MINUTES OF THE
SENATE COMMITTEE ON FINANCE

Seventy-ninth Session
May 22, 2017

The Senate Committee on Finance was called to order by Chair Joyce Woodhouse at 8:13 a.m. on Monday, May 22, 2017, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Joyce Woodhouse, Chair
Senator David R. Parks, Vice Chair
Senator Moises Denis
Senator Aaron D. Ford
Senator Ben Kieckhefer
Senator Pete Goicoechea
Senator Becky Harris

GUEST LEGISLATORS PRESENT:

Senator Patricia Farley, Senatorial District No. 8
Senator Tick Segerblom, Senatorial District No. 3

STAFF MEMBERS PRESENT:

Mark Krmpotic, Senate Fiscal Analyst
Alex Haartz, Principal Deputy Fiscal Analyst
Felicia Archer, Committee Secretary
Barbara Williams, Committee Secretary

OTHERS PRESENT:

Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department
Marla McDade Williams, Strategies 360
Kevin Burns, Chairman, United Veterans Legislative Council

Mona Lisa Samuelson, President, Marijuana Patient Lobbyists and Advocates of Nevada
Vicki Higgins, Medical Cannabis Advocates
PJ Belanger, Medicinal Herbalist; Cannabis Nurses Magazine
Cindy Brown, M.D., Patient to Patient
Lennora Valles, Southern Nevada Women's Veteran Coalition
Timothy Eli Addo, Executive Director, Cannabinoid Wellness
Pete Rendon, The Kannabis Plug
Wes Henderson, Nevada League of Cities and Municipalities
Nick Vander Poel, City of Fernley
Sumiko Maser, Deputy Executive Director, Administrative Services, Department of Taxation
William Adler, Sierra Cannabis Coalition
Julie Monteiro, R.N., Cannabis Nurses Magazine; Cannabis Nurses Association
Nancy E. Brune, Executive Director, Guinn Center for Policy Priorities
Michael D. Richards, President, College of Southern Nevada
K.C. Brekken, Executive Director, Public and Government Affairs, College of Southern Nevada
Constance Brooks, Vice Chancellor, Government and Community Affairs, Nevada System of Higher Education
Crystal Abba, Vice Chancellor, Academic and Students Affairs, Nevada System of Higher Education
Kyle Dalpe Ph.D., Interim Dean, Technical Sciences, Truckee Meadows Community College
Sharon Wurm, Director, Financial Aid, Truckee Meadows Community College
Tiffany Tyler, Chief Executive Officer, Communities in Schools of Nevada
Rene Cantu, Executive Director, Jobs for America's Graduates Nevada
Randy Robison, College of Southern Nevada Institutional Advisory Council
Budd Milazzo, Senior Deputy Treasurer, Office of the State Treasurer
Kent Ervin, Nevada Faculty Alliance
Ken Evans, President, Urban Chamber of Commerce
Jessica Scott, Regional Director, Interior West, Vote Solar
Justin Wilson, Coalition for Community Solar Access
Jessica Ferrato, Solar Energy Industries Association
Tom Polikalas, Southwest Energy Efficiency Project
Ernie Adler, International Brotherhood of Electrical Workers Local #1245
Danny Thompson, International Brotherhood of Electrical Workers Local #1245 and Local #396; Starpoint Resort Group, Inc.
Judy Stokey, NV Energy

Rusty McAllister, Nevada State AFL-CIO
Garrett Weir, General Counsel, Public Utilities Commission
Mike Draper, Paramount Marketing Consultants
Christopher Jones, General Counsel, Starpoint Resort Group, Inc.
Allen Lichtenstein, Starpoint Resort Group, Inc.
Holly Welborn, American Civil Liberties Union of Nevada
Kevin Ranft, American Federation of State, County and Municipal Employees (AFSCME) Local 4041
Carter Bundy, AFSCME International
Rick McCann, Nevada Association of Public Safety Officers; Nevada Law Enforcement Coalition
Shelly Blotter, Deputy Administrator, Division of Human Resource Management, Department of Administration
Fran Almaraz, AFSCME
Deborah Harris, Deputy Director, Administrative Services, Department of Health and Human Services
Robert Roshak, Nevada Sheriffs' and Chiefs' Association
James Dzurenda, Director, Department of Corrections

CHAIR WOODHOUSE:
We will begin with the hearing on Senate Bill (S.B.) 329.

SENATE BILL 329: Revises various provisions relating to marijuana concerning health and regulation. (BDR 40-361)

SENATOR TICK SEGERBLOM (Senatorial District No. 3):
Senate Bill 329 is an omnibus bill dealing with technical changes to the medical marijuana program. We hope to eventually deal with recreational marijuana the way we do the medical marijuana program.

I have provided a summary of the changes (Exhibit C) that are included in the Mock-up Proposed Amendment 4294 (Exhibit D). Three of the Committee members have heard this bill in the policy committee. I will go through the highlights of it now.

I have had the Legislative Counsel Bureau Legal Division remove the portions of the bill that had resulted in fiscal notes.

The amendment removes provisions from the bill concerning hemp, research facilities and nonprofit medical marijuana dispensaries. It changes the definition of "attending provider of health care." We tried to delete the controversial aspects of the bill.

The amendment deletes provisions allowing patients to grow their own crop, but grandfathers in people who were growing in 2013, as was done in 2015. The law enforcement agencies indicated they were not opposed to that measure. Restrictions on local government fees and regulation are deleted. Requirements for the Department of Health and Human Services (DHHS) to register and track recommendations by attending physicians are deleted, but it restores the requirement for DHHS to maintain a log of persons authorized to cultivate, grow or produce marijuana at home. There are some technical changes dealing with the use of pesticides.

An important aspect to the bill is encouraging diversity in the licensure of medical marijuana cultivation and dispensing. The previous structure led to an almost exclusively white, male population holding licenses. The new structure will show preference to diversity and encourage licensing of women and minorities.

The bill has some provisions dealing with ownership that were requested by the industry and that the agencies have no objection to. Under current law, trimmers who work at different facilities must be licensed by each place they work, which is quite burdensome. This bill allows for third-party companies who trim plants at various facilities to have their employees licensed directly after a background check by the State.

The bill provides that disabled veterans can obtain permanent cards and not be required to obtain and pay for a new one each year. The bill makes posttraumatic stress disorder (PTSD) a qualifying condition. Las Vegas Metropolitan Police Department (Metro) requested video in each facility to be linked directly to their offices, and the bill provides for that. At any given time, law enforcement will be able to see what is going on in a facility.

The bill also clarifies the reciprocity arrangement with California as regards a medical marijuana certificate, which was unclear before and has caused some controversy. It also clarifies the abilities of the fingerprint repository in terms of their being able to perform background checks.

In summary, the bill clarifies in statute some of the issues that have arisen over the past several years in the medical marijuana industry. It responds to concerns raised by various agencies, industry businesses and individuals.

SENATOR GOICOECHEA:
Will home-growers who live more than 25 miles from a dispensary be licensed?

SENATOR SEGERBLOM:
No, they will be registered, so the State will know who they are, but they will not be licensed.

SENATOR GOICOECHEA:
Who enforces the provision that they not have in excess of the six allowed plants?

SENATOR SEGERBLOM:
This bill allows medical marijuana home-growers to have twelve plants and has nothing to do with the recreational marijuana business.

SENATOR KIECKHEFER:
What is the main purpose of S.B. 329?

SENATOR SEGERBLOM:
It strives to make technical changes to the medical marijuana industry and answer concerns that have been raised over the last several years by various stakeholders. Although the changes being made are currently only for the medical marijuana industry, the recreational industry is likely going to adopt most of the medical marijuana regulations. It effectively moves the program into the Department of Taxation.

SENATOR KIECKHEFER:
Can you elaborate on the requests from law enforcement? Do the changes apply to Clark County only?

SENATOR SEGERBLOM:
The bill will apply to facilities throughout the State. It allows law enforcement to have access to the video feed at facilities at any time.

SENATOR KIECKHEFER:
At any time, or only under warrant?

SENATOR SEGERBLOM:
It is my understanding that it is at any time.

CHUCK CALLAWAY (Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department):
What we are working on in Clark County is getting the marijuana facilities the capability for a live feed. It would be incident-based only. If an event occurs in a particular facility, a robbery alarm for instance, our dispatch would be able to watch the live feed from that facility and give the officer that is responding real-time information about what is occurring inside the business. We would not be randomly monitoring the cameras. Some vendors do give the business owner the ability to monitor the live feed as well, but from a law enforcement perspective, the feed would only be viewed during an incident.

SENATOR KIECKHEFER:
Is anything you see on the feed admissible in court?

MR. CALLAWAY:
We are looking at the video as more of an officer safety issue, not necessarily as evidence. Under current law, these businesses have to have video surveillance. Our belief is that putting the video feed into statute will decrease risk to our officers. In the event of a takeover robbery or a hostage situation, the video could provide us with important information.

SENATOR KIECKHEFER:
Does it only pertain to dispensaries, or does it include cultivation facilities?

MR. CALLAWAY:
Our thought process was that the retail side of the business was at most risk. I am not sure how the language of the bill is written.

SENATOR HARRIS:
Is it anticipated that law enforcement would view only the live feed, or would there be requirements to record and give law enforcement the opportunity later to access a recorded tape?

MR. CALLAWAY:
A vendor demonstrated this product for us. They have a network where the live-feed cameras from a business go into their hub. If a call of alarm is raised, the hub sends the feed to law enforcement so we can see in real time what is going on. It is not the intent to record and go back. I would assume the technology has the capability to record, but that is not our intent.

SENATOR HARRIS:
What trips the live feed being forwarded to dispatch? If the individual working in the dispensary is unable to call the police in the event of the robbery, is there a panic button or some similar alarm?

MR. CALLAWAY:
It could be tripped through an alarm system or a call to 911. The vendor would then start feeding the video to law enforcement.

SENATOR HARRIS:
With regard to section 15 of S.B. 329, do you intend for subsections 1 and 2 to both be required? Is a professional counselor who does not have authority to write prescriptions included as a "provider of health care?"

SENATOR SEGERBLOM:
No, it is limited to persons who are authorized to write prescriptions.

To go back to Senator Kieckhefer's question, section 50, subsection 9 calls for the transmission and storage of the video feed. The storage of tape can also be used by the State to audit the facilities.

SENATOR KIECKHEFER:
The bill says each medical marijuana dispensary must have video feed. It seems like there would be a lot of crossover because dispensaries will be selling both medical and recreational marijuana.

SENATOR SEGERBLOM:
That is true, and it is the intent. I hope that the two systems will merge relatively seamlessly. The difference will be primarily the tax rate on the product.

SENATOR KIECKHEFER:
Your overview of the mock-up changes requires only medical marijuana establishments in counties whose population is 100,000 or more to submit proof of licensure or letter from local government with an application. What is the intent of that change?

SENATOR SEGERBLOM:
Some of the rural towns that did not originally opt to participate in medical marijuana establishments have changed their minds. Wendover and Fernley are two examples. If we had added a fee, it would have caused the bill to require a two-thirds vote to pass, so we removed it.

SENATOR KIECKHEFER:
Does that provision take away local governments' jurisdiction or control in any way?

SENATOR SEGERBLOM:
No.

CHAIR WOODHOUSE:
We will hear testimony in support of S.B. 329.

MARLA MCDADE WILLIAMS (Strategies 360):
On behalf of our four medical marijuana establishment clients, we are in support of the bill. We would like to see clarifying provisions to ensure there are no artificial barriers moving forward when an entity chooses to also be licensed as a recreational retail establishment.

