additional time will result in better participation from people it will intend to regulate. As someone who is now a part of an industry that is highly regulated, we appreciate the additional time.

**Tray Abney, Director of Government Relations, The Chamber, Reno-Sparks-Northern Nevada:**

We support this bill. We think this bill is good for transparency and ensures the people who will have to operate under these regulations have plenty of chances to comment and be a part of that process.

**Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce:**

We are in support of this bill. We believe this is very beneficial to the business community and to the public at large for the transparency and clarity of the processes.

**Chairman Flores:**

Is there anyone wishing to testify in opposition to the bill? [There was no one.] Is there anyone wishing to testify as neutral to the bill? [There was no one.] I will close the hearing on Senate Bill 160 (1st Reprint). We will take a quick recess.

[The Committee recessed at 10:23 a.m. and reconvened at 10:28 a.m.]

**Chairman Flores:**

I will open the bill hearing on Senate Bill 397 (1st Reprint).

**Senate Bill 397 (1st Reprint): Revises provisions relating to employment. (BDR 18-14)**

**Senator Pat Spearman, Senate District No. 1:**

[Senator Spearman supplied a proposed conceptual amendment ([Exhibit K](#)).] It is an honor to be here today to introduce Senate Bill 397 (1st Reprint), which addresses some long overdue changes to Nevada's employment laws—and the enforcement of those laws by the Nevada Equal Rights Commission (NERC) in the Department of Employment, Training and Rehabilitation—relating to wages and certain discriminatory actions.

Nevada's law regarding employment practices serves to protect employees from any number of forms of discrimination. We all know that a person's employer, an employment agency, or a labor organization is prohibited from discriminating against a person based on that person's race, ethnicity, religion, sexual orientation, gender identity or expression, age, disability, or national origin. It is rather surprising, especially with the recent awareness campaigns relating to "equal pay for equal work," that discrimination still exists—and Nevada employment law has not fully addressed issues relating to wage discrimination. Many of you know that April 4, 2017, was Equal Pay Day. This date symbolized how far into 2017 women had to work to earn what men earned during the previous year. Women today are paid, on average, only 77 cents for every \$1 paid to men. This gap is even worse for women of color. African American women earn only 64 cents and Latina women earn only 55 cents for each \$1 earned by males.

To help address this unfair and unacceptable wage gap, President Obama signed the Lilly Ledbetter Fair Pay Act of 2009 on January 29, 2009, restoring the protection against pay discrimination that was stripped away by the U.S. Supreme Court's decision in *Lilly Ledbetter v. Goodyear Tire & Rubber Co.* [550 U.S. 618 (2007)]. Lilly Ledbetter did not know for 20 years that she was being discriminated against when it came to her pay because there was a policy in place where employees could not talk to each other about what they were paid. The Lilly Ledbetter Fair Pay Act of 2009 passed by Congress gives aggrieved employees, who may find years later that they were discriminated against, the opportunity to



bring claims so long as the discrimination and the effects of such discrimination are continuing to occur. I believe these same provisions should be implemented into Nevada law.

Some of you may find S.B. 397 (R1) familiar. Senator Roberson and I both introduced bills in the 2015 Session setting forth similar provisions to address certain discriminatory practices relating to employee compensation. Unfortunately, when all was said and done, neither measure passed. However, I am back this session, persistent as always, with S.B. 397 (R1). This important bill will strengthen existing State of Nevada employment discrimination laws by implementing, at the state level, the Lilly Ledbetter Fair Pay Act of 2009. By incorporating the tenants of the Lilly Ledbetter Fair Pay Act of 2009, Nevada can provide an employee, who believes he or she has been discriminated against in the workplace, with more time to bring forward a claim for employment discrimination.

To remind the Committee, NERC accepts employment discrimination complaints alleging unlawful discriminatory practices. Any individual who believes that his or her rights have been violated may file a charge of discrimination with NERC. If NERC determines an unlawful practice has occurred, it may order the person engaging in the practice to cease and desist. For a case involving an unlawful employment practice, NERC may restore all benefits and rights to which the aggrieved person is entitled.

Senate Bill 397 (1st Reprint) will increase the remedies available to NERC and to an aggrieved employee when employment discrimination relating to wages has been found to occur. The bill also implements key provisions from both former U.S. Senator Barbara Mikulski's Paycheck Fairness Act and U.S. Senator Dean Heller's End Pay Discrimination Through Information Act, both from the 114th Congress. These provisions prohibit employer retaliation if an employee inquires about, discusses, or discloses information about the wages of another person.

First, Section 1.5 of S.B. 397 (R1) clarifies the time under which an employee may bring a claim before NERC relating to an unlawful discriminatory practice regarding compensation. The bill also requires NERC to issue to the employee a notice indicating the time frame under which he or she has the right to sue if NERC determines that an unfair employment practice has occurred.

Section 2 of S.B. 397 (R1) revises the powers of NERC to order remedies for unlawful employment practices. Specifically, this section sets forth a tiered system of civil penalties, rather than a flat civil penalty, which progressively increases if an employer is found to have multiple instances of pay discrimination within a five-year period. I propose \$10,000 for a first offense, \$15,000 for a second offense, and \$25,000 for the third offense. This section also extends the amount of back pay that an aggrieved employee will be awarded, authorizing NERC to award back pay for a period beginning two years before the date of filing an unlawful employment practice complaint and ending on the date NERC issues an order regarding the complaint.

Furthermore, NERC may require the awarding of reasonable attorney fees to the complainant. I would note, as stated in section 1 of the bill, any of the penalties and fines imposed by NERC due to a finding of unlawful employment practices as well as fines imposed by NERC against a person who willfully resists, prevents, or interferes with NERC's duties under law must be credited to the State General Fund. The Nevada Equal Rights Commission may later present a claim to the Interim Finance Committee for the money if it is required to pay for attorneys' fees and/or the costs of an investigation.

Section 3 of S.B. 397 (R1) amends provisions in Chapter 613 of the *Nevada Revised Statutes* (NRS) relating to employment practices by prohibiting an employer, employment agency, or labor organization from discriminating against any person with respect to employment or membership, as applicable, for inquiring about, discussing, or disclosing information about wages of another employee.

An exception to this is if the person has access to information about the wages of other persons as part of his or her essential job functions and discloses the information to someone who does not have access to that information. An example of this exclusion would be someone who works in human resources or personnel talking about confidential wage information. Sections 4, 5, and 6 are conforming sections.

