

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

**Seventy-ninth Session
March 31, 2017**

The Senate Committee on Government Affairs was called to order by Chair David R. Parks at 12:07 p.m. on Friday, March 31, 2017, in Room 2135 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 David R. Parks, Chair
Senator Mark A. Manendo, Vice Chair
Senator Julia Ratti
Senator Joseph P. Hardy
Senator Pete Goicoechea

GUEST LEGISLATORS PRESENT:

Senator Pat Spearman, Senatorial District No. 1

STAFF MEMBERS PRESENT:

Jennifer Ruedy, Policy Analyst
Heidi Chlarson, Counsel
Lynn Hendricks, Committee Secretary

OTHERS PRESENT:

Nancy Stiles, American Association of University Women
Wendy Boszak, Women of Washoe
Marlene Lockard, Nevada Women's Lobby; Nevada Coalition for Women's Equity; Retired Public Employees of Nevada; Service Employees International Union Local 1107
Elisa Caffareta, Nevada Advocates for Planned Parenthood Affiliates
Stacey Shinn, Progressive Leadership Alliance of Nevada; Transgender Allies Group

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Kimberly Mull, Nevada Coalition to End Domestic and Sexual Violence
Caroline Mello Roberson, Nevada State Director, NARAL Pro-Choice America
Marla Turner, President, Emerge Nevada
Erika Washington, State Director, Make It Work Campaign
Paul Moradkhan, Vice President, Las Vegas Metro Chamber of Commerce
Tray Abney, The Chamber
Todd Bailey, Nevada Accountability, Inc.
Andy MacKay, Executive Director, Nevada Franchised Auto Dealers Association
Lea Tauchen, Retail Association of Nevada
Kara Jenkins, Administrator, Nevada Equal Rights Commission
Alexis Motarex, Nevada Chapter, Associated General Contractors of America, Inc.
Warren B. Hardy II, Nevada Restaurant Association; Associated Builders and Contractors of Nevada
Brian Reeder, Nevada Contractors Association
John Fudenberg, Clark County
John Wiles, Director, Unified Construction Industry Council
Luke Puschnig, Las Vegas Convention and Visitors Authority
Terry Miller, Cordell Corporation; Las Vegas Convention and Visitors Authority
Danny Thompson, Laborers Local 872; Professional Fire Fighters of Nevada
Rusty McAllister, Nevada State AFL-CIO
Todd Koch, President, Building and Construction Trades Council of Northern Nevada
Fran Almarez, International Brotherhood of Teamsters
Dan Musgrove, Mechanical Contractors Association of Las Vegas; Sheet Metal and Air Conditioning Contractors National Association
Mac Bybee, President, Associated Builders and Contractors, Inc.
Greg Arnold, AMGI USA
Dustin Ayers
Shawn Berrigan
Alex Panni
J. Elliot Postma
Johnnie Taylor
Logan Swanke
Danny Bentley
Kea Pimpton
Matthew Sloan
Nathan Forman
Crystal Hurst

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Andre Winslow

Mindy Elliott, Reno-Sparks Convention and Visitors Authority

Kim R. Wallin, Retired Public Employees of Nevada

Mike Ramirez, Las Vegas Police Protective Association; Southern Nevada
Conference of Police and Sheriffs

Michael Giurlani, President, Nevada State Law Enforcement Officers Association

Priscilla Maloney, American Federation of State, County and Municipal
Employees Retirees

Terri Laird, Executive Director, Retired Public Employees of Nevada

Jack Harris, State President, Retired Public Employees of Nevada

Tom Wellman, President, Nevada State Education Association – Retired

Judith Hamblin

Vicki Cameron, Nevada Silver Haired Legislative Forum

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

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

Earnest C. Aldridge

Stuart McKai

Barry Smith, Director, Nevada Press Association

Mike L. Baughman, Humboldt River Basin Water Authority

Omar Saucedo, Southern Nevada Water Authority

Jim Smitherman, Water Resources Program Manager, Western Regional Water
Commission

Frank McDonough, Desert Research Institute

Lori Chatwood, Deputy Treasurer, Debt Management, Office of the State
Treasurer

Jennifer Carr, Deputy Administrator, Division of Environmental Protection, State
Department of Conservation and Natural Resources

Daxea DeWeese

Dominick Allen

Janine Hansen, Nevada Families for Freedom

William P. Tarbell

CHAIR PARKS:

I will open the hearing on Senate Bill (S.B.) 397.

SENATE BILL 397: Revises provisions relating to employment. (BDR 18-14)

SENATOR PAT SPEARMAN (Senatorial District No. 1):

It is an honor to introduce S.B. 397, which makes some long-overdue changes to Nevada's employment laws relating to wages and certain discriminatory actions, and also makes changes regarding the enforcement of those laws by the Nevada Equal Rights Commission (NERC). I want to view this bill through the lens of equality. This is about addressing a need. It is about financial security. It is about what happens to people in their retirement years. It is about fairness and equity, of which I am a great fan.

Why is this bill important? Nevada's law regarding employment practices serves to protect employees from any number of forms of discrimination. We all know that employers, employment agencies and labor organizations are prohibited from discriminating against a person based on the person's race, ethnicity, religion, sexual orientation, gender identity or expression, age, disability or national origin. It is rather surprising, especially with the recent campaigns relating to equal pay for equal work, that discrimination still exists, and Nevada employment law has not fully addressed the issues relating to wage discrimination.

Many of you know that April 4 marks Equal Pay Day. This symbolizes how far into 2017 women must work to earn what men earned in 2016. Women today are paid on average only 77 cents for every dollar paid to men. This gap is even worse for women of color; African-American women earn 64 cents and Latino women earn 55 cents for every dollar earned by white males.

To help address this unfair and unacceptable wage gap, former President Barack Obama signed the Lily Ledbetter Fair Pay Act on January 29, 2009, restoring the protection against pay discrimination that was stripped away by the U.S. Supreme Court's decision in *Ledbetter v. Goodyear Tire & Rubber Company, Inc.* Lily Ledbetter did not know for 20 years that she was being discriminated against because there was a policy in place that employees could not talk to each other about what they were paid. The Fair Pay Act passed by the U.S. Congress gave aggrieved employees, who may find years later that they were discriminated against, the opportunity to bring claims as long as discrimination and the effects of such discrimination continue to occur. I believe these same provisions should be implemented into Nevada law.