KEVIN BURNS (Chairman, United Veterans Legislative Council):
We represent the major veterans' groups within Nevada and nearly a quarter million veterans. We wholeheartedly support S.B. 329. Opioid addiction is affecting the veteran community. In the United States Senate, John McCain is proposing the Veterans Overmedication Bill, because many Veterans Administration (VA) hospitals have turned into candy factories. Overdoses of opioids are common. What is not well known is that the incidence of opioid overdoes is 33 percent higher in the veteran community. It is hoped, with the recognition of PTSD as a qualifying diagnosis and for those returning veterans whose bodies are shattered, they can now have some kind of alternative to opioids.

Marijuana is still a Schedule I drug according to the federal government and the VA hospitals cannot offer it. This bill will give veterans the option to bring their records out of the VA and seek help.

MONA LISA SAMUELSON (President, Marijuana Patient Lobbyists and Advocates of Nevada):
I had hoped that S.B. 329 would be a patient's bill of rights for medical marijuana users. Medical marijuana patients are not criminals, and we require access to live plants and seeds. We must start providing the proper education about how the cannabis plant is used, as patients must retain their right to home grow. Otherwise, Nevada will be left with the commercial distribution of recreational marijuana, which is a far cry from what patients need.

Commercially cultivated marijuana is not necessarily safe. We have to retain the right to home grow. My written testimony is included (Exhibit E). I want you to know that medical marijuana is no joke to us. It means life or death to hundreds of thousands of medically challenged people like me. Please take the time to learn how medical marijuana is far more akin to using the plant as a vegetable than as tobacco.

VICKI HIGGINS (Medical Cannabis Advocates):
Unfortunately, our patient's rights bill was fractured into multiple different bills. Right now, we have fears in living our daily routines.

My written testimony (Exhibit F and Exhibit G) specifies the areas of the bill that need to be changed. Medical marijuana patients need the protections that were in the original bill. We need the right to grow twelve plants in our homes without the small limits that are in the amendment. There are extreme penalties and prison time connected with violating these low limits.

We are the functioning disabled. Medical marijuana keeps us going. I need to be able to get up in the morning and come to a meeting without worrying about being in a car accident and going to jail. Please help us to go about our daily routines without the fear of being penalized like a criminal.

PJ BELANGER (Medicinal Herbalist; Cannabis Nurses Magazine):
I am a certified health and wellness educator. I have been studying, practicing and teaching natural healing since I was 16 years old. My written testimony (Exhibit H) is submitted.

I am advocating for Cannabis Nurses Magazine as a patient and an educator. My PTSD is constantly triggered. I was stalked by a murderer a few years ago and was in hiding for five years. I decided as a nutritionist I wanted to work in the cannabis industry.

It is obvious that our inalienable rights have been ignored for two decades and now those who took away our rights are going to capitalize in the recreational market. This bill has been written for them. This is not a patient's bill of rights but a patient's bill of regulations.

Opioid addiction needs to be added as a qualifying condition. The veterans' permanent registry needs to be opened up to include disabled people. The medical provider and the patient should be the only ones responsible for determining how much a patient needs. If the State makes that decision, it is practicing medicine without a license. I need to be able to live my life free from the fear I will be treated as a criminal.

CINDY BROWN, M.D. (Patient to Patient):
I have worked for years to educate people that medical marijuana patients are not criminals. Our right to grow is imperative and should not be limited to those who had cards prior to 2013. It should be for all patients, without limit.

Most of the citizens of the State and many of the police did not know we have had a medical marijuana program for 17 years now. We are tired and hurting, and we do not want to be arrested for leaving our house. Many of us have suffered with physical impairment and substantial medical bills. We have no way of earning a living. We cannot get jobs.

The bill seeks to limit how many ounces we grow. We cannot tell our plants how to grow, it does not work that way. We thought the bill was about patients, not profits. Most of the rules seem very arbitrary. If you are going to track those that are home growing, there is no reason to exclude new patients.

Most of you have probably never heard of juicing, which is relatively new and works wonders against cancer. We need fresh, live plants.

LENNORA VALLES (Southern Nevada Women's Veteran Coalition):
As a disabled veteran, I am now an advocate for medical marijuana. I am a patient, and I still fight for my life on a daily basis. Cannabis has been a lifeline

for me. Because of the stigma, I did not become a cardholder until this year. This bill will take away my right to grow.

TIMOTHY ELI ADDO (Executive Director, Cannabinoid Wellness):
I have concerns with this bill as a medical cannabis patient. Nevada's weather is good for people with my condition. If we had a viable medical marijuana program here, we could provide refuge to others in the Country who seek medical marijuana.

Up to this point, medical marijuana patients cannot afford the cost of being in the program. The $75 cost is prohibitive for unemployed, disabled people. That has been my position for the last two years, and I had to go to Colorado just to be able to medicate. This was not what I was hoping for. A patient's right to grow should not be questioned. I would hope that we could address the needs of Nevada's medical marijuana patients.

PETE RENDON (The Kannabis Plug):
I am a medical cannabis patient. I am terminally ill with stage 4 cancer. Removing these rights affects our ability to live our lives and follow the law. In my opinion, S.B. 329 has no consideration for medical marijuana patients. The nanogram limits in the bill are ridiculously low for a terminally ill patient like me.

CHAIR WOODHOUSE:
We are going to move to those in opposition. Seeing no one, does anyone wish to testify in neutral?

WES HENDERSON (Nevada League of Cities and Municipalities):
We are neutral on S.B. 329. We offer a conceptual amendment (Exhibit I) that would create an avenue for rural cities to apply for a medical marijuana certificate.

NICK VANDER POEL (City of Fernley):
I echo Wes Henderson's remarks. The City of Fernley has lifted their moratorium and would like to proceed with the State to get a license for establishments within the incorporated city.

SUMIKO MASER (Deputy Executive Director, Administrative Services, Department of Taxation):
I wanted to put on the record that, with the Proposed Amendment 4294, the Department of Taxation will adjust their fiscal note. The new section that requires the Department to gather, analyze and create reports on demographic data has resulted in an estimated cost of $30,000 upfront for programming and approximately $200,000 per biennia for support staff.

SENATOR KIECKHEFER:
Would those expenses be covered under licensing fees, or would you need a General Fund appropriation for that?

MS. MASER:
I do not believe the licensing fees would cover that. We would need an appropriation.

WILLIAM ADLER (Sierra Cannabis Coalition):
We are in support of S.B. 329 in general, especially those provisions that would give veterans permanent medical marijuana cards and the grandfathering of patients who home grow.

We have some concerns with the section that deals with laboratory International Organization for Standardization, commonly known as ISO, certification. This certification requires some time to receive. Perhaps the bill could phase in the requirement for this certification with a later date for full implementation so that the laboratories already operating in Nevada can continue to operate while they seek that certification.

The other issue is clarification on the diversity component. Perhaps setting a point system for future licensing applicants would work. We need to find a way to get there that works for everybody.

MR. CALLAWAY:
I opposed this bill in the Senate Committee on Judiciary hearing. This amendment goes a long way to alleviating the concerns I raised. I am still evaluating the bill, but today I want to say we are neutral on S.B. 329.

JULIE MONTEIRO, R.N. (Cannabis Nurses Magazine; Cannabis Nurses Association):
We come today in neutral to this bill because, while intentions were good, medical marijuana patients will be hurt by this bill. My written testimony and suggested amendments (Exhibit J and Exhibit K) are submitted. We are trying to educate the public and the Legislators on the science behind the medicine of cannabis.

We were supposed to get a patient's bill of rights. That has not happened. We urge you to let patients grow, because stalks, stems and leaves are the key to properly ingesting cannabis as medicine.

SENATOR KIECKHEFER:
Senator Segerblom, why do you want to put restrictions on patients growing? The bill also appears to mandate that at least one medical marijuana establishment be registered in every county. From a supply and demand perspective, why would you mandate production facilities rather than patient access as the most pressing concern.

SENATOR SEGERBLOM:
The restrictions on home grows came from police concern. They want to be clear as to who is permitted to home grow and where. There has been a group that has home grown for years and spent a lot of funds on their operations. This bill permanently grandfathers them in. If this Committee's desire is to let anyone home grow, that is fine with me.

As far as facilities in every county, the original bill only stipulated facilities for Wendover and Fernley. We left the language broader in the event that other local governments wanted to allow medical marijuana. Facilities are not mandated and would have to be approved by the local commission or city.

I also feel that the Department of Taxation's fiscal note is unreasonably high for simply looking at the ownership of licenses and determining diversity. If that is going to be an issue, we can pull that stipulation out as well, although I would like to see more women and minorities as licensees going forward.

SENATOR KIECKHEFER:
As I recall, similar provisions were included in Senator Ratti's taxation bill, were they not?

SENATOR SEGERBLOM:
That is correct.

SENATOR PARKS:
I see you have removed industrial hemp from the bill.

SENATOR SEGERBLOM:
There is a separate bill on hemp.

SENATOR PARKS:
How are you addressing the nanogram issue for blood testing?

SENATOR SEGERBLOM:
The Assembly had a bill that replaced the urine test with a blood test. I believe that has been signed by the Governor. It was supposedly the best deal we would get this time around, even though everyone agrees the nanograms have nothing to do with impairment. The provision to make opioids a qualifying condition is also in a separate bill.

SENATOR FORD:
I want to commend Senator Segerblom for all the work he has done in this area. I would like to remind everyone, including those who testified, that we are trying to make policy, not statements. Ultimately, the compromises you have made put the bill in a better position to be considered as an incremental step toward a goal.

CHAIR WOODHOUSE:
I am including one letter from Grace Crosley (Exhibit L) in opposition to the bill for the record, and an executive agency fiscal note from the Department of Agriculture (Exhibit M). We will close the hearing on S.B. 329 and open the hearing on S.B. 391.

SENATE BILL 391 (1st Reprint): Provides for awards of scholarships by community colleges in the Nevada System of Higher Education. (BDR 34-815)

SENATOR MOISES DENIS (Senatorial District No. 2):
Today, I am proud to introduce S.B. 391, a bill to create the Nevada Promise Scholarship. This is a last dollar scholarship, meaning it would be available for

all recent high school graduates and would pay for all mandatory tuition and fees to attend a State community college less any State and Federal aid they receive.

The Nevada Promise Scholarship requires students to complete their Free Application for Federal Student Aid (FAFSA) and then pays for any tuition and fees to attend the community college that are not covered through State or Federal financial aid. Only recent high school graduates are eligible. It requires high school seniors to apply for the program by November, meet with a mentor, attend college meetings, apply for financial aid and complete eight hours of community service in order to be eligible.

Once in college, students must continuously enroll in at least twelve credits, meet with their mentors, apply for financial aid and complete eight hours of community service each semester in order to retain the scholarship. They may do this for up to six consecutive semesters.

Why do we need the Nevada Promise Scholarship? This is a workforce development tool, as much as an educational policy initiative. We want to create a college-going culture in Nevada and help remove barriers that prevent many of our students from entering postsecondary education. Far fewer Nevada high school graduates go directly to college when compared to the national average. That disparity becomes even worse when we talk about economically disadvantaged students.

Nevada trails the national postsecondary attainment rate of 37 percent of working age adults who have achieved some level of postsecondary attainment. We also trail the Nation when it comes to FAFSA. According to a recent report from the United Way of Southern Nevada, the average FAFSA submission rate for regular high schools in Clark County is 24.8 percent. Less than a quarter of our high school students not in magnet or academy schools are completing the FAFSA. Only 11 schools in Clark County have a FAFSA completion rate of more than 60 percent. This means we are leaving millions of dollars in federal money on the table that could be used to help our students pay for postsecondary education and workforce training. In 2014-2015, a recent study identified $19 million in federal Pell Grants that eligible Nevadans could have received to help pay for their education, if they had only applied. This affects the education and skill level of our workforce and our capacity to attract new businesses and grow our own.