Nevada law specifies in NRS 613.350, subsection 1, the circumstances when it is not unlawful to hire and employ employees based on religion, sex, sexual orientation, gender identity, and age. Specifically, the law says that such considerations are permitted when they are ". . . a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise." Section 7 of the bill offers new language to define this "bona fide occupational qualification" to provide that it is an unlawful employment practice to use a qualification, which is based on gender differences or based on a qualification that an employer has refused to change after being presented by an affected person with an alternative practice that would serve the same purpose in a manner that is less discriminatory on the basis of sex. The idea here is to encourage employers to make reasonable accommodations and to prevent employers from using qualifications that look innocuous on the surface but are, in reality, a means for pay discrimination.

I believe that this is not just important legislation and not just timely legislation, but this is legislation that is long overdue. As you can see in the numbers I presented earlier, for those who work 40 years, the fact that you would make less than half of your male counterpart who has worked the same amount of time is unacceptable. I also believe we have a moral obligation to rectify the rights when we discover they have been violated. I believe we have a moral obligation not just to return the back pay, but we have a moral obligation to make the person whole.

I want to share with you a story that a woman in her mid-70s shared with me last summer. She said that she worked side by side with a lot of men, and she did not even know until she retired that she was making a lot less than they were. Her male counterparts in retirement have purchased homes. She was renting an apartment and barely making it. What if that is your mother? Your grandmother? Your sister? What if it is someone you care about who has been treated unfairly because an employer has decided to pay less based upon gender? It is wrong.

I know there are some who may come after me and will testify that the penalties are too high, that the process is too long, and for that I say, Do not do the crime, and you will not do the time. This legislation is not for employers who are already doing the right thing. This is to encourage employers who are doing the wrong thing to reverse their position and do the right thing because it is the right thing to do. I have tried to address some of the concerns raised by the chambers of commerce on the other side; and I believe we have, to the extent that we can, without watering down the legislation to where it has no teeth. The Nevada Equal Rights Commission has a friendly amendment that they will offer as a part of this legislation as well ([Exhibit L](#)).

**Chairman Flores:**

Thank you for your grit. I know you have been fighting against these discriminatory practices for a while now. Hopefully, this time we do not get something symbolic, like we have done in the past. I appreciate your passion for this.

**Assemblywoman Neal:**

There is your conceptual amendment ([Exhibit K](#)), and I think this is the one that Ms. Jenkins submitted, which has the insertion of the language ([Exhibit L](#)). She added some more things in there. Should we wait until she presents? I have questions about your damages.

**Senator Spearman:**

Yes, she may answer those questions. The Nevada Equal Rights Commission was concerned that perhaps writing the bill in a certain way would encourage people to file lawsuits. I happen to be of a different opinion. We know that even in places that already have this type of legislation in place, those people who actually file a lawsuit usually do so after all other remedies have been tried and have not given them any relief.

**Assemblywoman Neal:**

My concern in the damages provision is it is my understanding of case law and United States Code that the plaintiff has an affirmative duty to mitigate lost wages. What I am trying to understand is how that works in the damage provisions if there is a duty to find similar employment to deal with this back pay award. It is not necessarily canceling it out, but when it says there is an affirmative duty to mitigate lost wages, that is pretty clear. I want to know how that works within the damages provisions.

**Kara Jenkins, Administrator, Nevada Equal Rights Commission, Department of Employment, Training and Rehabilitation:**

Usually when they say the charging party or plaintiff has the affirmative duty to mitigate damages, that means in the event you have faced unlawful discrimination in the workplace—assuming you are no longer working with the employer that discriminated against you, because usually once you file a complaint, things are tense, you are not working there, or your termination was the basis for your allegation—you have to try to find within your best power the means to find another job or seek unemployment benefits so you are not left with no income. By the time you can get your administrative complaint through NERC or California's Department of Fair Employment and Housing to get back pay, you are not so far back that you could not have made an affirmative effort to mitigate your damages. The affirmative duty is to ensure once you are no longer employed with that employer, you are trying to actively find other employment, so you are not left so far behind that once you are awarded back pay, you are in a financial hole.

I want to clarify that NERC did submit a friendly amendment to the original bill ([Exhibit L](#)). It was based on a conversation we had with Senator Spearman, who I have the highest regard and respect for in terms of her efforts to try and make whole any individuals who suffer discrimination. That is NERC's mission—to foster equal rights and protect those who may not have a voice or be able to afford legal counsel. The way we do that is through mediation based on resources. We have 17 full-time employees statewide to process approximately 1,000 complaints per year.

Where we are successful is at the mediation stage. People who cannot afford legal representation to go to federal court on their Title 7 [of the Civil Rights Act of 1964] complaint may be able to settle more quickly at the state level. We feel with current resources we can do that. We do not need to ask for more money, but we only have about \$1.6 million budgeted to us every year. One-third of that is paid through our contract with the Equal Employment Opportunity Commission (EEOC).

The Nevada Equal Rights Commission is totally neutral. It is not our job or responsibility to do what all of you are doing. After looking at this bill as presented and discussing some concerns with Senator Spearman, we wanted to amend specific language that might incite trial lawyers to get involved with our administrative process and make people who are waiting even more vulnerable and subject to attorneys' fees. Employers may be less likely to settle because they want to prove it and take it to court instead. We would like to strike the language in section 2 on punitive damages.

In trying to compromise, we added language in section 2 that marries with circuit court cases and findings where we flesh out compensatory damages for those who suffered workplace pay discrimination and may not have been able to recover all benefits ([Exhibit L](#)). To be clear, compensatory damages do make a person whole. Punitive damages are strictly that—to punish the offending party. Our counterpart in California tried punitive damages and ditched them in 2013 for several reasons. One of the main reasons was they felt it was more of a court function to seek punitive damages. They have in-house counsel that will take

a complainant's punitive damage claim to the district court. The Nevada Equal Rights Commission does not have in-house counsel. We rely on the resources of our Attorney General, who has several other clients. Although I love law, I did not sign up to do that. My role as an administrator is to ensure the agency is functioning, not to take cases to court. But I do settle, and I settle well.

Looking at punitive damages, we do not want that in the language necessarily because we do not want to thwart the efforts to settle at the state level. Would we like to take the charging party's complaints on to district court if we had in-house counsel to support the Office of the Attorney General? Yes, we would love that. That is not a resource we have right now. The way this bill is written, that would be something we would have to figure out how to do. A fiscal note has been provided, and we are not sure what the cost would be.

We are fine with the civil penalties; however, we would like NERC to get some of the civil penalties put back into the Nevada Equal Rights Commission Gift Fund, which is meant for outreach and training. With the passage of this bill, there will be many more constituents and employers who want training to avoid punitive damages. We feel it is our duty to train employers on how to avoid this process and proactively speak in forums and settings where people know what the laws are.

This also creates an avenue for people who may be aggrieved and facing, not only equal pay issues, but also race issues, gender identity issues, expression issues, access to bathrooms, et cetera. The State of Nevada can come in, train, and provide outreach to an employer without the human resource representative saying it, or we can say that if you violate any of these state provisions or federal law, you are subject to NERC's jurisdiction, and here is how you file a complaint. We are very successful at that.