You may find S.B. 397 similar to a bill Senator Michael Roberson and I introduced last Session setting forth provisions to address certain discriminatory

practices relating to employee compensation. Unfortunately, that measure did not pass. I am therefore back this Session, persistent as always, to get S.B. 397 passed.

This bill will strengthen existing State employment discrimination laws by implementing the Lily Ledbetter Fair Pay Act of 2009 at the State level. It incorporates the tenets of the Fair Pay Act so Nevada can provide an employee who believes he or she has been discriminated against in the workplace more time to bring forward a claim.

To remind the Committee, NERC accepts employment discrimination complaints alleging unlawful discriminatory practices. Any individual who believes his or her rights have been violated may file a charge of discrimination with NERC. If NERC determines an unlawful practice has occurred, it may order the person engaging in the practice to cease and desist. For a case involving an unlawful employment practice, NERC may restore all benefits and rights to which the aggrieved person is entitled. Senate Bill 397 will increase the remedies available to NERC and to the aggrieved employee when employment discrimination relating to wages has been found to occur.

The bill also implements key provisions from U.S. Senator Barbara Mikulski's Paycheck Fairness Act and U.S. Senator Dean Heller's End Pay Discrimination Through Information Act, both from the 114th Congress. These provisions prohibit employer retaliation if an employee inquires about, discusses or discloses information about the wages of another person.

Let me take you through the bill. Section 1 of S.B. 397 clarifies the time by which an employee may bring a claim before NERC relating to an unlawful discriminatory practice regarding compensation. The bill also requires NERC to issue to the employee a notice indicating the timeframe in which he or she has the right to sue if NERC determines that an unfair employment practice has occurred.

Section 2 of the bill revises the powers of NERC to order remedies for unlawful employment practices. This section includes changes I included to give the measure more teeth. Rather than a flat penalty, the provision sets forth a tiered system of civil penalties that progressively increase if an employer is found to have multiple instances of pay discrimination within a five-year period. I propose a fine of \$10,000 for the first offense, \$15,000 for the second offense and

\$25,000 for the third offense. I have heard from some that they believe these penalties are too severe. To that, my reply is that this provision does not apply to people who are paying their workers equally. It only applies to those who persist in paying their employees differently based on their sex. For those who are not doing this, no worries. For those who do not get the message that Nevada is about equality for all, this measure will help them learn and understand that we mean business.

Section 2 also extends the amount of back pay an aggrieved employee may be awarded, authorizing NERC to award back pay for a period beginning two years before the date of filing an unlawful employment practice complaint and ending on the date NERC issues an order regarding the complaint. Furthermore, NERC may require the awarding of reasonable attorney fees to the complainant.

Section 3 of the bill amends provisions in *Nevada Revised Statutes* (NRS) 613 relating to employment practices by prohibiting an employer, employment agency or labor organization from discriminating against any person for inquiring about, discussing or disclosing information about wages of another employee. An exception to this is if the person has access to the information about the wages of other persons as part of his or her essential job functions and discloses the information to someone who does not have access to that information. An example of this exclusion would be someone who works in human resources or personnel talking about confidential wage information.

Sections 4, 5 and 6 of the bill are conforming language. Nevada law specifies in NRS 613.350 the circumstances when it is not unlawful to hire employees based on religion, sex, sexual orientation, gender identity or age. Specifically, the law says consideration of these factors is permitted when they are bona fide occupational qualifications reasonably necessary to normal operation of that particular business or enterprise. The idea here is to encourage employers to make reasonable accommodations and to prevent employers from using qualifications that look innocuous on the surface but are in reality a means for pay discrimination.

Sections 8, 9, 10 and 11 of the bill also contain conforming language.

Section 12 of S.B. 397 provides that if NERC concludes an unfair employment practice has not occurred, NERC must issue a letter stating this fact to the person who filed the complaint. The letter must notify the person of his or her

right to apply to the district court for an order relating to the alleged unfair employment practice.

Section 13 of the bill extends the period during which a claimant can bring a case before NERC. This section provides that in addition to existing language allowing a claimant to apply to a district court for relief up to 180 days after the alleged act, a claimant may have 180 days after the issuance of the letter referred to in section 12 of the bill to apply to district court.

The provisions of S.B. 397 take into account not only the fact that pay discrimination has existed but also what happens to an aggrieved person over time. When you have worked for a company for 30 or 40 years and your wages have been unequal based on your gender, you have lost wages for that time. But it is not just the wages you have lost; it is also retirement pay. If your employer has a 401(k) that it contributes to in matching dollars, you have lost that as well. You have also lost contributions you would have made to social security.

I want to share a story I heard last year when I talked to a group of women about this bill. A woman who was 72 years old came to me with tears in her eyes and said, "I knew I was making less than my male counterpart, but I didn't think there was anything I could have done about it." She has since retired and is living on a very meager social security check. She has not been able to purchase a home, so at 72 she lives in an apartment. When we talk about inequities in pay, we are not just talking about the present. We are talking about financial security now and in the future. I do not believe any woman who has worked for a living should have to suffer in her retirement because she was paid less than her male counterpart.

Let me say again: This legislation applies only to employers that choose to pay their employees differently based on their gender. The teeth I put into this bill are designed to deter and to correct. If that happens, people will know exactly what Nevada means when we say, "Don't do it."

You will hear from the opponents of S.B. 397 that it will be unfair to small businesses. They also say they do not know what the timetable would be. The bill answers all of that.

I thank the chambers for meeting with me yesterday to discuss their concerns. I look with disdain on those who testify in opposition to the bill but who did not take the time to talk to me about their opposition. If this bill was important enough for someone to oppose it, it was also important enough for them to make time to come talk to me about their concerns.

NANCY STILES (American Association of University Women):

I am here in support of S.B. 397. I have written testimony ([Exhibit C](#)) giving some of the history of the persistent gender pay gap.

More than 50 years after the passage of the Equal Pay Act of 1963, it is clear that the pay gap is unlikely to go away on its own. That is why the American Association of University Women (AAUW) is leading a nationwide campaign to close the pay gap. The median earnings for men in Nevada is \$42,682, while the median earnings for women in Nevada is \$35,557, a ratio of 83 percent. We are pleased to say that Nevada is not at the bottom of the list on pay equity. In fact, we hold eleventh place in the U.S. However, inequality is inequality, and it is embarrassing that we have any inequality in Nevada.

As an organization, AAUW does a lot of research, and one of the things it noted was a change in the rate of change in the pay gap between the years of 1960 and 2015. In 1960, women were expected to reach pay equity with men by the year 2059. However, progress has slowed and stalled in recent years. If the change continues at that slower rate since 2001, women will not reach pay equity with men until 2152.