Middle-skill jobs, which require education beyond high school but not a four-year degree, make up the largest part of America and Nevada's labor market. By 2024, 48 percent of Nevada's job openings will be middle-skill. This is why the creation of the Nevada Promise Scholarship this Session is critical to create the college-going culture that we need to make the new Nevada a reality.

We have the Governor Guinn Millennium Scholarship, a merit scholarship that pays $40 per credit hour at State community colleges for eligible Nevada high school graduates who have and maintain the grades to keep it. We have the Silver State Opportunity Grant (SSOG), a need-based aid award for our lowest income achievers who do not need remedial courses and can handle 15 credits each semester at a community college. These are excellent tools, but they are not enough. We need a systematic approach to create a college-going culture. The Promise Scholarship would serve as that approach. It would motivate the majority of our high school students who did not achieve a 3.25 GPA, are not already college-ready, have the minimal expected family income or cannot take on 15 credits per semester, to go beyond high school and obtain a foundation of education and training.

Those students who do not achieve a full Pell Grant, SSOG or a Millennium Scholarship could use the Promise Scholarship as a backup plan. Meeting the program requirements will only increase their chance of success. With a mentor provided by the college and the chance to engage through community service, these young men and women can thrive in Nevada and obtain meaningful careers.

The expected outcomes of the Nevada Promise Scholarship include increased college placement, increased college success and retention, increased graduation and transfer rates, increased community service and increased federal financial aid dollars coming into the State. In partnership with our Chambers of Commerce and economic development experts, I expect we will increase job placement.

I have submitted two additional documents to help in the discussion of this bill. One is a side-by-side comparison of the Nevada Promise Scholarship and the SSOG (Exhibit N). The other is a timeline on the steps that would be necessary to implement the Promise Scholarship (Exhibit O).

NANCY E. BRUNE (Executive Director, Guinn Center for Policy Priorities):
The Guinn Center began looking at Promise programs a few years ago. We were not asked to undertake this analysis, nor did we receive any payment for it. We did receive some in-kind support from the College of Southern Nevada (CSN) Institutional Research Office, which reviewed our survey to ensure that we had a valid survey instrument. They also managed the distribution and compilation of the survey results. We have shared our analysis and the assumptions behind our analysis with the Nevada System of Higher Education (NSHE), CSN and Truckee Meadows Community College (TMCC).

We began our research by conducting a survey to better understand the profile of the average community college student in order to determine if, in fact, there is a need for this type of Promise Scholarship. We completed the survey last spring and had a response from more than 2,000 students from Great Basin College (GBC), TMCC and CSN. From the statewide survey, we found that less than 30 percent of respondents were enrolled in 12 or more credits. The number one reason for students not taking 15 credits was that they were also working full-time. In fact, 44 percent of survey respondents were working full-time.

We also found that 31 percent did not apply for financial aid. Of those students, 25 percent said they did not know about financial aid or they missed the deadline. Forty-five percent said their income was too high to qualify for financial aid. We would note that part of this bill is a requirement that a student must apply for federal financial aid to be in the program. Ninety percent of students had never participated in any sort of mentoring program. We think the mentoring feature of S.B. 391 will be very helpful in ensuring student success. When asked how their institution could best help them, 48 percent stated they needed financial assistance.

We know that Nevada faces a skills gap. By 2020, 60 percent of jobs in Nevada will require some sort of postsecondary degree or certificate, but less than a four-year degree. These are considered middle-skill jobs. This demand for middle-skill jobs is troubling, given that Nevada currently has low rates of educational attainment. Only 31 percent of adults between the ages of 25 and 64 have an Associate degree, compared to the national average of 40 percent.

We found that there is potential demand and a real need for a Promise Scholarship, given the demands of a new Nevada economy. As Senator Denis

stated, this program is as much about workforce development as it is education, and it aligns with Governor Sandoval's historic investments in K-12 education.

After identifying the need, we then evaluated the impact of similar Promise programs around the Country to determine whether there is a real return on investment. Promise programs were originally launched to address the issue of rising college costs and rising student loan debt held by many students.

There is evidence that Promise programs around the country have been successful addressing the issue of college affordability. As was intended, states have seen a decrease in student loan debt. In Tennessee, there was a 17 percent decrease. Additionally, Promise programs have had an impact beyond addressing the issue of college affordability.

As Senator Denis also mentioned, FAFSA filings have increased. This is good news since we know we left $19 million in federal Pell Grants on the table in 2014-2015. Retention rates have increased—in Oregon they are as high as 82 percent. The number of first-time freshmen have increased, as have the GPAs of students. There has also been an increase in individuals earning postsecondary credentials within six years of high school graduation. Based on our research, that is something we need to work on in Nevada. Finally, some states have reported higher graduation rates and lower dropout rates.

After looking at the return on investment in other states, we asked what would a Promise Scholarship program cost? We estimated the cost to be $3.6 million over the biennium. We used the average Pell Grant award of $3,340 in our analysis. The model is driven by the Pell Grant that students receive. That is why it is critical that submission of the FAFSA becomes a requirement of the Promise Scholarship.

For all these reasons, we believe S.B. 391 brings an important tool to meet Nevada's needs.

SENATOR KIECKHEFER:
Can you clarify the narrow definition of "gift aid" in Proposed Amendment 4492 to S.B. 391 (Exhibit P), given that it is a critical component if this is a last-dollar program? I am concerned because the Millennium Scholarship, SSOG and Pell Grants can all be used for purposes beyond mandatory fees. I think there is some conflict in that. If those other means of financial assistance are read to be

"not gift aid" that will drive up the cost of the Promise Scholarship program exponentially.

If you intend for those types of assistance to be "gift aid" and deducted from the total award, then I think the statute requires some clarification.

SENATOR DENIS:
The Promise Scholarship is in addition to other assistance, but can only be used for fees and tuition.

SENATOR KIECKHEFER:
I understand that, but the other types of assistance can be used for other purposes. I think the language should be clarified.

I also am concerned with the timing and sequencing of the process. The bill says applications would be due from high school seniors by November. Those students are in the middle of their first semester and it may be unrealistic to expect them to be thinking that far ahead. I wonder if we are weeding people out too quickly. I am curious how the timeline relates to registration history for community colleges. My assumption is that a lot of community college registrants end up doing so pretty close to the registration deadline. I worry that meeting the deadlines for applications, mentoring, FAFSA and community service is not a reasonable expectation for a high school senior.

SENATOR DENIS:
There are representatives from community colleges here who can probably address the time-frame issue and the language of "gift aid."

SENATOR KIECKHEFER:
If there is inadequate funding, I know that a lot of the prioritization is determined by regulation set by the Office of the Treasurer. There is a July 1 date for all of the colleges to send to the Treasurer the number of students whose application have been approved and deemed fundable. If there is a shortfall, it says the Treasurer will notify the board of trustees in each school district, who will then notify pupils who are on schedule to graduate. However, everyone who is enrolling at the community colleges would have already graduated high school by July. It seems that the students have, theoretically, already enrolled in community college before they are notified of inadequate funding of the Promise Scholarship.

SENATOR DENIS:
That issue has only recently been raised, and I have some more work to do to respond to that. I need to clarify with legal on the insufficient funding portion of the bill.

SENATOR KIECKHEFER:
What is the amount you anticipate would be needed to fund the program in the next biennium?

SENATOR DENIS:
The request is for $5 million, which would help 3,000 students in the first year and up to 10,000 in the second. The first year is mostly ramp-up because the colleges still have to put certain pieces in place, such as the mentoring. In her analysis, Dr. Brune mentioned that it would take $3.7 million based on the average Pell Grant award.

MICHAEL D. RICHARDS (President, College of Southern Nevada):
Senate Bill 391 is a tremendous step forward for the State of Nevada. It follows a model that is working in about 140 other locations in the Country.

The College of Southern Nevada has an obligation to try to help Nevada close the education and skills-attainment gap. It is a significant gap that impacts our workforce and the ability of our citizenry to contribute to our society and communities. This program complements the SSOG and Millennium programs in such a way that the attainment gap closes.

I would point out that CSN has a relationship with the Clark County School District (CCSD) that is unparalleled in the State. It is a relationship that advances a positive partnership and CCSD also wants to see this attainment gap close and greater opportunities for college and careers among their graduates and even among their dropouts. We are working with them in multiple ways to achieve that. They have an excellent mentoring program in place that provides a pattern for the Promise Scholarship. We think we can build on that program in a way that complements the Promise program.

Most of us in higher education are sensitive to the fact that students are graduating with too much debt. This program is an opportunity for students to earn an associate degree in a program and graduate with less debt. Across the

Nation, Promise programs have demonstrated ability to graduate students with less indebtedness as they move into society. We want to advance that.

K.C. BREKKEN (Executive Director, Public and Government Affairs, College of Southern Nevada):
In regard to the definition of "gift aid", we have been in talks with Senator Denis' staff to amend that to a definition that means any public or private grant or scholarship received by a student. This would be largely based on the Tennessee language.

In regard to the timeline established, the milestones in S.B. 391 mirror the Tennessee language. Under normal circumstances, a high school graduate would be able to enroll in a community college when open enrollment for fall occurs in the late spring. Tennessee experienced a 25 percent increase in the number of recent high school graduates enrolling and attending community college in the first year. The program is designed to incentivize healthy academic behaviors in the senior year. The hope is Nevada seniors would be able to keep up. That is the basis of the two community college meetings they are required to go to—one in each semester of their senior year. Those meetings help explain the requirements. The mentors will also help students comply with the deadline dates.

In the case of inadequate funds, the bill leaves it ambiguous to allow the Office of the Treasurer to determine the process so that it is uniform across all four community colleges. It is understood that the notification needs to happen as early as possible so the applicants can determine a way forward.

SENATOR KIECKHEFER:
Do you have an estimate of how many students would attend CSN with help from the Promise Scholarship?

MS. BREKKEN:
We looked at the most recent graduating class of 2016 and applied all the parameters, with the exception of the FAFSA, and we found approximately 1,300 students entering CSN would have been eligible for the Nevada Promise Scholarship.

SENATOR KIECKHEFER:
The idea is to try to change behavior and get that number to grow, right? Hopefully students will increase from 9 to 12 credit hours and other criteria. How many mentors would you have to have to serve those students?

MS. BREKKEN:
The legislation requires no more than a 1-to-10 ratio, so we would be have to be creative in how we apply this. We do not expect every mentor who volunteers for this process to take on ten students. We can use creative technologies to do video-mentoring as the program evolves. We will likely need 300 to 800 mentors. It will be a steep recruitment curve.

SENATOR KIECKHEFER:
Mentors will be unpaid. Is that a concern?

MS. BREKKEN:
We will try to create a mentor pipeline, through our relationship with CCSD and through public service announcements. In Tennessee, they found the majority of the volunteer mentors came from the school district and the college itself, as well as local businesses.

CHAIR WOODHOUSE:
Is there anyone wishing to voice support for S.B. 391?

CONSTANCE BROOKS (Vice Chancellor, Government and Community Affairs, Nevada System of Higher Education):
We are in support of S.B. 391. Putting students first is our primary policy driver and this bill does just that. This scholarship program is aligned with our attainment goals. We are in support of any funding opportunities that could be beneficial to our students.

CRYSTAL ABBA (Vice Chancellor, Academic and Students Affairs, Nevada System of Higher Education):
Our cost estimate for S.B. 391 is $6.8 million (Exhibit O). It is based on the definition of providing a last-dollar scholarship based on already distributed public and State aid. Currently, the definition in the Tennessee annotated code of "gift aid" is "financial aid received from the federal Pell Grant and Tennessee public programs." The proposal from Senator Denis defines "gift aid" as any public or private grant or scholarship. I want the Committee to understand that

when you include private scholarships you would include any funds the student receives from organizations like the Rotary Club. This is different from the way the Tennessee program works right now.