I provide that training with only one other staff member. If we alert employers that punitive damages are on the table, they will, of course, want training to avoid it. Our budget is very tight, and there are only two of us. In terms of how we would have to go to the Interim Finance Committee to ask for some of those funds back to provide necessary training, this will be the natural outcome of having a punitive damages scheme in here. We do not want to delay that process, and we do not necessarily want all of the money to go to the State General Fund, but back to NERC so we can fund resource kits, training tools, best practices, a better website, more outreach, town halls, et cetera. It is not political, but open forums and groups where people can learn what the law says when dealing with equal pay issues. People who are outside of human resources are allowed to talk about pay in this context. We can explain how to do that and how not to do that, and how to file a complaint if someone feels aggrieved.

One of the things I want to let you know is that as powerful as NERC is, we are an agency that only responds to complaints. Last year, in state fiscal year 2016, we received zero complaints about equal pay. That does not mean it does not happen, it just means people were probably fearful to come to us and file a complaint. In 2015, we had maybe ten complaints based on equal pay. We transferred them to the EEOC because by the time they did complain with us, the statute of limitations was so tight on those Equal Pay Act of 1963 cases—I believe it is 180 days from the last unfair paycheck—EEOC wanted them quickly so they could resolve them before they ran out of time. There are a lot of factors in this bill with all of its great intentions. My challenge is that if this bill passes, I have to make it work. We want to make it work, and we are trying to make it work.

I know Senator Spearman provided amendments to this bill on the Nevada Electronic Legislative Information System ([Exhibit K](#)). I read them this morning. Those do not have anything to do with our proposed amendment from April 18, 2017 ([Exhibit L](#)). This was based on a conversation we had with Senator Spearman several weeks ago regarding what NERC wants to accomplish by marrying her goals and NERC's ability to carry out more of an enforcement arm with the resources we have.

**Assemblywoman Neal:**

I see the two years in the bill, which makes sense. Section 2, subsection 3, paragraph (b), subparagraph (2) says, ". . . not to exceed 2 years after the date of the most recent unlawful practice . . . ." It is just moved over. I also saw the five years in section 2, subsection 3, paragraph (b), subparagraph (5), sub-subparagraph (III), where it says, ". . . subsequent unlawful employment practice that the person has engaged in during the immediately preceding 5 years . . . ." When we are dealing with back pay awards, I know they are not subject to a two-year limitation under Title VII of the Equal Pay Act of 1963, but they are subject to appropriate statutory limitations under state law. What is the statute of limitations under state law, or do we have one? It is my understanding it might be 300 days. I am not clear on that, and I do not know how the five years works. We are giving more time. They have five years preceding versus the two years. That is what is causing an issue for me right now. Which cause of action is being triggered? If federally it is two years, then how can damages be five years preceding?

**Kara Jenkins:**

Yes, that is excellent. It is so excellent that you attended when we presented NERC's function to you at the beginning of the legislative session. You are right, 300 days from the date of occurrence of alleged practice is the employment or public accommodation statute of limitations for filing a complaint with NERC. Five years is okay because it does not thwart the two-year provision in federal law. The states are free to give a longer statute of limitations so long as it is not limiting the federal standard. That is my answer to that, but I will follow up in a more detailed email and get that to you.

The states are free to do what they need to do for their state. The federal government recognizes that. Each state is its own individual in the sense that we have our own issues in Nevada versus California. We just cannot violate the federal standard of two years, and 300 days is the date of harm that you have to file a complaint with NERC. You have close to a year.

**Senator Spearman:**

I am looking at page 5 of S.B. 397 (R1). I believe it was 2014 when Kara presented information at one of my interim committees. One of the things that struck me at that time was one of her responses to this question: Are the employers committing injustices habitual across the spectrum of Nevada, or are these a few bad actors? Her response was that there are employers who, after the slap on the hand, do it again and again. That is the purpose for the increase in penalties with respect to the five-year period. For those people who do not get it right, maybe \$15,000 helps them understand. If not, then \$25,000 may contribute to their intellectual capacity to understand that you do not discriminate. That is the purpose for the five years.

**Assemblyman Kramer:**

I am looking at section 2, subsection 3, paragraph (b), subparagraph (3) of the original version of the bill. It talks about "reasonable attorney's fees." If you look at subparagraph (6) of that same section, it says basically the same thing. Was there a reason that is duplicated?

**Senator Spearman:**

I do not think there is a reason other than clarity throughout the bill.

**Assemblyman Kramer:**

It is almost exactly the same language.

**Senator Spearman:**

If it helps with understanding or passage, we can take it out.

**Chairman Flores:**

Is there anyone wishing to testify in favor of the bill?

**Erika Washington, Nevada State Director, Make It Work Campaign:**

The Make It Work Campaign advocates for affordable child care, equal pay, and paid family leave. I am here in support of S.B. 397 (R1). Going off some of the things Senator Spearman said as far as the statistics, there is a 65 percent gender wage gap for African American women; 52.9 percent of Nevada households with children under 18 have the breadwinner as their mother; 46 percent are single.

I am here in support of S.B. 397 (R1) because women need a win, single women need a win, and black women need a win. I think it is important that we have every opportunity as a community to protect each other from discrimination. This is an opportunity for advancement and to widen the net, which will hopefully alleviate the wage gap issue in Nevada. We need to feel protected as we help raise the next generation and contribute to the economic achievements of this state. The only way we can do that is to ensure everyone is paid equally for the work they are doing.

**Marlene Lockard, representing Nevada Women's Lobby:**

I am also a member of the Nevada Coalition for Women's Equity. Our organizations are in strong support of S.B. 397 (R1). We have given previous testimony on other measures heard similar to this bill, so I will not repeat the information provided then. I think the record is clear, the need has been established. As I testified previously, John F. Kennedy signed the first Equal Pay Act in 1963. When we are talking about the next generation, that was at the end of the Baby Boomer generation. Since the time that this was first enacted, we still today cannot enforce and improve the standing in women for equal pay, and it has been three or four subsequent generations. I think the time is now. Let us get this right.

**Nancy Stiles, Leadership Council, American Association of University Women:**

We are 170,000 members strong. The gender wage gap does persist. It is not a myth. It is math. You have heard statistics from the testimony that has come before. I would offer to you that this is so important to the American Association of University Women that they update their research every single year in the form of *The Simple Truth About the Gender Pay Gap* ([Exhibit M](#)). I have made these available to all of you.