Thank you for bringing this bill forward. Equal pay is good for women, it is good for families, and it is good for the Nation.

WENDY BOSZAK (Women of Washoe):

My group, Women of Washoe (WOW), is a chapter of the Alliance for Retired Americans. I am representing only WOW today. We are in support of S.B. 397, especially considering the implications for seniors.

A report by the Joint Economic Committee of the U.S. Congress titled *Gender Pay Inequality: Consequences for Women, Families and the Economy* is readily available online. This report shows that in 2014, American men over the age of 65 had a combined income of \$965 million, whereas the combined income of American women over 65 was only \$641 million. That is a huge difference, and

you can imagine how that affects retirement. This same report states that women 75 years and older are almost twice as likely as men to live in poverty. That impacts what Nevada has to pay out because then these women need more services to supplement what they have.

A friend of mine discovered late in life that she had been receiving much less pay than her male counterparts. She sued, but because she did not bring it up sooner, she lost the lawsuit. I encourage you to vote for S.B. 397.

MARLENE LOCKARD (Nevada Women's Lobby; Nevada Coalition for Women's Equity):

I echo Senator Spearman's comments in citing former U.S. Senator Mikulski in her efforts at the national level. In that context, Senator Mikulski said, "Equal pay is not just for our pocketbooks. It's about family checkbooks and getting it right in the law books." The Nevada Women's Lobby considers our organization a voice for the voiceless, as well as for women and children and families in Nevada. I want to thank Senator Spearman for persisting yet again for pay equity for my two beautiful granddaughters.

ELISA CAFFARETA (Nevada Advocates for Planned Parenthood Affiliates):

We are a member of the Nevada Coalition for Women's Equity. We know that pay equity and equity in benefits and promotions have a great impact on women's access to health care. For that reason, we support this bill.

STACEY SHINN (Progressive Leadership Alliance of Nevada):

My organization is also a member of the Nevada Coalition for Women's Equity. We have been working together for more than a year and a half, and pay equity is our No. 1 priority.

This is a racial justice issue as well as a gender justice issue. We talked about the wage gap, but African-American women working fulltime typically make about 63 cents on every dollar paid to their white male counterparts. Native American women make 58 cents on the dollar, and Latinas make 54 cents on the dollar. If you add in being an immigrant or a transgender woman, the disparity is even greater. In Nevada, over the course of 15 years, a typical woman loses almost \$500,000 due to pay inequity. That is about how long I have been in the workforce. I wonder what I could do with half a million dollars right now.

KIMBERLY MULL (Nevada Coalition to End Domestic and Sexual Violence):

Domestic violence victims often find themselves staying with their abuser because they do not feel they will be able to provide for themselves and their children. Gender pay equity is an important step in ensuring victims have more opportunities for self-sufficiency. For that reason, we ask that you support S.B. 397.

CAROLINE MELLO ROBERSON (Nevada State Director, NARAL Pro-Choice America):

As an organization dedicated to advanced reproductive freedom, we know it is tied directly to economic independence. This bill is a significant part of that, and we are proud to stand in support of S.B. 397.

MARLA TURNER (President, Emerge Nevada):

I am a native of Nevada. In 1998, I worked for a large acute care hospital as a department manager. Quite accidentally, I found out that one of my male ancillary employees who was under my supervision was earning almost 20 percent more than I was. When I asked about this, I was told that we were barred from discussing it, but that he was a head of household and therefore deserved the additional salary for his family. I was a single mom head of household with two children, and I argued that our salaries should be the same, but there were no laws in place to support me. He was my subordinate; I outranked him in title and in duties. But I was paid less than him, and I was forbidden from addressing the issue further internally. I could have sued, but I was told by local attorneys that I would lose the suit because there were no laws in place to support me.

If this bill had been in place then, it would have given me recourse to get what was rightfully mine. I was forced to retire early because of illness. I had been the primary wage-earner for my family. If I had that money in my 401(k) now, it would be very nice for my family; unfortunately, I was not granted that opportunity.

Today, I am the president of Emerge Nevada. This is an organization that trains women to run for public office. We are looking for parity at the policy-making table. Parity cannot be achieved without laws like S.B. 397 that create equality. We continue to have an invisible barrier to equality. That is why I support this bill, and I urge your support as well.

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ERIKA WASHINGTON (State Director, Make It Work Campaign):
We are in support of S.B. 397. I have written testimony ([Exhibit D](#)) expressing our support.

People go to work for a host of reasons. They do not go to work to receive less pay than they deserve. The time is now to ensure all Nevada women receive equal pay for equal work and are protected under the law when inquiring about pay discrimination. Transparency is key to equality, and the measures in this bill will help all Nevada employees. America was founded on the ideal that all of us are created equal. History has shown us that we have to fight for equality on various fronts. Now is the time for that to hold true in the workplace for all women.

PAUL MORADKHAN (Vice President, Las Vegas Metro Chamber of Commerce):
We are opposed to S.B. 397. We met with Senator Spearman last night to share our concerns.

We do not support employment discrimination. The Las Vegas Metro Chamber of Commerce is led by a woman, and many of our trade groups in Nevada are led by women. We are proud of that throughout the business community.

Regarding the bill, we have concerns about the litigation components of this bill and the impact it could have in terms of future lawsuits. We have concerns about changes to the two-year limit in section 2, subsection 3, paragraph (b), subparagraph (2). We also have concerns about NERC being enabled to award punitive damages. We believe that is a function of the courts, not an administrative agency.

The Las Vegas Metro Chamber also has concerns regarding the fines noted on page 5 of the bill. The fine for a first offense is \$10,000, which is steep. We understand the intent of the bill's sponsor with regard to the amounts for a second and third offense, but we have concerns about the initial fine. Fines for employer violations in Nevada are typically up to \$5,000.

We are willing to work with Senator Spearman on this bill.

SENATOR GOICOECHEA:

Is it your belief that if you were assessed a \$5,000 fine by NERC, you would not have legal recourse or due process?

MR. MORADKHAN:

Generally, these matters are handled through the courts. We understand the administrative fine, but we are concerned about NERC assessing punitive damages and attorneys' fees. That is not how it is typically done, to my understanding. I can consult with our legal counsel and follow up with you offline, if you like.

TRAY ABNEY (The Chamber):

I echo Mr. Moradkhan's comments. We are another chamber proudly led by a woman. We would never support any kind of discrimination, gender or otherwise. However, we have the same concerns about NERC being able to impose punitive damages. We think that is best left to the court system.