Our estimate was calculated using student record level data from the Department of Education (NDE) for the class of 2014. That gave us an accurate picture of the aid, both State and federal, that students received. It includes the Millennium but not the SSOG. Most SSOG recipients had a zero expected family contribution (EFC), so they received the maximum Pell Grant award of $5,730. That means they would not, under the provisions of this program, receive a Promise Scholarship.

In our estimate, we made certain assumptions based on a change in behavior. Because the program requires 12 credits for eligibility, we assumed that students that took 9 credits when they entered in 2014 would reasonably take another course so they could be eligible. We were not able to account for how many students would achieve the November 1 deadline for applying to the institution, so our estimate assumed we would provide dollars to all students who were eligible. I would think the Legislature does not want to create a false promise—one where you do not have enough money to fund the scholarships.

What happens if a student complies with all the requirements and then it turns out there is not enough money? That is the risk that we are greatly concerned about. In general, we strongly support any program that promotes access, however, you want to make sure you do have the funding to appropriately support that program.

SENATOR KIECKHEFER:
I want to make sure it is clear how the scholarship is calculated. The definition of "gift aid" is going to determine that. If we go on the assumption that it is any financial aid you receive, public or private, a student with zero EFC would receive a Pell Grant that would more than cover tuition and fees at a community college, correct? Would that make you ineligible for the Promise Scholarship?

MS. ABBA:
That is correct. The maximum Pell Grant award for the current school year is $5,815. The tuition and fees for a student attending CSN with 24 credits for the year would be about $2,700. The poorest students with a zero EFC would not receive a Promise Scholarship.

SENATOR KIECKHEFER:
The Millenium Scholarship does not pay total costs. If a student does not receive any Pell Grant but does receive a Millennium Scholarship, would they receive a prorated share of the Promise Scholarship?

MS. ABBA:
That is correct. In our cost estimate, we accounted for that. For example, a student who receives only the Millennium scholarship of $960, would receive a Promise Scholarship of $1,758, assuming a 24-credit year and an income level where they receive no federal aid.

SENATOR KIECKHEFER:
Then, to receive the maximum Promise Scholarship you would receive no gift aid at all?

MS. ABBA:
That is correct. That student would be more affluent and would have received no merit aid, as well.

SENATOR KIECKHEFER:
Would the maximum award be the total cost of tuition and fees at a given institution?

MS. ABBA:
My reading of the bill is it would include the mandatory fees such as the technology fee and facilities fee, if there is one. At GBC, with a base tuition of $98.75 and a technology fee of $5.50 per credit, the cost that would be covered would be $104.25 per credit.

SENATOR KIECKHEFER:
Does the Promise Scholarship cover only 12 credits, or does it cover a minimum of 12 credits?

MS. ABBA:
The minimum for eligibility is 12 credits, but my understanding is that the Promise Scholarship would pay for everything over 12 as well. Otherwise, it is not free.

KYLE DALPE, PH.D. (Interim Dean, Technical Sciences, Truckee Meadows Community College):
The Promise Scholarship stipulates a minimum of 12 credits, and there is no maximum.

We offer our support for S.B. 391. This bill will do much for Nevada's workforce development. In Washoe County, about one-third of high school graduates do not pursue postsecondary education, and we hope this funding would get them into a program. The hope is that five or ten years down the road, these individuals actually have careers and are not, at that point, looking to come back to school to get better jobs.

The workforce development we need, as you have heard, is heavily focused on less than a four-year but more than high school, and that is exactly what we do at TMCC.

SHARON WURM (Director, Financial Aid, TMCC):
We are excited about the opportunity for more students to go to college and to entice them to apply for financial aid. We had a FAFSA completion contest with our high school counselors this year, and it really helped increase the number of FAFSAs that were filed. We do have a lot of work to do between now and November 1. We do not have the luxury of having a great mentor program at the district level, but we are ready to get started building one. We see the opportunity for second-year students to mentor first-year students as part of their community service requirement.

We also have some concern about the definition of "gift aid." Many private scholarships are received after we would determine eligibility for the Promise Scholarship, even after the fall school year has begun. We need clarification on that. Can the student keep the Promise Scholarship funding or would it be withdrawn?

TIFFANY TYLER (Chief Executive Officer, Communities in Schools of Nevada):
I am here in full support of S.B. 391. We are an affiliate of the Nation's largest dropout prevention organization. Each year we aid students in graduating from high school, often by addressing basic needs like food, clothing and school supplies. Of the students we helped graduate last year, 77 percent went on to college. I am here to underscore the vital importance of this type of investment.

Many of our students would not be successful without additional, caring adults in their lives. This bill recognizes the vital role of mentorship in helping our students make the transition to higher education. It also recognizes that something magical does not happen over the summer. If a student has needed additional support to get through high school, having the guidance of a mentor as they transition into college is invaluable. This bill will help ensure that more students not only enroll in college, but will stay in and complete their credentialing. This is critical to filling the credential gap that we have heard discussed today.

RENE CANTU (Executive Director, Jobs for America's Graduates Nevada):
It is a privilege to testify before this Committee in support of S.B. 391. Jobs for America's Graduates (JAG) Nevada, like this bill, is a workforce development tool. We work with young people who are most at risk of dropping out, who are most disengaged from school. This bill will help these at-risk students to connect with community college and get on a path to middle-skill jobs, which will be required by 60 percent of the jobs in 2020.

This bill promotes college access and affordability for our kids. It links together with our follow up program to promote retention in college. Our JAG specialists can serve as mentors for the kids in the JAG program as they go to community colleges across the State.

This scholarship will lift individuals and families out of poverty. What we try to do is change families and trajectories. We attempt to enhance their ability to make a living wage and better their lives. The return on investment will include more tax revenue, less demand on social service programs and a better-educated, Nevada-grown workforce for employers. I have been pained to see that as the economy recovered many jobs in Nevada were taken by people moving here from elsewhere. I would like to see more Nevada kids taking these jobs. The affordability measure through the Promise Scholarship is absolutely essential. We are ready to work hand-in-hand with the community colleges and other nonprofits to make sure more young people can enter the workforce ready to take on those high-demand jobs.

RANDY ROBISON (College of Southern Nevada Institutional Advisory Council):
At our most recent meeting, the Council voted unanimously to support this bill. I want to point out that as the Council followed the progress of Promise Scholarships, there was a lot of discussion as to what the program is and, as

importantly, what it is not. We particularly focused on the idea that it means free community college. That is not the case. As Senator Denis mentioned, this is a last-dollar scholarship program. It is designed that way to incentivize students to start thinking about and preparing for college earlier in their high school careers. This is one more tool to help them have the opportunity to attend college.

As regards the mentorship component of this bill, I work for a private company that has a volunteer resource team that has been involved in mentoring programs at both the elementary and high school levels. In talking with our group internally, this program generated tremendous enthusiasm for translating their mentoring skills into the college environment.

CHAIR WOODHOUSE:
Is there anyone wishing to testify in opposition to S.B. 391? Seeing no one, is there anyone wishing to testify in neutral?

BUDD MILAZZO (Senior Deputy Treasurer, Office of the State Treasurer):
We support this bill, but are concerned about section 16 as it applies to the disbursement of funds should there be insufficient money in the account.

The current version of the bill stipulates that the Treasurer shall adopt regulations prescribing the manner in which money in the account shall be disbursed. Generally, when the Treasurer's Office is given an administrative task we are executing predetermined methodology from the Legislature as to the fiscal services. We do not make the policy, we just administer the program. We have presented a conceptual amendment (Exhibit R), which would revert to the original language of the bill in this section and have the Legislature decide the proper methodology for handling a shortage of funding.

KENT ERVIN (Nevada Faculty Alliance):
We are in full support of the idea behind this bill. We support programs that help students go to college. We are testifying neutral because of the fiscal issues before this Committee. State support for higher education has decreased since FY 2006-2007 by 31 percent. The difference has largely come from students, who have experienced a 27 percent increase in real dollars per student over the same period. Faculty and staff have experienced 10 percent lower take-home pay and larger class sizes.

As regards this bill, the potential cost to the State seems to be up for discussion. Today we have heard a $6.8 million figure. We are concerned about underfunding a program like this, when SSOGs are already underfunded. We believe that the core programs of the NSHE system need to be funded before taking on new programs.

SENATOR DENIS:
We have been working on the definition of "gift aid" and I do agree it needs clarifying. We have two methodologies for funding in the event of a shortage, and we definitely need to settle on one. As regards the timeline, the community colleges feel they can do this based on historical data, and they are enthusiastically on board. In the policy committee we heard from students who said they previously did not consider college, feeling they could not afford it. This bill is a promise and commitment to them.

If it does nothing else but cause more students to apply for financial aid, that would bring federal dollars that we have been missing. But I think the bill will do more than that. The mentorship component has been missing from some of the policies we enact, and having that in place provides a level of support that many of these kids will benefit from.

KEN EVANS (President, Urban Chamber of Commerce):
We support S.B. 391. We support the scholarship aspect of the program and we stand ready to get our business community engaged in the mentoring component of the Promise Scholarship.

CHAIR WOODHOUSE:
Seeing no further comment, we will close the hearing on S.B. 391. We are going to the work session now, and we will start with S.B. 427.

SENATE BILL 427 (1st Reprint): Revises provisions governing the crew of certain freight trains. (BDR 58-1014)

ALEX HAARTZ (Principal Deputy Fiscal Analyst):
Senate Bill 427, heard in Committee on May 2, requires any Class I freight railroad, Class I railroad or Class II railroad for transporting freight which operates a train or locomotive in this State, and any officer of such a railroad, to ensure that the train or locomotive contains a crew of not less than two persons, with certain exceptions. The bill also establishes a civil penalty be

imposed upon a railroad or an officer of a railroad who violates the provisions of S.B. 427. It also repeals section 705.390 of the *Nevada Revised Statutes* (NRS).

There was a fiscal impact identified on the bill. The Public Utilities Commission (PUC) submitted a fiscal note indicating $180,171 over the biennium for the cost of one new classified position and associated operating costs. Subsequently, on May 15, the PUC submitted written follow-up to Fiscal staff indicating that the costs could be funded from operating reserves and assessments contingent upon approval by the Interim Finance Committee.

The bill was presented by Matthew Parker (Exhibit S) from the Brotherhood of Locomotive Engineers and Trainmen. Testimony in support of the bill was provided by various members of the International Association of Sheet Metal, Air, Rail, and Transportation Workers (Exhibit T), Teamsters, Ironworkers and State AFL-CIO. There was testimony in opposition to the bill by the Union Pacific Railroad. There was no testimony offered in neutral. There are no amendments on the bill, and the bill would become effective October 1, 2017.

SENATOR FORD MOVED TO DO PASS S. B. 427.

SENATOR PARKS SECONDED THE MOTION.

SENATOR GOICOECHEA:
I continue to be concerned about this bill. We dealt with a similar issue a few sessions ago. My concern is that we are putting in State law what is not in federal regulations at this point. That could pose a conflict for trains that, for obvious reasons, cross state borders. I also think it will pose a far bigger burden to the PUC than has been indicated. I will oppose the bill at this time and hope the federal government changes regulation.

THE MOTION CARRIED. (SENATORS GOICOECHEA, HARRIS AND KIECKHEFER VOTED NO.)

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MARK KRMPOTIC (Senate Fiscal Analyst):
Senate Bill 522 was heard recently and provides a supplemental appropriation to the Distributive School Account (DSA). The supplemental appropriation provides

for shortfalls relating to enrollment, local school support tax and sales tax. There were some offsets relating to other sources of funding and property tax.