Pay equity is not just a matter of fairness, but it is the key to making families' ends meet. Wage discrimination limits women's choices. All of those things and the things you have heard before are simple truths, but there is another simple truth. When we discriminate on behalf of women's pay, we are harboring a gender bias. What are we saying to our daughters? Are we giving them the hidden message that because you are a woman, what you do is not of equal value? Are we suggesting that men are somehow better than women, or men deserve more than women? These are very harmful messages to be sending to our daughters. This bill will not set things right for all the wrong with the lack of pay equity, but it is a start. You have the opportunity to stand on the high moral ground when you vote yes for this bill and any other that helps close that gender pay gap. Your vote will reflect your values.

**Stacey Shinn, Policy Director, Progressive Leadership Alliance of Nevada:**

I want you to know that equal pay for equal work was voted as one of our top priorities of the session by our 30 members. We are also a member of the Nevada Coalition for Women's Equity, a group of eight organizations that came together about a year and a half ago to lift this issue up in the 79th Session. I want to note again that this is not just a gender justice issue; it is a racial justice issue. If you factor in immigrant women or transgender women,



their pay gap is even larger. Another statistic that has not been stated yet is that in over 15 years, the typical woman in Nevada loses almost \$500,000 due to pay inequity. That jumped out to me because that is about as long as I have been in the workforce in Nevada. I think about what I could be doing with an additional \$500,000 dollars right now.

This bill is simple. If you pay women the same, you do not have to worry about these penalties. I am extremely offended by the accusation that women will come forward with frivolous lawsuits with our large bank accounts, extra time, and team of lawyers. I am offended by those who dismiss the evidence and assert that there is no wage gap and that this does not happen, because this is real. I am offended that the business community in Nevada comes forward to oppose this measure that gives women teeth in the law if they are discriminated against. It is 2017, and it is time that women get paid for equal work.

**Alanna Bondy, Intern, American Civil Liberties Union of Nevada:**

Our national organization works to end discrimination in the workplace to ensure all workers, regardless of sex, race, national origin, age, or disability, are able to take home every dollar they rightfully earn. Senate Bill 397 (1st Reprint) provides protections against seemingly neutral employment practices that result in gender pay disparities. It also protects whistleblowers from retaliation.

Additionally, S.B. 397 (R1) expands the time that individuals have to file a claim with NERC. Most individuals do not even realize they are victims of pay discrimination until it is too late, especially when subjected to discrimination that is veiled as a neutral employment practice. This bill would allow NERC to process these discrimination claims and provide relief to victims. It would provide a stronger deterrent for employers engaging in discriminatory practices. We believe S.B. 397 (R1) will help to close the existing wage gap between men and women, and we strongly urge your support.

**Caroline Mello Roberson, Nevada State Director, NARAL Pro-Choice America:**

We are also here in support.

**Jared Busker, Policy Analyst, Children's Advocacy Alliance:**

We are in support.

**Patricia Ackerman, Private Citizen, Minden, Nevada:**

I am saying thank you to every single one of these amazing people who have put together all of this data. Ditto. This is far overdue. Thank you.

**Chairman Flores:**

Is there anyone wishing to testify in opposition to the bill?

**Yolanda T. Givens, Deputy District Attorney, Clark County District Attorney's Office:**

I am here to testify in opposition to S.B. 397 (R1). I want to make it clear that Clark County is not in opposition to preventing wage discrimination on the basis of sex, but we are in opposition to this bill due to its fiscal impact on local government. Essentially, the bill creates a new right of action for employees at the state level. There is already a federal law preventing wage discrimination on the basis of sex. It is the Equal Pay Act of 1963. Employees file charges against employers whether or not the employee has been subjected to unlawful employment practices. The cost of defense for employers is provided whether or not there is merit to the charge. This cost is sometimes prohibitive to local government. Clark County, for example, currently uses subject matter expert professionals to defend claims before NERC. With NERC's expanded remedial authority with this bill, it would be imprudent for the county to send in subject matter experts. We would be forced to send in attorneys instead because of the expanded remedial authority.

The imposition of costs, attorneys' fees, punitive damages, and civil penalties against an employer as provided in the bill is in addition to the costs, attorneys' fees, and a potential judgment that a charging party could obtain by asserting the same charge or charges against the employer in federal court. In other words, passage of this bill is not an exclusive remedy for the charging party. This means the employer is having to potentially pay costs to defend the charges at the state administrative agency, state court, and federal court. The employer could be responsible for costs, attorneys' fees, penalties, et cetera, at both the administrative agency level and in federal court.

I think you have already heard about the expanded remedial authority, but in particular, I would like to call your attention to proposed language in the bill that says NERC could determine the appropriate amount of compensatory damages. Compensatory damages are a make-whole remedy. There should be no room for discretion as to what are the compensatory damages with regard to a charge. The inclusion of discretion that would be allowed to NERC could redefine what compensatory damages are.

**Assemblywoman Neal:**

When you were saying the expanded jurisdiction and the ability to file a state action and a federal action, but does not *res judicata* or collateral estoppel kick in if that occurs?

**Yolanda Givens:**

My understanding is that is a different cause of action. This would be a cause of action under NRS Chapter 613. That is a totally different cause of action at the federal court level. It is under the Equal Pay Act. Those are totally different causes of action. I see that frequently. The complaint will list the Americans with Disabilities Act of 1990, NRS Chapter 613, and other state torts or state law claims. You are not precluded by filing a complaint listing this particular statute from also filing a complaint listing the federal cause of action. It is not exclusive, how it is worded. The employer is subject to potential judgments on both causes of action.

**Assemblywoman Neal:**

If it is the same issue, I thought there would be a preclusion, especially if it was involving the same right of action. Nonetheless, you mentioned the fiscal note. I did not see a fiscal note. What is the county's fiscal note on this bill?

**Yolanda Givens:**

When I said "fiscal impact," I meant the potential increased cost. Now we would have to have attorneys. I can tell you we do not have the staff to respond to the NERC complaints. We have subject matter experts who have their own office that deal with those. It totally changes the scheme. It becomes more of a litigious adversarial process rather than an administrative investigatory process. I would recommend to my client that we not send in subject matter experts, but that we send in attorneys because of the potential for the exorbitant penalties that are part of this bill. That is how it is a fiscal impact to the county. That is my opinion. I could be off in terms of how legislators view a fiscal impact, but I see a potential fiscal increase to the county.

**Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce:**

We do not support employment discrimination in the workplace. The Las Vegas Metro Chamber of Commerce is the state's largest business association. We were founded in 1911. We have been part of the community for over 106 years. Our organization is led by a woman. Most of our staff, 80 percent, are women. I am proud to work with those women every single day. Most of our leadership team internally, 70 percent, is actually led by women. I want that as a reference for the conversation today.