TODD BAILEY (Nevada Accountability, Inc.):

I am opposed to S.B. 397. Equal pay sounds good, but what happens when you have two employees, and one of them is more productive than the other? Is it illegal to pay the more productive person more?

With regard to the fines, "no worries" is not how it works. When a complaint is filed and the NERC action begins, everyone brings in their lawyers. Once the attorneys' fees meet or exceed the proposed fine, there is a settlement. That is how it works. That settlement is chalked up as a win, when in fact it is just the organization determining that as a cost of doing business, deciding it is better to settle than proceed. Giving this power to NERC is an improper delegation of authority. That function should remain in the courtroom, especially when it comes to punitive damages, where there can be evidence and testimony in open court.

Small startups suffer more in that environment than bigger companies. That is just a fact. It is a higher cost for all Nevadans. When any organization tries to comply with this bill or has to deal with a complaint, those higher costs are passed on to consumers. That is especially true when it is a government agency that is under investigation.

How would you establish equal pay with sales commissions? What if it is a basis of taste and preferences on the part of the consumer? How are we going to legislate that in a fair way? Some inequities exist because of customer tastes or because some people work harder than others. When that is not the case, inequity is wrong and should be investigated.

With regard to disdain, personal attacks preclude a friendly private discussion. It has to be done in public.

ANDY MACKAY (Executive Director, Nevada Franchised Auto Dealers Association):

I was one of those who was unable to meet with Senator Spearman. I appreciate her indulgence in meeting with the business groups. I echo the comments made by Mr. Moradkhan and Mr. Abney.

With respect to punitive damages in an administrative agency, in my prior life I dabbled in administrative law. To address Senator Goicoechea's question, any administrative decision is ultimately appealed at the district court level. There are appellate rights, and our ability to challenge an administrative decision is not excluded by this bill.

LEA TAUCHEN (Retail Association of Nevada):

I am speaking in opposition to S.B. 397. We agree with the principle concept being discussed here today. Pay discrimination based on gender is not right. However, we do have concerns regarding the severity of the penalties in this bill. I do not want to be redundant, so I will just say that it is the authority to award punitive damages being given to an administrative agency as well as administrative penalties that go as high as \$25,000.

SENATOR RATTI:

Does NERC have the authority to levy fines and award damages now?

KARA JENKINS (Administrator, Nevada Equal Rights Commission):

Yes. After a public hearing by NERC that an employer engaged in unlawful discrimination, we look at actual damages and back pay that can be awarded.

SENATOR GOICOECHEA:

What will this do to your workload? It looks like it would be tremendous. Are you going to need more funding?

MS. JENKINS:

We are neutral on S.B. 397, and we commend Senator Spearman for proposing this bill. We have submitted a fiscal note. We cannot anticipate the costs of defending a commissioner's award of punitive damages that would certainly be appealed at district court. We currently get assistance from the Attorney

General's Office and do not have in-house counsel. It is not in State statute that we can employ one; it has to be expressly stated in the NRS that we have the authority to have in-house legal counsel. We reached out to the Attorney General's Office to see if it might have a fiscal note on this bill, but I am not aware that it does.

At NERC, we have a very successful settlement rate, with 98 percent of our cases mediated out. We do not typically go to the level of punitive damages or awarding back pay. However, we would anticipate needing financial resources out of the General Fund to prepare ourselves for that if this bill becomes a law. We are open to working on this bill with Senator Spearman.

To summarize, we anticipate an increase in costs, but how much is currently unknown.

SENATOR GOICOECHEA:

I was thinking of the increase in the sheer volume of work. This bill would surely mean an increase in the number of complaints filed.

MS. JENKINS:

Yes, it would increase, but we do not know by how much. We do know that with the incentive to get punitive damages at the State level, we may see a decrease in the willingness for folks to settle. Currently, you cannot get punitive damages in district court. You have to remove to a federal court to get those punitive damages. To have punitive damages awarded at a State level would be easier access for the charging party. However, we would anticipate that any award from our commissioners would be appealed, and we would need to prepare ourselves legally for that appeal process and the time it would take to see it through.

We have been in touch with our counterparts in California, the Department of Fair Employment and Housing. It sought to award punitive damages at its level, but it stopped in 2013 and implemented a stronger mediation program.

We are open to any discussion about the impact of this bill.

SENATOR RATTI:

Can the fines be structured to cover the additional costs? Is that allowed?

HEIDI CHLARSON (Counsel):

I would have to look into that issue. I am not sure offhand.

ALEXIS MOTAREX (Nevada Chapter, Associated General Contractors of America, Inc.):

We were part of the group that met with Senator Spearman last night. We appreciate her taking the time to listen to our concerns, and we completely support what she is trying to accomplish in eliminating any pay inequity. However, we have the same concerns expressed by the previous speakers. We look forward to working through these issues.

WARREN B. HARDY II (Nevada Restaurant Association):

We, too, were part of the coalition that is working with Senator Spearman. We look forward to continuing those discussions. We oppose the bill in its current form.

BRIAN REEDER (Nevada Contractors Association):

We are opposed to the bill as written but certainly not the spirit of the bill. We are happy to work with Senator Spearman to address any challenges we see.

SENATOR SPEARMAN:

I appreciate the comments, and I want to address some of the issues that were raised. What if you have two people doing the same job and one is more productive? Smart business people usually take care of that with merit pay, and those standards are usually in writing so it is not a whim. Most businesses that are in business to stay address those questions before they come up by way of a written policy, even if all it says is, "It will be addressed on a case-by-case basis." If you have two people in sales and one is making more than the other, it is easy to see how much each one has sold. I fail to see the merit in that argument.

It is convenient for people to say they cannot make wages equitable because it will be a higher cost. However, between 1999 and 2016, even though we know there were more women in the workforce who made less than their male counterparts, less than 2,000 women a year across the Country said, "I want to file charges for pay discrimination." Many women are simply afraid they might lose their jobs, so they do not come forward.

I am convinced that businesses not engaging in the activities described in this bill that would make them susceptible to fines will not be affected by this bill. This is what I told the coalition I met with last night. If you are not doing it and you have personnel policies in place, your business will not suffer. They worried that small businesses might not have policies in place, and my suggestion was that this was an opportunity for the chambers to hold a workshop to address these issues and help small businesses learn how to run a business without pay inequity. I need to see some proof. I am happy to look at any current research that says this would increase the cost of doing business. However, I need to see peer-reviewed studies, actual research, not hyperbole.