SENATE BILL 522: Makes a supplemental appropriation to the State Distributive School Account for a shortfall resulting from an unanticipated increase in K-12 enrollment for the 2015-2016 and 2016-2017 school years. (BDR S-1175)

The NDE has submitted a conceptual amendment (Exhibit U) to revise the amount of the supplemental appropriation from what was recommended in the *Executive Budget* of $22,217,169 to $62,811,142. Staff has reviewed the shortfall and various revenue elements that are earmarked for the DSA, looked at the projections for those elements and would suggest a supplemental appropriation amount revised to $62,194,642. That takes into consideration some recent information that Staff received regarding the transfer at the end of this fiscal year from the Medical Marijuana Program with the DHHS' Division of Public and Behavioral Health.

SENATOR KIECKHEFER MOVED TO AMEND AND DO PASS SENATE BILL 522.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WOODHOUSE:
The rest of the bills on today's agenda will be heard this afternoon. Is there anyone wishing to make public comment? Seeing no one, this meeting is in recess as of 10:22 a.m.

I call this meeting back to order at 2:56 p.m. and open the hearing on S.B. 392.

SENATE BILL 392 (1st Reprint): Revises provisions relating to energy. (BDR 58-663)

SENATOR MOISES DENIS (Senatorial District No. 2):
Senate Bill 392 allows for the development of community solar gardens. I will introduce the need for this bill and explain why I think it is critical that Nevada encourages the development of community solar gardens.

Nevada is blessed to have access to numerous sources of renewable energy, including geothermal and solar. We are proud of our history of supporting policies and encouraging the development of renewable energy. Included in those policies is the ability of homeowners and businesses to directly participate in the solar economy by placing solar panels on their roofs, connecting with the electric grid and receiving a reasonable credit on their utility bill for the power the panels produce to offset their energy needs.

Unfortunately, there is a segment of the population that has been excluded from the opportunity to directly participate in the solar economy. I have heard from many constituents who cannot participate for various reasons—maybe they rent, live in a condo or townhome with a shared roof, the roof is unable to support solar panels or is in the shade. While more than 30,000 homeowners in Nevada have been able to install solar panels, there are many more who would like to but cannot.

During the Interim, I had the opportunity to speak to many people about solar power and learn about the concept of community solar gardens. This concept provides the opportunity for people to directly participate in the solar economy despite the obstacles I already mentioned.

Community solar gardens are off-site solar systems, where multiple customers participate through subscriptions and receive a credit on their utility bill for the energy that their solar array provides to the grid. Since 2010, 14 states and the District of Columbia have passed legislation specifically allowing for community solar facilities. It is time for us to do this in Nevada, and expand the opportunity to all Nevadans to participate in the solar economy.

Finally, S.B. 392 has another critical component to ensure that community solar gardens provide access to all Nevadans. The bill includes provisions that the PUC require at least 10 percent of the program to be available for use by low-income customers and low-income service organizations. This provision is critical to expanding access to many of my constituents, who are not only

renters but also low-income individuals who seek the same opportunity as rooftop customers.

I have submitted a conceptual amendment (Exhibit V) that reduces the maximum project size from 15 megawatts to 12 megawatts. The original bill directed the PUC to develop the rate charge, producing a fiscal note for them to do a rate study and hold hearings. To address the fiscal note, the conceptual amendment directs the PUC to allow utilities to place a charge on each kilowatt hour equal to the net metering adjustment charge for excess energy as is being considered this Session for rooftop solar.

Lastly, the amendment places certain consumer protection and disclosure requirements that mirrors the structure for rooftop systems. This language outlines specific requirements for the written agreements between community solar subscriber organizations and subscribers.

CHAIR WOODHOUSE:
The PUC has put a fiscal note on the bill, estimating costs of $713,528 for the biennium. Is that removed now?

SENATOR DENIS:
Yes, the conceptual amendment would remove that note.

SENATOR GOICOECHEA:
Does a solar garden allow for people who do not have the ability to have their own rooftop solar to buy a piece of a solar garden? Would they have to purchase a piece of it, like a stockholder?

SENATOR DENIS:
That is correct. It would operate like a cooperative. Usually there is some kind of an anchor tenant as well, such as a business or nonprofit. A garden cannot be all businesses, the bill requires some portion of it be individual subscribers from the community.

SENATOR GOICOECHEA:
The largest solar garden project can be 12 megawatts, correct?

SENATOR DENIS:
That is correct.

JESSICA SCOTT (Regional Director, Interior West, Vote Solar):
Vote Solar is a nonprofit organization. The traditional approach of solar panels on your roof simply does not work for most Nevadans. A report from the National Renewable Energy Laboratory found that 73 to 78 percent of homes cannot host solar on their roof due to tree-shading, orientation or other factors. As of 2015, Nevada had nearly 500,000 renters that do not have the option to install solar panels on their rooftops. Community solar addresses these barriers by allowing consumers to subscribe to a local, clean-energy project and receive credit directly on their utility bill for the portion of energy that is produced from that project.

Nevada law currently prohibits community solar gardens, and as a result, the majority of residents are excluded in the clean-energy economy. Low-income families are more likely to face the barriers to rooftop solar. Allowing for community solar fills a critical access gap, while strengthening the mid-size solar sector. A community solar project, which is sometimes called shared solar or solar garden, would be owned and operated by a subscriber organization made up of ten or more customers of a utility. The solar garden must be located in that utility's service area. The power is fed into the grid, and subscribers receive a credit for what is produced. The credit lowers the subscribers' energy bills, allowing them to gain the benefits of solar energy without having to tie it directly to their property. The subscriber organization also owns any renewable portfolio credits generated by the project. Community solar expands access to anyone and everyone who wants solar energy. By participating in community solar, someone unable to install solar at home can now take advantage of its benefits.

Community solar works by allowing multiple individuals, groups or businesses to own a portion or subscribe to the output of a solar facility located offsite. A group of residents, businesses, churches or community groups would have the freedom to come together, develop a mid-size solar array and participate in the clean-energy economy. Community solar has grown exponentially in the last 6 years, from a handful of projects installed prior to 2010, to more than 111 projects across 26 states in 77 utility service territories at the start of 2016.

The no-roof-needed policy provides expanded energy choices for all Nevadans, particularly low-income communities, renters and those whose property is unsuitable for traditional rooftop solar. In addition, it is mobile, allowing

customers, as they move within a utility's service area, to continue participating in the project. The subscription can also be sold or transferred to someone else. Community solar provides long-term financial relief and stability to families struggling with high and unpredictable energy costs.

I would also point out that community solar is different than green tariff programs, in that customers are not paying a premium or additional charge, but instead getting the benefit of that low-cost clean energy.

SENATOR KIECKHEFER:
Who finances the installation of the solar garden?

JUSTIN WILSON (Coalition for Community Solar Access):
Most of the projects in other states are financed by third-party developers. That is private financing. In some instances, nonprofits can also finance these solar arrays.

SENATOR KIECKHEFER:
Would an existing company such as Solar City go into a neighborhood and try to solicit people to buy into a community solar garden? Help me understand how all the pieces fit together.

MR. WILSON:
The PUC will develop some rules for how projects interconnect to the system and other rules that will set up the structure. Senate Bill 392 prescribes some of those program elements and leaves others to the PUC to develop with more policy nuance with regard to Nevada's unique energy history. A private company or a nonprofit can then build a facility, connect to the grid and sign up residential customers. The bill requires them to have at least 40 percent small customers. They can also sign up businesses as larger customers to provide long-term security for a portion of the facility. They can solicit subscribers in any number of different ways.

SENATOR KIECKHEFER:
If the private developer makes money by selling the power to the utility company, who provides the rebate to the subscriber?

MR. WILSON:
The project itself provides energy to the grid. The utility company does not pay for the energy. The utility then provides a credit to the customer's bill, defined by section 12 of our conceptual amendment. The subscriber, who is receiving that credit on their utility bill, will be paying a subscription cost to the developer. That cost could be paid monthly or in a lump sum.

SENATOR GOICOECHEA:
If you can have up to 1,000 customers who have bought a piece of this solar garden and receive a credit on their utility bill, will the utility company have vastly increased costs to account for the billing adjustments they will have to make? It seems like it could be a bookkeeping nightmare.

MR. WILSON:
To clarify, the size of these projects means it would be unlikely that there would be 1,000 customers for a solar garden. The utility already has mechanisms through which they are providing credits to utility ratepayers through their rooftop net-metering system. In some respects, a solar garden could be simpler because there is one point of contact from the community solar garden transmitting the data to the utility company. It is working in other states. It does integrate into the utility system, but it is not a challenge that cannot be overcome.

SENATOR GOICOECHEA:
How would the utility company know the percentage of a particular community solar garden that a particular individual owns? It seems like someone would have to keep a lot of books, and it would happen every month. I am surprised there was no fiscal note from the utility.

Could this affect some of the rural co-ops who may not have a mechanism for that sort of accounting?

MR. WILSON:
The accounting system used by utilities in most states is all electronic and being constantly calculated and transmitted on a timely basis determined by the PUC. The books, in this sense, are electronic.

SENATOR DENIS:
I believe in Pahrump they are already erecting a solar garden, so the rurals are already dealing with this.

SENATOR GOICOECHEA:
I understand that Valley Electric is very supportive of this. Some of the other, more rural areas, may not be prepared to deal with the accounting. Additionally, I believe you said the shares can be bought and sold, which I imagine would add further complications.

MS. SCOTT:
If you move within a utility service territory, you can keep the ownership share.

According to Hank James of the Nevada Rural Electric Association, Lincoln County Power District No. 1 has an active community solar project. Some of the rural areas are ahead of the game on this issue.

SENATOR HARRIS:
Can you walk me through how it works for low-income individuals who want to participate? Are they required to buy in to become a subscriber and hope that the credit is more than the cost of the subscription?

MR. WILSON:
Some of the particulars will be contingent on the rules that the PUC develops. The bill states that, program-wide, 10 percent of subscriptions should service low-income individuals or service organizations.

SENATOR HARRIS:
Would the low-income participants have to be subscribers, or can it go for low-income families in general?

MS. SCOTT:
The low-income component in the bill language states that not more than $1 million per year from the existing renewable generations fund will be dedicated to low-income participation. Low-income customers would be subscribers in the solar garden, just like any other customer, but then this pot of money would be available to help offset the cost of participation.

SENATOR HARRIS:
Would they get some kind of rebate or match to participate with regard to the subscriber fee?

MS. SCOTT:
When this goes to rule-making but before it gets to the PUC, we can define the exact mechanism, but it is meant to be an incentive to allow low-income participation.

SENATOR KIECKHEFER:
Would the monetary credit be net of cost, like it is with net-metering?

MR. WILSON:
In section 12, subsections 1 and 2 build on each other. Subsection 1 establishes the core principle that a kilowatt-hour produced by a community solar garden is essentially a kilowatt-hour for that customer. Subsection 2 allows the utility to assess an adjustment charge for the use of the transmission system. In essence, the community solar gardens are paying the utility for the use of the transmission system. It acts as a reducer, and for that reason, it may be easier for the utility to provide it as a monetary credit. That is why we give them the option to decide.

SENATOR KIECKHEFER:
Does the reducer have to be the same as for the net-metering rules?

MR. WILSON:
It does for the access energy and net-metering law.

SENATOR KIECKHEFER:
Are they fundamentally the same thing?

MR. WILSON:
The community solar garden is connected to the distribution grid. It is difficult to unbundle that. The reducer, or adjustment charge, is tied to the net-metering access energy charge. That is only the energy that is fed back to the grid. It does not tie to a direct pipeline the way rooftop systems do.

SENATOR GOICOECHEA:
Typically, our rural co-ops are not regulated by the PUC. It seems to me you might be treading on some sticky ground there.

CHAIR WOODHOUSE:
Is there anyone wishing to testify in support of S.B. 392?

JESSICA FERRATO (Solar Energy Industries Association):
We are here in support of S.B. 392.