My comments today are in reference to the first reprint of the bill. We will look at the amendments and follow up with the bill sponsor on those. The Chamber does have ongoing concerns with the litigation components and the additional costs that will arise with the lawsuits. As you see in the first reprint, we have concerns about the two-year removal in section 2, subsection 3, paragraph (b), subparagraph (2). We are also concerned about the ability for NERC to award attorneys' fees and punitive damages. We believe that is a function of the court. We do have concerns about the fine levels for the first-time offender. Typically in the law you see \$5,000. This is \$10,000. I would not argue the levels for the second and third repeat offenders. Again, we will look at the amendments and follow up with the bill sponsor as soon as possible.

**Tray Abney, Director of Government Relations, The Chamber, Reno-Sparks-Northern Nevada:**

I will associate myself with the comments made with the two presenters before me. The Chamber, Reno-Sparks-Northern Nevada is also led by a woman. Our Chief Executive Officer is Anne Silver. We always have concerns about opening employers to more litigation. That said, we have not been able to digest the amendments presented here today. We will do that, but we have the same concerns as already addressed.

**Lea Tauchen, Senior Director of Government Affairs, Retail Association of Nevada:**

I will ditto the comments made before me. We agree with the principal policy being discussed in this bill. Pay discrimination based on gender is not right. We also have concerns in regard to the substantial civil penalty portion with fines as high as \$25,000 and punitive damage authority being delegated to NERC. In the same manner, we have not had an opportunity to share the amendments with our members.

**Assemblyman Ellison:**

How many businesses do you represent?

**Lea Tauchen:**

We represent approximately 1,600 businesses in the state.

**Assemblyman Ellison:**

Have you seen a case like this? Do you know if anyone has discriminated in pay?

**Lea Tauchen:**

I do not have an answer to that. I would have to survey our members to find out. They do not always inform us if actions like that are being taken against them. It is information I could request.

**Chairman Flores:**

Is there anyone wishing to testify as neutral to the bill?

**Kara Jenkins:**

The Nevada Equal Rights Commission is neutral on this bill. We applaud the efforts of Senator Spearman and all those gathered to discuss this important topic. I want to make clear that NERC would like to strike punitive damages and add comprehensive compensatory damages language to the bill. That would include vacation pay, pension and retirement benefits, stock options and bonus plans, savings plan contributions, profit sharing benefits, medical and life insurance benefits, et cetera, upon proof by the aggrieved party. That is the language we have inserted ([Exhibit L](#)). We believe that makes the person whole outside of the punitive level, which we think is probably best done at the court level.

We are neutral, and we will do what we are told. To address legal, there was a case in California that was released called *Konig v. Fair Employment and Housing Commission* [28 Cal. 4th 743, 50 P. 3d 78, 123 Cal. Rptr, 2d 1 (2002)]. It addresses the issue of emotional distress damages at the state level and whether it was potentially in violation of the *California Constitution*. I would like you to look into that to ensure if this bill passes, we are not entering into a separation of powers issue that NERC would have to face. Please ensure the *Nevada Constitution* is on par and that we can do this.

**Senator Spearman:**

First, I want to thank the chambers because they did see fit to at least come and speak to me. I cannot say the same for the representative from Clark County. I think my phone number at least is still listed. I certainly have an email address. If the disagreements were that important, it would seem to me that someone would have reached out. I am not being dismissive of her testimony, but in this process, if you have a problem with a bill, generally you talk to the sponsor. That is where you get clarity. You do not get clarity coming to the table in opposition. You get clarity talking to the sponsor. If you still have issues with it, we work it out.

I keep hearing that there is a problem with the penalties for employers: \$5,000, \$10,000, \$15,000, \$25,000—none of that compares to the \$500,000 we heard Ms. Shinn talk about. An employee who has been discriminated against loses all that money. The issue here is not if the fines are too steep. The issue here is how committed are employers to the fact that we must alleviate and eliminate discrimination at every level?

My parents were black, my grandparents were black, and one of my great-grandparents was full-blooded Cherokee. The moral of this story is that I have been black all my life. I have been places where I have been the only one. People have touted me being there as proof that racial discrimination does not exist. I do not think that proves anything except somehow or another I got there. Even after getting there, I still had to endure injustice. In the military, it was the same thing—injustice. Inequality and injustice is not easy to overcome, but we can do this with intellectual inquiry and persistent commitment. We can do this.

Like Ms. Shinn, I, too, am offended when people say we cannot do things. I, too, am offended when people tout, This will happen if that happens. No, it will not. Do not discriminate. You do not have to worry about it. Do not discriminate in any form. As a matter of fact, if you want to talk about how it impacts businesses, businesses are far better when they have a level of equality that does not discriminate based upon sex, gender, religion, et cetera. It creates a climate of trust and camaraderie. For those businesses that are not discriminating, do not worry. Do not worry. For those that are, this bill is coming after you.

The patriarchal paradigm that exists in our culture is rigid and heretofore has often seemed impenetrable. People shrink from the task of challenging patriarchal superiority. We do not want to talk about it, but that is exactly what this is. Sexism condones the myth of patriarchal superiority. I am determined, with every fiber of my body, to fight against inequality and injustice anywhere I find it. I seek to always strike at the heart of this venomous poison that holds us back. People do not want to see people as equal. Anything less than seeing us all as children of God is unacceptable.

[([Exhibit N](#))] was submitted but not discussed and will become part of the record.]

**Chairman Flores:**

I will close the hearing on S.B. 397 (R1). Again, we appreciate your passion and your grit. Last on the agenda is Senate Bill 78 (1st Reprint).

**Senate Bill 78 (1st Reprint): Revises provisions relating to local government financial administration. (BDR 31-403)**

**Ryann Juden, Assistant City Manager, City of North Las Vegas:**

I do not even know how to follow up Senator Spearman. We are delighted to have her in our delegation in the City of North Las Vegas. We are delighted to have members of this Committee in our delegation. The mayor always says that we have wonderful representation in North Las Vegas, and we truly do on a host of different issues. We are very proud of our delegation and their body of work during this session.

We had the opportunity to sit before this Committee at the beginning of the session and brief you on where North Las Vegas is, how it has progressed, and where it has come from. I would like to talk about some highlights. With Senate Bill 78 (1st Reprint), we had to face some of the same questions that I have heard from some of you and some senators before its passage out of the Senate regarding the concerns on extending the deadline on a policy that just kicks the can down the road. We also had concerns about the history of the City of North Las Vegas and its relationship with this institution by coming time and time again with an attitude of, Poor me, poor North Las Vegas, we have problems, we need solutions. We have rectified that.

We are coming with solutions; we are not coming with hat in hand as in the past. As we discussed last month, the City of North Las Vegas, as we inherited it three and a half years ago, had a revenue problem. That is the easiest way to describe the challenges North Las Vegas had. This problem created a long-term structural deficit of \$152 million. It created a general fund which was supported by enterprise fund dollars. That is one of the things S.B. 78 (R1) addresses. We had employees who continually came to the table with the previous management to be a part of the solution. They continually gave up contractual raises that were rightfully theirs. They gave pay cuts. We had residents who have experienced a reduction in services and elimination of some services. The city's credit rating was on a downward spiral. As you are all well aware, elections have consequences. The consequences of elections also bring new policy and new ways of looking at things.