With regard to the \$25,000 fine, I weigh that against the \$500,000 that the average woman loses when pay inequity exists. I am happy to work with people to see if we can come up with some amendments. However, whether we are talking about the Equal Rights Amendment or the pink tax, it usually comes down to this: Will we stand for equality or not? We are the Battle-Born State. As a resident of the Battle-Born State, I am battle-born, and I will persist.

JOHN FUDENBERG (Clark County):

We are neutral on S.B. 397. We have some concerns about the language. We will work with Senator Spearman on this.

CHAIR PARKS:

We have received written testimony ([Exhibit E](#)) from Janette Dean in support of S.B. 397.

I will close the hearing on S.B. 397 and open the hearing on S.B. 464.

SENATE BILL 464: Revises provisions relating to agreements with labor organizations concerning employees who perform work on convention centers. (BDR 28-1041)

This bill was requested and submitted by the Senate Government Affairs Committee. It is a simple request. What it does in effect is to allow for convention facilities to enter into agreements with labor organizations concerning employees to perform work on public works that are part of a convention hall.

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JOHN WILES (Director, Unified Construction Industry Council):
We support S.B. 464. I have a letter ([Exhibit F](#)) from the Unified Construction Industry Council expressing our support.

We agree that this is a simple matter. We have world-class resorts in southern Nevada. We have a world-class State, worthy of visitors from all over the world to come to Nevada and appreciate what we have to offer. We need world-class convention facilities to support our infrastructure. We want Nevada to lead the way in terms of convention facilities. We have a world-class airport. As the bill reflects, we have a water infrastructure that will support the tourist industry for a long time to come.

We urge you to support this bill.

LUKE PUSCHNIG (Las Vegas Convention and Visitors Authority):
I am the legal counsel for the Las Vegas Convention and Visitors Authority (LVCVA). We are in favor of S.B. 464 in that it would allow us to enter into a project labor agreement (PLA) for the upcoming expansion and renovation of the LVCVA. The reason why a PLA would be advantageous to us is that we need to get the project completed on time so the new and renovated buildings can be used by our trade show customers, like the Consumer Electronics Show and a number of other large trade shows. This is a simple ability to be able to get a PLA for that particular project.

TERRY MILLER (Cordell Corporation; Las Vegas Convention and Visitors Authority):

I am the project director for the \$1.4 billion expansion and renovation project of the LVCVA. To that end, having the opportunity to use a PLA helps us mitigate any schedule stoppages through the project. As Mr. Puschnig indicated, schedule is king for this project. This is another tool that will help us fulfill that potential.

SENATOR GOICOECHEA:

I need a little clarification. Could someone explain the language in section 2 of S.B. 464, specific to the *Statutes of Nevada 2016*, chapter 2, section 61.5, subsection 4, paragraph (b)? We talk about PLAs on these larger projects, but now we seem to be getting into language that requires small businesses to enter into PLAs.

MR. MILLER:

We were not part of the writing of the bill, but my understanding is that the reference is to S.B. No. 1 of the 30th Special Session.

SENATOR GOICOECHEA:

Thank you. I imagine someone else will clarify it if it is a problem.

DANNY THOMPSON (Laborers Local 872):

We are in support of S.B. 464. This bill, as you said, simply adds the convention hall to the list of projects that can be completed with a PLA. It is nothing more complicated than that. The need for PLAs on a project like this is significant. With a PLA, there can be no delays. Part of the PLA says that if there is a delay, there is a monetary penalty for the unions that entered into those contracts.

We have used PLAs on large jobs in the past. The Southern Nevada Water Authority expansion, which was the largest public works ever done in the State, used a PLA because of the guarantee that the job would be done on time, on budget and without any problems. On that job, 40 percent of the contracts were nonunion.

We support this bill. The need to expand the Las Vegas Convention Center does not need to be explained to any of you.

RUSTY MCALLISTER (Nevada State AFL-CIO):

We are in support of S.B. 464. It will be a great opportunity to get the construction business in southern Nevada moving in the right direction, just as it has in northern Nevada. This will put people to work in a timely fashion and in a good manner.

SENATOR GOICOECHEA:

Can you speak to the language in the section I mentioned previously?

MR. MCALLISTER:

I will let those who drafted the language speak to that question.

TODD KOCH (President, Building and Construction Trades Council of Northern Nevada):

We support the bill for the reasons given by the previous speakers.

FRAN ALMAREZ (International Brotherhood of Teamsters):

I am here representing the over 2,000 Teamsters who work at the LVCVA setting up and tearing down trade shows. I see this as a jobs bill. It is going to put many construction people to work, including the Teamsters, the electricians, the International Alliance of Theatrical Stage Employees, and others who work at the LVCVA. At the 30th Special Session, we heard from the CEOs of the three biggest conventions that come to Las Vegas. They all told us that if we do not expand the LVCVA, they will go elsewhere. That is lost revenue for Las Vegas.

We are in favor of S.B. 464, and I urge your support.

CHAIR PARKS:

Mr. Wiles, did you have an answer for Senator Goicoechea?

MR. WILES:

With the construction for the Water District Authority, we had contractors that did not have an adequate labor pool to do the work. Historically, the Southern Nevada Building Trades Council is an affiliate that has provided skilled labor to fill that gap so we would not be recruiting out-of-state workers. We used local workers to do these local projects. I believe the section of the bill you are referring to attempts to codify what has historically been a practice in southern Nevada to enable contractors who have limited resources to use the skilled labor readily available through the hiring halls.

SENATOR GOICOECHEA:

We are talking about businesses rather than contractors here. But your intent is that it actually is the contractor being referred to. Is that correct?

MR. WILES:

Yes, that is my understanding.

DAN MUSGROVE (Mechanical Contractors Association of Las Vegas; Sheet Metal and Air Conditioning Contractors National Association):

We are the employers who are signatory to these unions. We are in support of this bill. Having an opportunity to bid on the work at LVCVA would mean a lot to our employers.

WARREN B. HARDY II (Associated Builders and Contractors of Nevada):
We are opposed to S.B. 464.

This bill has been characterized as simple, and it is. From our perspective, however, it simply prevents nonunion workers from being able to work on these projects on a fair and level playing field. It has been represented that this is a workers' bill. I would not disagree with that, but it is a union workers' bill.