TOM POLIKALAS (Southwest Energy Efficiency Project):
I am here on my own behalf, but have worked in electric co-ops for years in Colorado. We installed community solar arrays and found that our members loved them. Co-ops can be among the most technologically sophisticated utilities in the Country. We had smart meters a number of years before the industrial utilities had them. To answer Senator Goicoechea's question, it was a simple matter to monitor the output of the solar array and fractionalize it among subscribers.

I am one of the 72 percent of Nevadans who voted for choice on Question 3. I think community solar is the fastest way you can get choice into our electric system. I live in an apartment in Reno and do not own a roof that I can put my solar array on. I also have an 11-year-old son, and I see one of the great benefits is being able to put community solar arrays on schools so they can be an educational, experiential learning tool.

Finally, I attended the hearing at which retired Vice Admiral Lee Gunn spoke, and he spoke to the benefits of distributive generation as enhancing our national security. That is something we should all be concerned with.

CHAIR WOODHOUSE:
Is there anyone who would like to testify in opposition to S.B. 392?

ERNIE ADLER (International Brotherhood of Electrical Workers Local #1245):
We would like to support this bill, but we have a number of technical problems. The first is the 12 megawatts that are allowed to be generated at a given site. In Minnesota, which has a solar garden bill, the legislature reduced the maximum capacity to one megawatt, with a cluster of five megawatts possible. We believe that 12 megawatts may serve as many as 7,800 customers. That is

not really a garden, it is more of a solar farm. I do not think that is appropriate for this type of legislation. Additionally, the large size reduces the different number of community solar gardens you can have, thus reducing the number of people that can access it.

Another problem is that the bill is supposed to support access for low-income households. Only 10 percent of the load goes to low-income households. If the bill was really trying to help low-income people with their energy bills, the percentage should be closer to 50 percent.

These are big companies that are going to be constructing these gardens. In Minnesota, they tried to cluster up to ten gardens into one unit. The Minnesota PUC had to step in and stop them. I would suggest that the bill be amended to clarify the community solar gardens cannot be clustered, so companies cannot put a bunch of these on 150 acres outside Las Vegas and call it a solar garden.

The bill allows for any entity to do this. In Minnesota, these were large, out-of-state companies erecting these facilities. I imagine they were doing it to make money. A lot of the benefit of selling the high-priced energy to the utility company flows back to the large for-profit companies, not to low-income households, as it should.

Each megawatt requires 2.5 acres of land. A 12 megawatt facility will take up a large amount of space. That is another reason I propose that the maximum size needs to be smaller.

Finally, if Question 3 passes and the utilities are deregulated, are the subscribers still bound to the contract they engaged in? I do not believe they should be.

DANNY THOMPSON (International Brotherhood of Electrical Workers Local #1245 and Local #396):
In Nevada, Question 3 could result in a constitutional amendment that will do away with the monopoly utility. In hearings, NV Energy testified that they will be a wires-only company, and will be repaid for their stranded assets. All of us will own those assets. Question 3 will apply to all of the rural co-ops as well. Finally, NV Energy testified that they will not be the carrier of last resort. If, at that point, you are buying your power from Idaho or Florida, you will have to call them if your power goes out.

I do not think enough thought has been given to the ramifications of Question 3 passing in 2018. At that point, it will be a constitutional amendment, and the Legislature will have to come back and figure out how to undo some of what it has done.

If you allow the solar arrays to be clustered, ten maximum capacity gardens will generate 120 megawatts. That is a utility-grade operation that will be unregulated and operating at will. If a facility has 120 megawatts of solar, it must also have 120 megawatts sitting somewhere, called a "spinning reserve," in case the sun does not shine.

There are a lot more problems associated with community solar gardens than appear on the surface, and we cannot support S.B. 392.

JUDY STOKEY (NV Energy):
I really do not want to be in opposition to this bill. I think the concept and intent is a good one. However, I must mention how much NV Energy has done in solar production. We have 1,000 megawatts running and in the pipeline. We have 225 megawatts of rooftop solar, and we will have more. A bill that originated in this house, S.B. 145, is on its way to the Governor. That is another $1 million per year for 6 years that we will put into low-income community projects.

SENATE BILL 145 (1st Reprint): Revises provisions relating to energy. (BDR 58-54)

Unfortunately, in low-income areas it can be difficult to put projects on residential roofs. That is why we put them in the communities. I have a four-page list of all the solar projects that we have done on schools and on nonprofits.

We have done a lot. We would like to do more. In the current era of energy choice, however, we are reluctant to make further investments. We just do not know what will happen. Those are our concerns, but I would welcome the opportunity to continue working with the bill's sponsor.

SENATOR KIECKHEFER:
Would community solar gardens count towards the renewable portfolio standard requirements?

MS. STOKEY:
I have not had a chance to really examine the amendment, but I believe the renewable energy credits stay with the subscriber, not with the utility.

SENATOR KIECKHEFER:
Is there an industry standard for when a project transitions to a commercial, utility-scale project in terms of size?

MS. STOKEY:
Currently, our net-metering program allows projects up to one megawatt, but a customer can only receive an incentive for half of that.

SENATOR GOICOECHEA:
How do you see the $1 million subsidy working for a community solar garden? Is the subsidy in place for only half the power generation?

MS. STOKEY:
Are you asking about this bill, or the $1 million in S.B. 145?

SENATOR GOICOECHEA:
I am speaking of S.B. 392.

MS. STOKEY:
That $1 million would be in addition to what we already spend. We can give up to $155,000 for certain projects, so it could take multiple projects before we hit the $1 million.

SENATOR GOICOECHEA:
Would the incentive money go to the developer?

MS. STOKEY:
Yes, it would.

RUSTY MCALLISTER (Nevada State AFL-CIO):
We are not against the idea of enhancing the solar industry's production in the State of Nevada. We have been told most of these projects would be for 1,000 people or less, but I have been told that 12 megawatts can power between 7,500 and 8,000 households. The bill says any power above and beyond what

is needed by the subscribers must be purchased by the utility. This could leave all the other rate-payers paying the difference.

We have concerns that this will be another driving force in raising utility rates for the regular ratepayers.

CHAIR WOODHOUSE:
Is there anyone wishing to testify in neutral?

GARRETT WEIR (General Counsel, Public Utilities Commission):
We are taking no position on the bill, but I am happy to answer any questions with regard to the fiscal note.

SENATOR KIECKHEFER:
Based on the amendment that has been presented, do you anticipate any cost to the PUC?

MR. WEIR:
As Senator Denis pointed out, the bulk of the costs associated with our fiscal notes were related to the proceedings surrounding the valuation of the energy. In the absence of having to go through those proceedings, we do not anticipate needing those new positions.

MR. WILSON:
I would like to respond to a few of the issues that were raised. As regards the incentive structure, the bill envisions using $1 million each year specifically to lower the cost for low-income participation. Exactly how that is done is up to the PUC and stakeholders to figure out that process. There are probably a number of different methods. If a household meets a certain threshold for qualification, then an incentive could be provided as an extra reduction in the utility bill. It could go through the developer to ease the administrative burden. There are a number of ways it could be done. It could be figured on a kilowatt-hour of energy produced basis, or on a capacity basis, similar to the rooftop program.

There was concern about aggregation. I would point out that these systems are connected to the distribution level. The distribution level transmission grid is going to limit the ability to aggregate. I would also point out that 12 megawatts

is a maximum project size. I do not know that that would be the average project size.

SENATOR DENIS:
We can work on amending some things if we need to. I appreciate NV Energy describing the different things they have done and are doing to promote solar. The one thing about community solar gardens is that it fills in the missing piece that brings access to renewable energy to those households that did not have it previously. It is not designed solely for low-income households, but at 10 percent of the project that still serves a lot of households.

As far as what will happen after deregulation, that is all future speculation. The need is out there today. I do not believe it should be put off just because something could change in the future. This bill would enable households and businesses to participate in clean energy who previously were excluded from it.

"We have tried to limit the size of the projects—also the total amount is 200 megawatts in the maximum capacity."

CHAIR WOODHOUSE:
We will close the hearing on S.B. 392 and open the hearing on S.B. 438.

SENATE BILL 438 (1st Reprint): Revises provisions relating to time shares. (BDR 10-992)

SENATOR PATRICIA FARLEY (Senatorial District No. 8):
Senate Bill 438 and my Proposed Amendment 4754 (Exhibit W) begin to address the serious concerns expressed by law enforcement concerning time-share marketing representatives, primarily on the Las Vegas Strip. Currently, the State Real Estate Division, in the Department of Business and Industry (B&I), requires time-share marketing representatives to register with the Division. Because of ambiguity in the statute, the Division has very little authority over these entities.

The bill, as it stands now, requires a number of important regulatory measures including fingerprint background checks. However, because the Real Estate Division has limited resources, this bill had a fiscal impact that the State was not prepared to deal with. After working with a number of different stakeholders, my proposed amendment limits the fiscal notes and creates a

foothold for dealing with some of the issues that exist for Metro and the Real Estate Division.

As you will hear today, there are time-share marketing companies that represent more than one developer. The bill and proposed amendment codify that a time-share marketing representative may represent more than one developer, but only if they are tied to a fixed location. Currently, Metro and the Real Estate Division have expressed concern that, in the case of a representative working for more than one developer, it can be difficult to figure out who that representative is working for. Metro has stated the concern is eliminated if the representative is tied to a fixed location, and the representative has registered for each developer they represent.

The proposed amendment eliminates the requirement for fingerprint background checks, as the Real Estate Division was concerned about the financial burden on the State. The bill further adds standards to which a representative must adhere, including that he or she must not make any material representations; make any false promises likely to induce someone to attend a promotional event; engage in any fraudulent, misleading or oppressive sales techniques or tactics; nor fail to disclose his or her purposes to induce a person to attend a promotional event.

The bill and its proposed amendment are an important first step in addressing a serious concern regarding the lack of oversight on these entities.

MIKE DRAPER (Paramount Marketing Consultants):
Paramount Marketing Consultants is one of the largest independent marketing firms for time-shares in the country. They have 370 employees, 200 of which are registered with the State of Nevada. Paramount Marketing requires all their employees to undergo fingerprint background checks before they are employed, even though it is not required by the State.

The discussion of this bill started about a year ago. It is designed to clarify some of the statutes and begin to address some of the concerns that have been voiced about time-share marketing representatives. A year-and-a-half ago or so, the Division of Real Estate engaged in a process to clarify some regulations and promulgate regulations governing time-share marketing representatives. One issue they were looking to address was inconsistencies between State statute

and regulation regarding the ability to represent more than one time-share developer.

My client's business model is to represent multiple developers. There are not many companies that do so. Employees typically work out of kiosks in the casinos, malls or outdoor locations. Employees approach individuals or families to inquire as to their interest in purchasing a time-share. If, in the course of the conversation, the employee discovers that the product they are selling is not the best fit for that particular client, they can refer them to another developer that might be better equipped to accommodate that client's needs. This business model helps ensure customer satisfaction. Because multiple developers are integral to Paramount Marketing's business model, we wanted to clarify statute as it applied to this situation.

In talking to Metro and the Division of Real Estate, there was a lot of concern regarding time-share marketing representatives. The Division felt they had little oversight over companies in this business. This industry is not explicitly addressed in statute in a substantive way. Metro has a lot of stories about these companies on the Strip harassing tourists and locals. The original bill meant to incorporate fingerprint background checks at the very least.

As noted, the Division at this time was not prepared to deal with the fiscal implications of processing these background checks. In removing those requirements and addressing the fiscal notes, we hit upon the amendment before you. In essence, it starts by clarifying that, if you are tied to a fixed location, you can represent more than one developer. The concern expressed by Metro was, that if there is a complaint against a time-share marketing representative, it is hard to figure out which developer that individual is representing. If they are tied to a fixed location, Metro felt that concern was eliminated. The bill also outlines a number of provisions that make it clear what a time-share marketing representative should not be doing, which Senator Farley covered in her introduction.