In North Las Vegas, a new management team was put together after the 2013 election. The newly assembled groups started looking at the problems that have collectively plagued North Las Vegas. We implemented a plan to systematically address the issues facing North Las Vegas, specifically an economic development plan. We implemented a policy of "grownomics," which is to be different from the previous city strategy, which was basically to cut. We believe you could leverage a city's assets to grow yourself out of the problems. For example, when we inherited North Las Vegas, we had an economic development team that had been decimated.

Some of us, coming from the private sector, realized the last thing we wanted to do was cut our sales force. Sales are essentially what economic development is. We sat down right away and worked with our bargaining group to talk about how we needed to take a different approach to economic development. We needed to be able to have the ability to bring professionals in outside of government who could spur economic development and approach it differently than how government had approached economic development in the past. They worked aggressively once we established a program with our bargaining group to allow this. We brought in new people and they worked aggressively to attract new business to the city because we needed to expand the tax base. We had made the determination early on that we were not going to expand the tax base on the backs of residents or existing businesses.

At the same time we were doing this and going out and knocking on doors and making cold calls to bring businesses in, we cut red tape. We streamlined processes within North Las Vegas. We took processes that took six months and cut them down to merely 90 minutes. We took some processes that would normally take six weeks in the development world and made them over the counter. This made us a very friendly environment for businesses. It allowed us to attract businesses with a promise that we could meet their deadlines and save costs. It worked. We were able to solve all the existing lawsuits that we inherited. We were able to stabilize the city's credit rating. We actually had an increase in the city's credit rating by four steps. We have attracted billions of dollars in new development. We have introduced over 12.5 million square feet of new industrial construction that is housing multiple Fortune 500 companies, one of which just began hiring hundreds of employees in the last few weeks. The \$152 million budget deficit has been reduced to \$23 million. That is what brings us here today, to discuss S.B. 78 (R1).

It is one of the final pieces of the financial challenges we face in North Las Vegas that is still plaguing us. We are still in the shadow of it today. A few weeks ago, Standard & Poor's Financial Services LLC did a revision of the city's credit. They upgraded us two more steps, which puts us one step away from being investment-grade quality, which is very significant for a city that was in junk-junk-junk status with their bonds. I would like to read one of the things the analyst noted in his report. It points out how Wall Street is watching what we are doing here today. They have watched what this body has done in the past. They made compliments on the city's improvement and growth. They also noted one of the hurdles that still remains, which is why we are here today.

The analyst said that despite the good revenue growth in recent years, the general fund is still supported by transfers in from the water and wastewater enterprise funds. Although the city has decreased the amount it transfers from the enterprise funds year over year, the transfers still accounted for 17.3 percent of total operating revenue in 2016. We used \$18.1 million from the water utility fund and \$5.3 million from the wastewater utility fund. As a result of the Nevada State Legislature's Assembly Bill 471 of the 76th Session, which limits the amount of money transferred from an enterprise fund to the general fund, the city is having to wean itself off transfers by fiscal year 2021. One of the things we continually see from analyst reports from Wall Street is the 2021 deadline. Some have called it the "fiscal cliff."

They note that in the year 2021, North Las Vegas will have to eliminate the transfers, which we are unable to do. Because of that, we would go off a fiscal cliff, which makes the credit rating for the city suffer.

One of the things we wanted to ensure we did with S.B. 78 (R1) was eliminate this deadline altogether so that we are not kicking the can down the road. We wanted to ensure the challenges of reducing our reliance on these transfers was not borne solely on the backs of our employees. As this body is aware, in 2021 the transferring of enterprise funds into the general funds will be eliminated. When residents paid for water, excess revenue would be transferred into the general fund to shore up other services like parks, libraries, police, and fire. At this time, Mayor Lee and County Commissioner Kirkpatrick were each Chair of their respective committees in the Senate Committee on Government Affairs and the Assembly Committee on Government Affairs. They passed A.B. 471 of the 76th Session. We agree with this prohibition. We want to ensure we do not disturb the prohibition. But we also know we need to have an elegant and practical solution of how to deal specifically with the challenges faced by North Las Vegas.

Darren Adair, the Acting Finance Director for the City of North Las Vegas, and I sat in Commissioner Kirkpatrick's office and drafted the bill before you today. We worked with the Legislative Counsel Bureau staff to draft the language. We wanted to make sure it was a very simple solution so it could be easily understood by Wall Street. We wanted to ensure it provided compliance and had teeth. After we drafted this language, we took it to Chairman Leavitt, who chairs the Committee on Local Government Finance in the Department of Taxation. We wanted to ensure that as the body that oversees the city and has worked with the city for a number of years as we pulled ourselves out of the fiscal challenges we had, this tool would be beneficial to the city. He was relieved that the city was coming forward with a plan on how to address this fiscal challenge. After we worked with Chairman Leavitt, we met with our bargaining groups and explained the bill to them. In the Nevada Electronic Legislative Information System there are letters from each of our collective bargaining groups in support of this measure, understanding the significance and importance of it for North Las Vegas ([Exhibit O](#)).

We believe we are changing the approach of North Las Vegas as far as how to approach the legislative sessions. Following the 2011 Session, which prohibited the transfer of utility funds, the management of North Las Vegas returned to this body in 2013 and requested to dip further into the enterprise fund due to the issues it was having. They needed to even go past the prohibitions established in 2011. Reluctantly, this body authorized them to do that. Within a few months, our new management team came together. We decided that despite the tool this institution had given North Las Vegas at that time, we were not going to use it. We were going to eliminate this practice and the best way to do that was not to double down on dumb and get ourselves further into a hole. The tool that was passed in Assembly Bill 503 of the 77th Session has not been used by the City of North Las Vegas. I think it is actually expired now.



As mentioned previously, we began aggressively working to grow our revenues. That is the story of North Las Vegas in order to solve the challenges we faced. This session we worked with the body to pass Assembly Bill 79, and we appreciate the Committee's support on that bill. That helps the city continue with our competitive advantage by offering one-stop permitting and restoring the city as a water purveyor out of the Apex Industrial Park.

Senate Bill 78 (1st Reprint) provides a way for the city to remove the fiscal cliff that was created in 2011. It puts the city on the path to a sustainable and structured way to address the erroneous reliance on these historic transfers while at the same time preserving the 2021 deadline. It also eliminates the concern that we had, which was simply extending the deadline. By putting teeth in the measure that requires an annual reduction of our transfers as well as an annual review and oversight by the State of Nevada, this is an elegant solution that puts a measure of compliance and oversight to this process that was lacking in the 2011 legislation. We know Wall Street and the bond market are closely monitoring these efforts. Based on the reports, we know passage of S.B. 78 (R1) and the state's acceptance of the city's plan to ultimately eliminate transfers will increase the city's credit immediately.