We spent last Session debating at great length A.B. No. 159 of the 78th Session, which put some checks and balances on the use of PLAs. Let me explain our objection to PLAs. The courts have determined that PLAs are legal. We think that is a little tenuous, but we do not argue the point that they are legal. However, we view them as a legal way to get around the right-to-work laws in Nevada.

Project labor agreements require a nonunion contractor to essentially become signatory to the union for the duration of the project. Many of the things associated with that we do not have a problem with, such as work rules, safety rules and those sorts of things. We do have a problem with PLAs that put nonunion, open shop workers—who represent somewhere between 75 percent and 80 percent of the total workforce in Nevada—at a competitive disadvantage to bid on these projects.

Let me give you two specifics. The first is that the terms of the PLA, as they are applied in Nevada, require all contractors signatory to the PLA to pay into the union trust fund for benefits. That is a problem because our workers are not likely to vest in the union benefits program. Sometimes, it takes years to vest in the union program. Now we as open-shop contractors have a dilemma. We can continue to pay our workers for the benefit package they have in place and begin to pay into the union trust fund, which creates a double payment of benefits, or we can drop the benefits package our employees have in place and hope that some day they will vest with the union. Between now and the time they vest, they are left without any of the benefits we provide for them now. We do not think there should be a policy in Nevada that allows that kind of agreement.

The unions will tell you that this is an agreement between the unions and the owners; it does not involve or impact us. However, we would be required, under the provisions of this bill, to obligate ourselves to an agreement we had no role

in negotiating. Where else in business do we require that of people? We are telling them, "If you want to work on the job, you can, but you have to obligate yourself to an agreement you do not agree with and had no role in negotiating." We believe that is patently unfair.

I should indicate that I have met with representatives of labor unions, and they agree with that point. They agree that it is unfair, and they are willing to entertain an amendment to clarify that. I am unaware of anyone who does not agree with us on that point.

The second concern we have is equally problematic. Under the terms of the current application of PLAs, if you sign a PLA as a nonunion contractor, you are permitted to use seven of your own workers on an alternating basis. We can use one of our own workers, and then we have to hire one from the union hall. Once we get to seven of our workers, everybody else we hire has to come from the union hall. So here is the scenario our contractors are faced with. They have spent lots of time and money training their workforce. They are qualified contractors under Nevada law; some of them have been here for 20, 30, 40 or 50 years. They win one of these contracts, and then they have to go their staff and say, "Good news: we won a contract to work on the LVCVA. Bad news: only seven of you get to work on it, and we have to hire the rest of the workers from our competitors." I do not know where the fairness is in that.

We will not be able to support S.B. 464 unless those two issues are addressed. I believe we have an agreement on the double payment of benefits. But until we can use all of our own workers who we have trained and vetted, we cannot support this legislation. We are willing to have conversations about what happens after all of our employees have been used, but we do not think it should be the policy of the State to allow an agreement that displaces Nevada workers. Certainly, nonunion contractors bid on these. But these are nonunion contractors who largely do not care what happens to their employees. The good news is the employer gets a job. The bad news is his employees do not get to work. That is unfair. It is simple, and it is simply unfair.

I will speak to some of what was said before. I strongly object to Mr. Wiles's characterization that this bill is necessary to provide quality construction. That impugns the integrity and the work of 75 percent to 80 percent of the construction trade in Nevada. It is offensive, and there is nothing in the bill that speaks to that.

Regarding Senator Goicoechea's question, I am surprised to find the language he referred to in this bill. I find it tenuous at best with relation to the right-to-work laws.

With regard to the issue of work stoppages, Mr. Miller spoke to the fact that this project needs to be completed on time. The only thing the PLA addresses in terms of timeliness is work stoppages by unions. That is the delay they are talking about. They are talking about unions striking on the job and stopping work. If that is really a problem, the best way to address it is to hire nonunion contractors because they do not strike.

All we are asking for here is that all Nevadans have an equal opportunity to bid on work their tax dollars are paying for. Mr. McAllister said that this bill will put people to work. Yes; it puts union people to work. But Nevada's right-to-work laws say you have the ability to provide for your family without belonging to a union. This bill puts the nonunion contractor at a significant disadvantage. I respectfully submit that the purpose of PLAs is to discourage nonunion contractors from bidding on public works projects.

I have a great deal of respect for my friends in labor. We have worked together for years. But the legislation we passed last Session to limit the use of PLAs was the most significant bill for those who choose to work open shop that has come before the Legislature since I have been here, and that is almost 30 years. Senate Bill 464 walks that back. It takes away some of those reforms. We think it should be the policy of Nevada that all Nevada workers, regardless of union affiliation, have an equal opportunity to bid, compete and work on taxpayer-funded projects.

SENATOR HARDY:

I read this bill as talking about all convention centers anywhere in the State. Is that how you read it?

MR. HARDY:

Yes. It does not specifically limit it to the LVCVA.

I am reminded of a valid point. When we passed A.B. No. 159 of the 78th Session, the Associated Builders and Contractors of Nevada agreed to allow this additional exempted language for an airport and a water system because the Legislature was convinced those are critical infrastructure projects.

Obviously, we know that convention centers are important, but they are not critical infrastructure projects in the same way as airports and water systems. We strenuously objected to the inclusion of convention center projects last Session, and we strenuously object to it today for the same reason.

MAC BYBEE (President, Associated Builders and Contractors, Inc.):
We are a statewide commercial construction organization that represents nonunion commercial contractors.

We have a fundamental disagreement with a mandate that requires people to hire workers through a union hall. These are contractors who train their own workforce. They finish on time, create a quality product and get hired again. If you want work to be done on time, hire a merit-shop contractor and put it in the agreement when they contract the project.

I have heard a lot of talk this Session about local hiring and the need to hire more Nevadans. You should know that PLAs are not local-hire agreements. I offer the Aces Ballpark in Reno as an example. Let me read from the PLA for the Aces Ballpark:

Local unions will exert their utmost efforts to recruit sufficient numbers of skilled craft workers to fulfill the manpower requirements of the contractor, including calls to local unions in other areas when its referral lists have been exhausted.

That says that in 2008 and 2009, when we were at peak unemployment in the construction industry, we were hiring people from outside of Nevada when we could have been hiring our neighbors and other people in our community or even other contractors in the State because the PLA allowed it.

There is no reason for a PLA to be mandated. If the company wants to voluntarily do a PLA, let them voluntarily do it. If a signatory company wins the contract, let them hire through the union hall all day long. But it should not be mandated that all contractors have to hire through a single labor source.