In short, this bill is not everything that everyone wanted, but it is a good starting place moving forward. It can be enacted quickly and provides the Division of Real Estate and Metro some additional tools to deal with this issue and make sure that we protect tourists and residents alike from unbecoming misconduct.

SENATOR KIECKHEFER:
Does fixed location mean a singular location, or can you have multiple locations within the city?

MR. DRAPER:
It primarily means one location. You can have multiple locations, but you must provide proof of those locations, and that you are working at those locations, to the Division of Real Estate. That would be a rare instance.

SENATOR KIECKHEFER:
Is the idea that you have an office or space, and that you are not out wandering around on the Strip?

MR. DRAPER:
Yes, that is exactly right. When a representative is working inside a casino, for example, the best moderator of their behavior is that landlord. Our resorts do not tolerate unbecoming behavior. The fixed location rule does two things: it prevents people wandering around the Strip and provides a mechanism for Metro to follow up on complaints.

CHAIR WOODHOUSE:
Senator Farley, is it your understanding that, with your amendment, B&I is removing their fiscal note? Do we have anything in writing?

SENATOR FARLEY:
They are removing it and we have a confirming email.

CHAIR WOODHOUSE:
Please leave us the hard copy and forward the email to myself and Mark Krmpotic.

SENATOR FARLEY:
I certainly will.

CHAIR WOODHOUSE:
Is there anyone wishing to testify in support of S.B. 438? Seeing no one, is there anyone wishing to testify in opposition?

CHRISTOPHER JONES (General Counsel, Starpoint Resort Group, Inc.):
Starpoint Resort Group is a developer of time-share offerings on Las Vegas Boulevard at the Jockey Club. The American Resort Development Association (ARDA), the time-share industry trade association, started discussions about a year ago about making some changes to the time-share regulations. These changes had the support of many developers and primarily dealt with electronic filings, modernizing the real estate registration process and the process by which the developer delivered project documents and disclosures to the consumer.

Near the end of that process, Paramount Marketing proposed some additions to that rewrite that had to do with the multiple developer representation of time-share marketing representatives and the fingerprint background checks. Those proposals created a lot of turmoil in the industry. Many developers and marketers did not agree with the new suggestions. Support of that bill from ARDA disappeared, and they decided to wait for the next Legislative Session.

We oppose S.B. 438 as regards the unlicensed marketing company having locations where they can market for more than one developer. Each developer and its broker agree that when they sponsor a time-share representative, they are vouching for that individual's character and qualifications and agree to manage that individual. I do not see how any developer or broker could manage an individual that is selling multiple products out of a kiosk or have any accountability. I believe Metro and the Clark County Commission are opposed to it as well.

ALLEN LICHTENSTEIN (Starpoint Resort Group, Inc.):
There are some constitutional issues with S.B. 438 that nobody is talking about. What we are talking about is time-share representatives who are not sales representatives. Time-share marketing representatives are simply engaging in advertising. That is considered by the courts to be free speech, covered by the First Amendment. The idea that they can be kept from walking up and down the Strip engaging in free speech is unconstitutional. This is a public forum, and they cannot be tied to a kiosk to engage in free speech. The matter becomes even more serious when a specific industry is targeted.

The term used in the bill, fixed location, is also much too vague. A fixed location implies an office with an address. If you have one employer, then that

employer takes responsibility for your behavior or misbehavior. An individual on the Strip representing more than one employer has no oversight.

My more extensive testimony (Exhibit X) is submitted.

DANNY THOMPSON (Starpoint Resort Group, Inc.):
In Exhibit X, there is language requiring a broker to sign a document that certifies with the Real Estate Division that they be responsible for the conduct of their representatives.

CHAIR WOODHOUSE:
Is there anyone wishing to testify in neutral to S.B. 438?

MR. CALLAWAY:
I heard a lot of references to Metro in this discussion. We appreciate Senator Farley bringing this forward, and we support her intent. From a law enforcement perspective, our goal is the safety of our tourists and residents, especially on the Strip. We have had a number of problems with time-share marketing representatives. We have recently had a case where a convicted sex offender was marketing and approaching families on the Strip. We have had complaints of harassment or coercion. There is a concern from a public safety standpoint.

With that being said, Metro is not involved in the business model of the industry. I understand there is variety in the way these companies do business. There is a competition aspect. From a law enforcement standpoint, we do want to be able to readily identify who these individuals are and who they work for in the event of a problem.

SENATOR FARLEY:
To the complaint that the bill is unconstitutional, I have to believe that the Legal Division of the Legislative Counsel Bureau would not write a bill that is open to a constitutional challenge.

Regardless of the business models, a safe environment on the Strip is all I care about.

MR. DRAPER:
To be clear, Metro, the Division of Real Estate and ARDA are all neutral on this bill. Our goal is not to prohibit any business model. Our goal is not to prohibit anyone from walking and advertising along the Strip. Those things are all protected in this bill. The bill imposes restrictions on my client's business model. If our representatives are going to represent multiple developers, they have to be tied to a fixed location. This boils down to the developers—their willingness to work with a marketer who represents other developers. It has been stated that these developers and brokers certify on behalf of the marketing companies that represent them. Our developers are quite comfortable working with us.

If you are a developer and want a marketing company that only represents you, that is available to you. If you want a marketing company that might represent another developer, you would know there are steps in place to protect consumers.

CHAIR WOODHOUSE:
With that we will close the hearing on S.B. 438 and open the hearing on S.B. 402.

SENATE BILL 402 (1st Reprint): Restricts the use of certain disciplinary action on persons in confinement. (BDR 16-1087)

HOLLY WELBORN (American Civil Liberties Union of Nevada):
I am here on behalf of Senator Spearman to present S.B. 402. This bill would abolish the use of solitary confinement in the Nevada prison system for prisoners with serious mental illness unless they pose a serious threat to the general population. It also provides for a due process before an individual can be placed in solitary confinement.

The American Civil Liberties Union (ACLU) of Nevada has been working on this issue for five years. Our report, "Unlocking Solitary Confinement," talks about the horrors that individuals face when they are isolated in solitary confinement in the Nevada Department of Corrections (DOC). There were instances of people spending entire prison sentences in solitary confinement.

As written, the DOC attached a fiscal note of $1.8 million to the bill. Particularly at Ely State Prison, the DOC would have had to reconstruct part of the facility and hire staff to comply with the bill as written. We worked with the DOC and

law enforcement to create a compromise bill. The new director of the DOC, James Dzurenda, is committed to the humane treatment of the prison population and the rehabilitative possibilities of prison. He wants to make sure that people leave better off than when they came in and reduce recidivism.

Proposed Amendment 4935 will remove the fiscal note. Language was added to allow the seriously mentally ill inmate to be subjected to solitary confinement if necessary for the safety of the offender, staff or any other person. That language specifically helps with the types of interventions that are necessary when dealing with the seriously mentally ill population.

We worked closely with the DOC in formulating the portions of the bill that deal with due process. We made sure that inmates had a process to go through before being subjected to solitary confinement. There are additional due process considerations for the seriously mentally ill inmate.

CHAIR WOODHOUSE:
We do not have Proposed Amendment 4935. Without it, we will have to suspend the hearing on S.B. 402 for now and proceed to S. B. 465.

SENATE BILL 465: Authorizes the submission of certain grievances of state employees to an arbitrator. (BDR 23-1042)

KEVIN RANFT (American Federation of State, County and Municipal Employees Local 4041):
Senate Bill 465 provides State of Nevada employees a second option to have their grievance heard. Currently, the only option is to utilize the Employee-Management Committee (EMC) of the Division of Human Resource Management, Department of Administration. State employees have concerns with the current process and have asked for another option.

Senate Bill 465 provides for the option of an arbitrator to hear grievances brought by State employees. The process of arbitration would be done through the Federal Mediation and Conciliation Service (FMCS). As written, the employee and the State agency would split the arbitration cost.

We currently are offering a conceptual amendment (Exhibit Y) that changes the cost sharing process.

CARTER BUNDY (AFSCME International):
As you have heard, the original bill split the cost of arbitration between the aggrieved employee and the State agency. The conceptual amendment before you changes it so the loser bears the cost of arbitration. This is an incentive for each side to go forward with arbitration when they have what they believe to be a strong case. It discourages bringing frivolous cases to arbitration. Hopefully, it minimizes the fiscal note being introduced from any State agency.

MR. RANFT:
I would add that this is not an unusual direction to take for hearing grievances.

CHAIR WOODHOUSE:
Is there anyone wishing to testify in support of S.B. 465?

RICK MCCANN (Nevada Association of Public Safety Officers; Nevada Law Enforcement Coalition):
We are here in support of S.B. 465. I represent State law enforcement officers before the EMC as well as arbitrators. This bill simply gives employees a choice. Either way, a conclusion will be arrived at. Arbitration provides the employee with the opportunity for witness and evidence presentation that is sometimes not available at the EMC.

CHAIR WOODHOUSE:
Does anyone wish to testify in opposition to the bill? Seeing no one, is there anyone wishing to testify in neutral to S.B. 465? Is there anyone to address the fiscal note? The amendment indicates that the party that does not prevail will pay the cost of arbitration.

SHELLY BLOTTER (Deputy Administrator, Division of Human Resource Management, Department of Administration):
Our Agency did submit a fiscal note for this bill. It was calculated by taking an average of the number of grievances filed and assuming about half of those would go to arbitration. Using the average cost of arbitration provided by the FMCS, we arrived at our fiscal note. I realize that now they are saying that the loser will pay the entire amount, but we would still assume we will lose about half the time. Therefore, the cost does not change.

CHAIR WOODHOUSE:
You are saying, then, that the fiscal note is neither reduced nor removed?

MS. BLOTTER:
That is correct.

MR. RANFT:
I would add that this bill encourages State agencies to resolve the grievance at a lower level and prevent it from going to the EMC or to arbitration. We believe it will save the State money.

CHAIR WOODHOUSE:
We will close the hearing on S.B. 465 and open the hearing on S.B. 478.

SENATE BILL 478: Revises provisions relating to certain disciplinary action against state employees. (BDR 23-1043)

MR. RANFT:
Senate Bill 478 provides State employees a fair process when they are placed under an internal administrative investigation and would provide needed documents if an employee chooses to file an appeal in his or her dismissal, demotion or suspension.

As written, S.B. 478 currently provides language for an impartial, fact-finding investigation; advises an employee within 20 days that he or she has allegations pending against them; includes a review of the documents; requires an interview of the accused and any potential witnesses; provides for a copy to be given to the employee of each request for an extension and approval of a request for an extension; and provides copies to the employee of any recordings or interviews.

We have provided a conceptual amendment (Exhibit Z), and I will ask Carter Bundy to walk you through it.

MR. BUNDY:
The primary reason for the conceptual amendment is to address fiscal notes concerns. On page 2, lines 17 through 22, we struck the requirement of an impartial, fact-finding investigation. There are already some investigatory requirements in the *Nevada Administrative Code* and we did not intend to impose any new investigation requirements. That should eliminate any investigatory costs included in the fiscal notes.

We deleted the section on page 3, lines 2 through 11, which added requirements that the employer interview each potential witness. The Division felt that was too broad and might require unnecessary expenditures and longer investigations. It also carried a 20-day notice requirement for allegations, and the Division felt that time frame was too short. We changed the notice requirement to 30 days. It has been our experience that employers can become aware of allegations and conduct long investigations during which time the employee has been completely unaware of such an investigation. One of the best reasons for notifying the employee is so that individuals can access their best recollection of events.

The bill originally had a 90-day window for providing an employee with a copy of each request for an extension and approval of a request for an extension. In talking with the Division, they felt this was something that could be accomplished without necessarily putting it in statute.

The final set of changes we made are found in the middle of page 4 of Exhibit Z, making it clear that the document request is after the conclusion of the internal investigation. We do not want to be burdensome. We listened to management on this issue and changed it so that the employee does get copies of the documents related to the investigation, but not until the investigation is concluded.