For an example, if we were able to take some of our current bonding and our low-hanging fruit and refinance it at today's rate, we would be able to save over \$1 million a year that our residents currently pay in interest alone. That is a real example of how this measure could immediately help North Las Vegas as we continue to move the city forward. We urge this Committee to support S.B. 78 (R1).

**Assemblyman Ellison:**

I remember when we had to do this a while back. When you take from the enterprise fund and deposit it to the general fund, do you let the public know that this is in the process of happening? Is there a note in their bill?

**Darren Adair, Acting Finance Director, City of North Las Vegas:**

Absolutely, Assemblyman Ellison. We both include a disclosure in our budget document as well as in our audit statements for the city that disclose how that is calculated, what amount that is, and how it is used. We have also made no secret whatsoever about the existence of this practice, the material nature of the practice, as well as the city's leadership and desire to develop a solution and plan to restore balance.

**Chairman Flores:**

When we talk about institutional knowledge, this is why it is so important. So often we make commitments and promises and find ourselves years down the road revisiting that only to learn that promise was not kept or we did not stay true to an agreement. Sometimes, stakeholders come and say one thing and things did not work out the way they were supposed to. That is important for us to remember because we have to hold each other accountable. When we go back to our constituents, we have to be able to explain our votes and explain why things did not work the way they did. I appreciate North Las Vegas. I know it has been underwater for some time now. I can really see that you are working in a diligent manner to get to where you are supposed to be. You know my concerns and frustration with these types

of bills coming forth. Unfortunately, the Assembly Committee on Government Affairs will see this repeatedly. We are that line of defense. We have that obligation to bring these conversations forth.

**Assemblywoman Neal:**

I know you have the plan, but in the old bill [A.B. 503 of the 77th Session] there was at least an end date, meaning we will continue to work at 3.3 percent for 12 years or 15 years. I think there needs to be an expiration date in the plan. How did you get at that 3.3 percent? What factors did you expect to be at play while you had that at 3.3 percent?

**Darren Adair:**

The 3.3 percent was probably driven by a few factors. Most notably, it parallels the existing property tax caps and the minimums that were expected in the valuation increases. The City of North Las Vegas wants to aggressively get off this dependency. We will put forward to the Department of Taxation an aggressive bill to make that repayment plan as quickly as possible. This is a minimum. As you do your own personal financing on a home, a long-term asset, or infrastructure that is important, there are minimums. You are certainly allowed to pay more on your home payment than is required, but you are not able to foresee 30 years into the future and understand all of the things you will go through.

In this particular case, that 3.3 percent resembles more traditional infrastructure financing terms. It is not one we desire; it is one we expect to have as a minimum. We believe if a minimum like this is put into place, it will hold entities such as North Las Vegas, future councils and leadership, and other entities that find themselves in a similar situation to some level of accountability—something that the previous plan in A.B. 471 of the 76th Session did not have. We believe this would improve this tool.

**Assemblywoman Neal:**

We talked about your property tax caps for the city, the properties out of the cap and inside the cap, and the projections around property tax growth. We know it will not be at the 3 percent because we did not have a stabilizing bill. Hopefully, it will stabilize, but the projections were that we might be at 2.7 percent. I want that explanation around your property tax caps in North Las Vegas.

**Darren Adair:**

I think we are familiar that the Las Vegas Valley had a downturn in the economy. We are starting to see a turn around. The property tax caps are doing largely what they intended to do, but there is not the same crystal ball effect that was originally intended. We are seeing a combination of things. The existing properties are held down by the caps, and even at that, we will be held below or at 3 percent for some time. You also see the new properties coming on in the city. For North Las Vegas, where 50 percent of our properties have not been developed yet, we have a lot of opportunity. We are seeing that opportunity where new tax development and growth are increasing that average. It is not as high as we would like to see it, but we are experiencing growth. This is reflected in the budgets we produce. It is reflected in the forecasts coming from the Clark County Assessor's Office and the

Department of Taxation. We are seeing a consolidated percentage of roughly 3, 3.5, and 4 percent. That is included in our budgets. What we were considering when we put this proposal together, we expected that other entities might experience a similar minimal growth in their property tax. If nothing else happened in their communities like they would hope they would, at least this year-over-year recovery of property tax values would be a basis to reduce those transfers from an enterprise fund. In our case, that would be one of the things we would be counting on at a minimum.

**Assemblywoman Neal:**

I also want to get on the record the \$14 million approved by the city council a week ago. What makes up that money? It was said that it was related to the enterprise fund.

**Darren Adair:**

That is an excellent question that I would love to clarify. The city approved an investment by its enterprise into an otherwise underdeveloped commercial area. There are about 1,800 acres that were challenged by lack of physical access, sewer infrastructure, and other necessary utilities to respond to the demand for commercial construction. The city was setting aside funds to fulfill its obligation to water utilities in relation to the development of its sewer plant. That represented part of the funds the enterprise had committed to the development of the first stage of that sewer line.

Additionally, the city enterprise had other real estate related to that enterprise. It liquidated and sold that property with the belief that it would be better to move that money from vacant, undeveloped lands and use it to open the opportunity for development and use the funds to encourage other development. That is precisely what the actions by the city council have been. That is to support "grownomics." We should grow our way out of a problem rather than coming back to this body and asking for money to make up a shortfall. We are taking responsibility for every dollar we can. We want to put that into growth.

The other thing that is important to point out is that is money from the enterprise that is staying in the enterprise. It is not transferring from the enterprise fund to the general fund, nor is the general fund making that investment. The general fund is obviously dependent upon the transfers from that enterprise entity in order to provide the minimum level of services to its citizens that it does today. The enterprise fund in and of itself and without those transfers would be a very healthy operating fund. The entity does not have a lot of headroom beyond what it transfers every year to the general fund to keep it afloat, but it has been able to put together enough dollars to make this critical investment in the growth of the area in the hopes that this commercial demand for space would result in immediate property taxes, particularly those that would not be subject to the caps that would relieve some of the stress on the general fund for the city and create an opportunity to develop and follow a plan for getting off.

**Chairman Flores:**

You know we are committed to the success of North Las Vegas. We are all in this together. We just hope we do not have an uncomfortable "ask" next session. Is there anyone wishing to testify in favor of the bill?