MR. MORADKHAN:

We oppose this bill. The Las Vegas Metro Chamber of Commerce is in support of the expansion of the LVCVA. We believe it is an important project for southern Nevada. We have long had concerns about expansion PLAs.

GREG ARNOLD (AMGI USA):

We are a consultant management firm for construction. We echo the comments about the unfair labor practices and unfair competitive bidding practices that this bill will create. While we support the expansion of the convention center and the unions' ability to compete and work in that environment, we also support nonunion firms having the ability to compete in a fair environment. Nonunion firms should be able to take advantage of opportunities to create jobs as easily as the unions.

DUSTIN AYERS:

I work for Helix Electric and have for the last ten years. I have enjoyed steady work, good benefits and good pay. I am part of the 80 percent of Nevada's labor force that is nonunion. I am here today to urge you to vote no on S.B. 464, which would allow PLAs on publicly funded construction projects. If this bill passes, I will no longer be able to work on any construction project that has a PLA unless I join a labor union, which I have freely chosen not to do.

SHAWN BERRIGAN:

I am a journeyman electrician for Helix Electric. I am here today to get you to vote against S.B. 464. It contains jobs for unions and only them, which will prevent us, as part of the 80 percent of the construction workforce in Nevada, from being able to work on these publicly funded jobs.

ALEX PANNI:

I have written testimony ([Exhibit G](#)) urging you to vote against S.B. 464.

J. ELLIOT POSTMA:

I have written testimony ([Exhibit H](#)) urging you to vote against S.B. 464.

JOHNNIE TAYLOR:

I have written testimony ([Exhibit I](#)) urging you to vote against S.B. 464.

LOGAN SWANKE:

I have written testimony ([Exhibit J](#)) urging you to vote against S.B. 464.

DANNY BENTLEY:

I have written testimony ([Exhibit K](#)) urging you to vote against S.B. 464.

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KEA PIMPTON:

I have written testimony ([Exhibit L](#)) urging you to vote against S.B. 464.

MATTHEW SLOAN:

I am a project manager and superintendent for Ledcor Construction, Inc. We oppose this bill for all the aforementioned reasons. As general contractors, we are required to sign a labor agreement. After the project is complete, we are still tied to the labor agreement, which would prevent us from hiring nonunion labor on future jobs.

NATHAN FORMAN:

I am an electrician working for Helix Electric. I am here today to urge you to vote no on S.B. 464, which would allow PLAs on publicly funded construction projects. If this bill passes, I would be unable to work on construction projects in Las Vegas unless I agree to join a union and pay union dues. This is a highly discriminatory bill that favors organized labor and discriminates against 80 percent of the construction labor in Nevada.

CRYSTAL HURST:

I have written testimony ([Exhibit M](#)) urging you to vote against S.B. 464.

ANDRE WINSLOW:

I am a journeyman electrician for Helix Electric. I am here today to urge you to vote no on S.B. 464. We all have an important choice to make when we enter the construction industry: whether or not to join a construction union. Early in my career, I made the decision not to join a union, which was the right choice for me. I work on a variety of large, technical and complex projects in Nevada, and I am proud of the work I do. If you decide to pass this bill, I will not be able to work on projects in my own neighborhood because PLAs would prevent me from working on union projects. Please do not discriminate against me because I chose not to join a union.

MINDY ELLIOTT (Reno-Sparks Convention and Visitors Authority):

I am here in the neutral position on this bill, with caution. Based on Mr. Hardy's comment that this bill will impact projects outside of Las Vegas, we are in the process of determining what potential impact it might have on the Reno-Sparks Convention and Visitors Authority, especially for some of our smaller repair projects throughout our properties. We are willing to work with the bill's sponsor and Mr. Wiles.

MR. PUSCHNIG:

I would like to point out that there is nothing in this bill that requires an airport, a water system or a convention hall to use a PLA. It is an option. It is a tool in their toolbox. They are free to choose whether or not they want to use it. It is up to them to decide.

There are PLAs in operation, including those used by the Las Vegas Water District, that have historically had a significant portion of nonunion workers and nonunion contractors. I believe that portion is about 40 percent. I want to dissuade you from thinking this is a union mechanism to exclude nonunion labor. It is not. There is equal opportunity under the prevailing wage law for union contractors and nonunion contractors. It is, after all, a prevailing wage job.

SENATOR RATTI:

I came onto the Sparks City Council in 2008 at about the same time the Aces Ballpark was being completed. Since it was mentioned, I wanted to put on the record that Mr. Bybee's description is not how I remember that project. That was in the depth of the recession, and the characterization that there was a lot of out-of-state labor does not ring true. Maybe the structure would have allowed for that, but it was mostly local workers, and it came in under budget.

MR. PUSCHNIG:

There is one other point I wanted to make. In 1999, the LVCVA entered into a project labor agreement for the construction of our one-million-square-foot south hall. I was the LVCVA employee responsible for the implementation and coordination, under the PLA, for that construction project. In my opinion, the 1999 PLA was critical to the on-time completion of the south hall and allowed one of the largest trade shows in North America, the Consumer Electronics Show, to use the south hall for their show.

The convention center is a critical project for southern Nevada, and we need to be able to build it as quickly as we possibly can. A PLA would help us to do that.

CHAIR PARKS:

We have received a letter ([Exhibit N](#)) from the Henderson Chamber of Commerce expressing its opposition to S.B. 464.

I will close the hearing on S.B. 464 and open the hearing on S.B. 384.

SENATE BILL 384: Provides for the confidentiality of certain information in the records and files of public employers and public employee retirement systems. (BDR 19-506)

SENATOR JULIA RATTI (Senatorial District No. 13):

I am pleased to be sitting here today with Ms. Lockard, who represents the Retired Public Employees of Nevada (RPEN). Her organization came to me as I was aspiring to this office and discussed their concerns about the confidentiality of information for retirees who are in the Public Employees' Retirement System (PERS). You may recall that my predecessor, Senator Debbie Smith, brought forward a bill in the last Session to try to address this issue.

During my conversations with Ms. Lockard and RPEN, I shared my personal belief in the role of the Fourth Estate and the media's need for access to information in order to do the investigative reporting they need to do to accomplish their jobs. For that reason, I had some concerns about having absolute confidentiality. It is important that our media organizations have the ability to do the investigative journalism that helps keep those of us in government honest and on our toes.

At the same time, I found their stories and information compelling about the concerns of some of our retired public employees in terms of identity theft. For this reason, I chose to take a slightly different approach than Senator Smith took. I am trying to do something in this bill that is probably nearly impossible, which is to strike a balance between making sure the media and the public have access to the information they need to fulfill their watchdog function, and protecting identifying information for our retired public employees so they do not need to live in fear of identity theft.