SENATOR KIECKHEFER:
I am curious as to how, logistically, section 2 would work. I wonder if notifying an employee of allegations could impede the investigation.

MR. BUNDY:
This does nothing to limit the ability of the employer to conduct the investigation. It only requires that they give notice of an allegation. It puts the employee on notice. If the employee is doing something wrong, it may not be intentional. This gives them the chance to correct that and mitigate the damage. We think it is important that the employee be put on notice about any allegations as soon as possible.

SENATOR KIECKHEFER:
But what about an employee who is intentionally doing something wrong? For example, an employee in Medicaid who is colluding with a provider to bill improperly. An investigation needs to be launched, but notifying the employee

of the allegations would effectively make a subsequent investigation moot at that point.

MR. RANFT:
The intent of this is to give the employee a chance to respond to allegations while their memory is fresh. We are willing to work with the Division to extend that time if necessary. We are trying to raise awareness of the consequences of waiting a long time, a year or more in some cases, to inform the employee of an investigation into their actions. When it comes to allegations of actions that could get them terminated, demoted or suspended—actions that could cost them their livelihood—this is especially important.

CHAIR WOODHOUSE:
Is there anyone wishing to testify in support of S.B. 478?

MR. MCCANN:
We are in favor of S.B. 478. Our purpose, in everything we do, is to promote performance improvement. That should come first, before discipline. If someone is doing something wrong, we want them to be told they are doing something wrong. The employees I represent, law enforcement, may still be working in the field. They need to know if their actions are wrongful.

SENATOR KIECKHEFER:
My point is not about coaching and counseling employees to improve their performance. I worry about alerting employees who are doing things intentionally and for nefarious reasons.

MR. MCCANN:
In the overall scheme of things, the majority of wrongful conduct is not done for nefarious purposes, but out of ignorance.

Page 4 of Exhibit Z, lines 21 through 23, contains language that is already consistent with NRS 289.080, which is the Peace Officers Bill of Rights. This language is not new nor is it an attempt to gain a right that did not exist before. It gives the employee the right to have the information at the conclusion of the investigation.

FRAN ALMARAZ (AFSCME):
I wanted to mention another bill, Assembly Bill 350, in which we were asking for employers to do new employee training. The reason I am bringing that up is that some of our members are being investigated for violations of rules for which they were never properly trained. These bills fit together. We are saying that employees need to be properly trained, and then need to be informed when there has been an allegation of misconduct against them so they can fix the behavior. That is really what we want for our members, that they be good State employees.

ASSEMBLY BILL 350 (2nd Reprint): Revises provisions relating to state employment. (BDR 23-932)

CHAIR WOODHOUSE:
Is there anyone wishing to testify in opposition to the bill? Seeing no one, does anyone wish to testify in neutral to S.B. 478?

There are a number of fiscal notes on this bill. Are there any State agencies that would care to comment?

DEBORAH HARRIS (Deputy Director, Administrative Services, Department of Health and Human Services):
With the proposed amendment I can remove the fiscal notes we placed on S.B. 478. That would include the Divisions of Aging and Disability Services, Child and Family Services, Welfare and Supportive Services and Public and Behavioral Health.

MR. BUNDY:
To further address Senator Kieckhefer's question, it is only after a hard allegation against an employee that they would be required to be notified. The employee would have already had to do something in violation of State personnel rules or a crime. I think once an employee has committed a crime, we want to stop that behavior as quickly as possible.

CHAIR WOODHOUSE:
We will close the hearing on S.B. 478. We have received the proper amendment to S.B. 402, so we will reopen that hearing.

MS. WELBORN:
I believe everyone now has Proposed Amendment 4935 (Exhibit AA). This is a complete manifestation of the compromise achieved between the ACLU of Nevada and the DOC.

Among the changes that were made, the bill mandates a due process procedure before any individual is placed in solitary confinement. It prohibits the use of solitary confinement for seriously mentally ill inmates unless they pose a serious risk to staff or general population.

There is a provision in the bill whereby an individual can ask to be placed in solitary confinement for their own safety. All the provisions are in line with DOC administrative regulations, and that has allowed the Department to remove its fiscal note.

Finally, we struck section 3, subsection 6, because it had the opposite effect of what we were trying to achieve. It required seriously mentally ill inmates to be placed in solitary confinement.

The mix-up in amendments today stemmed from a conflict of provisions between some local police entities. Those sections have been stricken, and we will focus on those issues in the Interim. The real problem did lie in the DOC, and now we are dealing with leadership that is ready to make some serious changes.

SENATOR HARRIS:
Section 3, subsection 1(b), says that a seriously mentally ill offender in solitary confinement must be evaluated at his or her cell by a provider of health care at least once each day. What is involved in such an evaluation?

MS. WELBORN:
I understand that a new medical director has been appointed at the DOC, along with several more mental health care staff. The inmate would receive an evaluation to assess if that person is stabilized enough to rejoin the general population. The assessment would also cover medication needs, with the ultimate goal being return to the general population.

SENATOR HARRIS:
Is that different from the ongoing medical care that I would expect that individual to be receiving? An inmate gets his due process and is determined to need to be in solitary confinement. It would seem that the bill's requirement for a daily evaluation is something different than the regular, ongoing care.

MS. WELBORN:
My understanding is that it is separate only in the number of times that the individual is seen. The rationale behind that is that isolation exacerbates mental illness.

SENATOR HARRIS:
I do not doubt it is probably good policy to check on someone with serious mental illness many times a day. What I am trying to establish is what sort of daily evaluation the bill is calling for. I do not see that "evaluation" or "evaluated" are defined in the bill.

MS. WELBORN:
I do not have an exact answer to that. We can find out what protocol the DOC follows. When an inmate enters solitary, they are required to have a mental health evaluation at the outset. Other individuals who have been identified with serious mental illness and are deemed to present a danger to the general population will need to have a special type of care.

SENATOR HARRIS:
Do those that self-select into solitary confinement get the benefit of a daily evaluation in addition to regular checks, or is that only for those placed into solitary confinement against their will?

MS. WELBORN:
The intent is that any person placed in solitary confinement would get the mental health evaluation.

SENATOR KIECKHEFER:
The due process exists for an individual placed in solitary confinement for mental health reasons. Provisions recognize that an offender with a serious mental illness may pose a danger to the safety of staff or others. Is there still the ability for the DOC to recognize that an offender who is not mentally ill may

be a danger to staff or others and use solitary confinement as a way to protect other people?

MS. WELBORN:
Yes. Section 3, subsection 1, paragraph (a) applies to any offender in the system. Offenders found guilty of an infraction may be placed in solitary confinement.

SENATOR KIECKHEFER:
What if it is not disciplinary, but preventative?

MS. WELBORN:
If an inmate is thought to be dangerous but has not committed an infraction, they are entitled to the due process procedures laid out in this bill.

SENATOR KIECKHEFER:
How long would that process take?

MS. WELBORN:
The process can take up to 15 days as laid out in section 3, subsection 3. During that time the offender is removed from the general population.

SENATOR PARKS:
Is there a distinction between solitary confinement and administrative segregation?

MS. WELBORN:
Essentially, in administrative segregation, an inmate is confined for the majority of the day in their cell. Administrative segregation is done for reasons outside of discipline, such as being HIV positive or transgender. We are working with the DOC on these issues. Administrative segregation also includes individuals who opt in to isolation or individuals who are part of a gang community and need to be isolated for their own safety. Disciplinary segregation is when an infraction is committed, and segregation is a form of punishment.

SENATOR PARKS:
The reason I ask is that a former inmate told me he opted for administrative segregation after receiving his notice that he would be paroled and other

inmates threatened his safety. That is separate from what we are talking about here, correct?

MS. WELBORN:
Yes, that is a separate type of voluntary isolation.

SENATOR GOICOECHEA:
There are 24 maximum security solitary cells at the Ely State Prison. Will all those inmates be evaluated every day by a health care provider?

MS. WELBORN:
I need to clarify that the daily check-in is for individuals with a serious mental illness who have committed an infraction. All inmates at Ely State Prison are checked hourly by prison guards, but this is a different type of evaluation aimed at detecting suicidal tendencies or other issues.

SENATOR GOICOECHEA:
I am glad to hear that inmates undergoing the due process will be confined while the process is ongoing.

CHAIR WOODHOUSE:
Is there anyone wishing to testify in support of S.B. 402?

ROBERT ROSHAK (Nevada Sheriffs' and Chiefs' Association):
We are in support of S.B. 402 after seeing the Proposed Amendment 4935, because it removed the local agencies to be studied further, rather than trying to paint everyone in the State with a broad brush.

CHAIR WOODHOUSE:
Is there anyone wishing to testify in opposition or neutral? Seeing no one, is there anyone to address the fiscal note?

JAMES DZURENDA (Director, Department of Corrections):
With the new language in the amendment, we have removed the fiscal note. With the language of the bill and our new administrative regulations that correspond to the bill, we will actually save money down the road because it will reduce the numbers in segregation.

CHAIR WOODHOUSE:
With that, I will close the hearing on S.B. 402. Is there anyone wishing to make public comment? Seeing no one, this meeting is adjourned at 5:01 p.m.

RESPECTFULLY SUBMITTED:

Barbara Williams,
Committee Secretary

APPROVED BY:

Senator Joyce Woodhouse, Chair

DATE:

EXHIBIT SUMMARY				
Bill	**Exhibit / # of pages**		**Witness / Entity**	**Description**
	A	2		Agenda
	B	9		Attendance Roster
S.B. 329	C	5	Senator Tick Segerblom	Changes made by Proposed Amendment 4294
S.B. 329	D	90	Senator Tick Segerblom	Proposed Amendment 4294
S.B. 329	E	2	Mona Lisa Samuelson	Testimony in Support
S.B. 329	F	1	Vicki Higgins	Testimony in Support
S.B. 329	G	1	Vicki Higgins	Testimony regarding Amendment 4294
S.B. 329	H	1	PJ Belanger	The Patients' Bill of Regulations
S.B. 329	I	2	Wes Henderson	Proposed Amendment
S.B. 329	J	5	Julie Monteiro / Cannabis Nurses Magazine	Testimony in Support
S.B. 329	K	1	Julie Monteiro / Nevada Cannabis Nurses Association	Testimony in Support
S.B. 329	L	1	Grace Crosley	Testimony in Opposition
S.B. 329	M	1	Debra Crowley / Department of Agriculture	Executive Agency Fiscal Note
S.B. 391	N	2	Senator Moises Denis	Comparison between Nevada Promise and SSOG
S.B. 391	O	2	Senator Moises Denis	Timeline
S.B. 391	P	14	Senator Moises Denis	Proposed Amendment 4492 First Reprint
S.B. 391	Q	16	Crystal Abba / NSHE	Promise Scholarship –Cost Estimate
S.B. 391	R	2	Budd Milazzo / Office of the Treasurer	Proposed Conceptual Amendment

S.B. 427	S	11	Matthew B. Parker / Brotherhood of Locomotive Engineers and Trainmen	Testimony in Support
S.B. 427	T	5	Jason T. Doering / SMART	Testimony in Support
S.B. 522	U	1	Roger Rahming / NDE	Conceptual Amendment
S.B. 392	V	3	Senator Moises Denis and Justin Wilson	Conceptual Amendment
S.B. 438	W	3	Senator Patricia Farley	Proposed Amendment 4754
S.B. 438	X	5	Allen Lichtenstein / Starpoint Resorts Group	Testimony in Opposition
S.B. 465	Y	1	Fran Almaraz	Amendment
S.B. 478	Z	5	Kevin Ranft / AFSCME	Proposed Amendment
S.B. 402	AA	5	Holly Welborn / ACLU	Proposed Amendment 4935