**Danny L. Thompson, representing Professional Fire Fighters of Nevada; Teamsters Local 14; and City of North Las Vegas:**

All the organizations I am here representing are employees of the City of North Las Vegas. I do not think anyone in this state in my memory has gone through what North Las Vegas has gone through. It is beyond tough times. They lost half of their workforce, closed their jail, stopped doing parks, et cetera. For the employee groups left, there were three rounds of concessions over a period of years. When you talk about the recession, no one has been through what they went through. Mayor Lee and the city council have done a great job and a tough job of getting that city where it is today.

This bill is critical because the economy in Las Vegas is not back yet. If you look at the building trades unions, they still have 50 percent unemployment there. I know there is a lot of work that is on the books. Thanks to you all, we will double the convention center, build a stadium for the Raiders, Faraday & Future, et cetera. I negotiated a project labor agreement on the Faraday & Future job. They are now in the Apex Industrial Park, which represents a great opportunity for the City of North Las Vegas to get out of its trouble. This bill's companion [A.B. 79] will allow North Las Vegas to control the water at the Apex Industrial Park. That has always been the component that has been missing.

The Apex Industrial Park is a great industrial site because it has Interstate 15 accessibility, rail accessibility, et cetera. What was missing was the water. This bill and the water bill [A.B. 79] are really the light at the end of the tunnel. On behalf of the employees there, I urge the passage of this bill. I believe the city council and the mayor have done a yeoman's job in showing everyone that they are doing the right thing.

**Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce:**

The Las Vegas Metro Chamber of Commerce is a large business association, but we are also the local chamber of commerce for the businesses in the City of North Las Vegas. We do represent those businesses. To reiterate the comments you have heard, the Chamber is supportive of additional tools that will help the City of North Las Vegas move forward with their economic development efforts and the recovery of the city. The Chamber was supportive of A.B. 79, and we are in support of S.B. 78 (R1). Mayor Lee, the city council, and the city manager's staff in the last three and a half years have done a phenomenal job turning the city around, and we believe they are on a path to success.

**Chairman Flores:**

Is there anyone wishing to testify in opposition to the bill? [There was no one.] Is there anyone wishing to testify as neutral to the bill? [There was no one.] I will close the hearing on S.B. 78 (R1). Is there any public comment? [There was none.] This meeting is adjourned [at 12:03 p.m.].

RESPECTFULLY SUBMITTED:

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Isabel Youngs  
Committee Secretary

APPROVED BY:

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Assemblyman Edgar Flores, Chairman

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

## EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is written testimony presented by Senator Julia Ratti, Senate District No. 13, regarding [Senate Bill 384 \(1st Reprint\)](#).

[Exhibit D](#) is a document titled "Declaration of Mayank Varia in Support of Answer to Petition for Writ of Mandamus," dated September 28, 2016, submitted by Marlene Lockard, representing Retired Public Employees of Nevada, regarding [Senate Bill 384 \(1st Reprint\)](#).

[Exhibit E](#) is a document titled "Declaration of Barry Johnson in Support of Answer to Petition for Writ of Mandamus," dated September 27, 2016, submitted by Marlene Lockard, representing Retired Public Employees of Nevada, regarding [Senate Bill 384 \(1st Reprint\)](#).

[Exhibit F](#) is a copy of an article from the *Reno Gazette-Journal* titled "RGJ's editorial on Nevada PERS privacy misguided: Jack Harris," by Jack Harris, dated April 24, 2017, available at <http://www.rgj.com/story/opinion/voices/2017/04/24/rjgs-editorial-nevada-pers-privacy-misguided-jack-harris/306213001/>. Copy submitted by Marlene Lockard, representing Retired Public Employees of Nevada, regarding [Senate Bill 384 \(1st Reprint\)](#).

[Exhibit G](#) is a copy of an article from the *Reno Gazette-Journal* titled "PERS secrecy bill based on unfounded fears: Our view," by the RGJ Editorial Board, dated April 17, 2017, available at <http://www.rgj.com/story/opinion/editorials/2017/04/17/pers-secrecy-bill-based-unfounded-fears-view/100558940/>. Copy submitted by Marlene Lockard, representing Retired Public Employees of Nevada, regarding [Senate Bill 384 \(1st Reprint\)](#).

[Exhibit H](#) is a letter dated May 2, 2017, in support of [Senate Bill 384 \(1st Reprint\)](#) to Chairman Flores and members of the Assembly Committee on Government Affairs, submitted by Kent M. Ervin, Ph.D., Legislative Liaison, Nevada Faculty Alliance, presented by Priscilla Maloney.

[Exhibit I](#) is a letter dated May 2, 2017, in support of [Senate Bill 384 \(1st Reprint\)](#) to Chairman Flores and members of the Assembly Committee on Government Affairs, authored and submitted by Chris Daly, Deputy Executive Director of Government Relations, Nevada State Education Association.

[Exhibit J](#) is a chart showing Nevada's regulation creation process, regarding [Senate Bill 160 \(1st Reprint\)](#), presented by Senator Heidi S. Gansert, Senate District No. 15.

[Exhibit K](#) is a proposed amendment to [Senate Bill 397 \(1st Reprint\)](#), submitted by Senator Pat Spearman, Senate District No. 1.

[Exhibit L](#) is a copy of a letter dated April 18, 2017, addressed to the Honorable Pat Spearman, proposing amendments to the original [Senate Bill 397](#) and accompanied by a copy of the original bill, presented by Kara Jenkins, Administrator, Nevada Equal Rights Commission, Department of Employment, Training and Rehabilitation.

[Exhibit M](#) is a booklet titled "The Simple Truth About the Gender Pay Gap," dated Spring 2017, submitted by Nancy Stiles, Leadership Council, American Association of University Women, regarding [Senate Bill 397 \(1st Reprint\)](#).

[Exhibit N](#) is a letter dated May 1, 2017, in opposition to [Senate Bill 397 \(1st Reprint\)](#) to Chairman Flores and members of the Assembly Committee on Government Affairs, authored and submitted by Aviva Gordon, Legislative Committee Chairwoman, Henderson Chamber of Commerce; and Amber Stidham, Director of Government Affairs, Henderson Chamber of Commerce.

[Exhibit O](#) is material submitted by Ryann Juden, Assistant City Manager, City of North Las Vegas, consisting of the following:

1. A letter dated March 6, 2017, in support of [Senate Bill 78 \(1st Reprint\)](#) to members of the Senate Committee on Government Affairs from Larry R. Griffith, Secretary-Treasurer, Teamsters Local 14.
2. A letter dated February 24, 2017, in support of [Senate Bill 78 \(1st Reprint\)](#) to Chair Parks and members of the Senate Committee on Government Affairs from Michael Yarter, President, North Las Vegas Police Officers Association, Inc.
3. A letter in support of [Senate Bill 78 \(1st Reprint\)](#) from Craig Romey, President, North Vegas Fire Fighters Local 1607.