You may be aware that there have been several court cases in Nevada regarding the release of PERS retirees' personal information to the public. A ruling by District Judge James Russell issued on May 1, 2014, changed the long-held policy interpretation of public records. Specifically, the order states that:

PERS has an obligation to provide the entirety of the pension information. Any such production, however, shall not include social security numbers, bank account information or contact information

such as addresses, telephone numbers and email addresses for any recipient of PERS benefits. PERS shall not redact or withhold any of the pension information for any recipient of PERS benefits, with the exceptions that PERS may redact the information on minor children and the names of recipients who are currently serving or served in sensitive law enforcement positions.

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

How does S.B. 384 solve this problem? This bill will clarify the public records law to ensure that identifying personal information or intensely personal collateral information, such as the names of beneficiaries who were never public employees, will remain confidential. We believe keeping this information confidential will lessen the risk of identity theft and people preying on the elderly. Also, clarifying the language in the law will provide guidance to the courts and reduce litigation.

I have a conceptual amendment ([Exhibit O](#)) to the bill. Originally, I was very ambitious and tried to tackle both PERS information and current employee information. There was a lot of consternation around the language regarding active employee information. I have had correspondence with the Nevada Policy Research Institute (NPRI) and have met with the Nevada Press Association, and they felt this part of the bill was too expansive and would not support the sunshine law or give access to the information needed. There is also a lot more information in regulation about what is and is not public information. For that reason, I decided to leave current employee information out of S.B. 384. It now focuses only on retired public employee information in PERS.

Originally, the list of public information included the last public employer and the amount of the annual pension. We received feedback from both the Nevada Press Association and NPRI that that was not enough information to be helpful to them and to allow them to do the work they wanted to do. In talking with retired public employees, however, it transpired that if you are someone whose

intent is to do harm, this is enough information to allow you to narrow in on the person you are targeting. In order to get to the point where they can get the information they want, which would be public employer, retirement date, years of service, and the amount of the annual pension, we removed the name from the list of public information. This gives them enough data to do the analysis they want, but it is no longer identified to an individual person.

I do not think there is a perfect solution to this problem that meets the needs of both public disclosure and protection from identity theft. This bill tries to strike a balance so we can preserve both ideals at the same time.

There are a lot of people here in support of S.B. 384. They do not all want to testify, but I would like them all to stand up, here and in Las Vegas, to show how many people took time out of their schedules to show their support.

SENATOR HARDY:

What do you do with the double-dipper the press likes to talk about, the person who retires and gets hired back?

SENATOR RATTI:

The public record is clear that this is allowed. I am not sure what public good is accomplished by hanging it on a single person, when we already know the law allows it. That is public information. The question is whether it adds value to the public discourse to point to one person who has done it.

SENATOR HARDY:

I am not sure what value there is a lot of times, but the press cares.

SENATOR RATTI:

Of course they care, but if you are trying to balance identity theft versus discourse, we all already know that the law exists and that is allowed.

MARLENE LOCKARD (Retired Public Employees of Nevada; Service Employees International Union Local 1107):

I wish to extend our sincere appreciation to Senator Ratti for bringing this legislation forth for us.

This topic has been the top issue of our members since this whole court debacle began. For more than 37 years prior to District Judge Russell's decision, PERS

information was considered confidential. The privacy of PERS member information is not a new thing. The recent court order Senator Ratti alluded to tipped what we feel is the public purpose of releasing identifying information of a retiree.

I have provided two expert statements, one by Barry Johnson ([Exhibit P](#)) and one by Mayank Varia ([Exhibit Q](#)), which were used in the recent court case. [Exhibit Q](#) states in part that even though de-identified data sets appear to decouple information from a person's identity, they still contain enough content to form a unique data fingerprint. It only takes three fields—gender, marital status and date of birth—to almost uniquely identify a data fingerprint for an individual within the PERS data set.

According to the Federal Trade Commission's 2016 report, Nevada has made the top ten of yet another bad list. We are rated ninth in the Nation for identity theft. It does not stop there. Among the top 50 largest metropolitan areas ranking for identity theft complaints, Las Vegas is No. 25 and Reno is No. 46. According to *The Wall Street Journal*, "The fleecing of older Americans has become an epidemic." People 60 years of age and older made up more than 37 percent of identity theft complaints, the highest of any age group. As seniors age, they become more enticing targets. Individuals whose identities have been stolen are victimized twice, once financially and then a second time emotionally as they try to unravel the damage and reassemble their lives, a task that can take years.

We also want to applaud Governor Brian Sandoval for recognizing this escalating crime by proposing to create the Nevada Office of Cyber Defense Coordination.

Last week, I testified in strong support of [A.B. 288](#).

[ASSEMBLY BILL 288](#): Revises provisions relating to the protection of older persons and vulnerable persons. (BDR 15-724)

This bill would increase penalties for those who conspire to exploit and abuse the elderly and vulnerable persons. How ironic it would be to give these unscrupulous criminals the very tools and information they need to make over 50,000 PERS retirees sitting ducks. I urge your favorable consideration of [S.B. 384](#).

KIM R. WALLIN (Retired Public Employees of Nevada):

We are in support of S.B. 384. I have written testimony ([Exhibit R](#)) explaining my experiences with this issue and my support for the bill.

MR. MCALLISTER:

We represent a number of members who are affected by this bill. Today I would like to speak on my own behalf. I am one of the retirees covered by this bill. I also sat on the PERS Board for a number of years, and we have wrestled with this issue for quite some time. There are those out there who would tell you it is vital for them to have this information so they can monitor the system to make sure it is safe and doing the things it is supposed to do. I am okay with that, and they can have that information. But they do not need my name. They can have how much is being paid out on my behalf and the years I have served. That does not matter to me. I just do not want them to have my name.

At the end of the day, I did my 33 years in public service. When is my money my money? I earned it. The way PERS is set up, 10 percent of the money I receive is money I put in myself, 10 percent comes from the State, and the other 80 percent comes from return on investments. They want to know what my employer put in, what I personally put in, and what my investment return is after I have already left employment. They do not need that.

In the past, PERS provided them the amount of benefits being paid out using identification numbers rather than individual names. That is a good policy in today's world of people out there who are bad actors trying to take advantage of people.

I urge your support for this bill.

MR. THOMPSON (Professional Fire Fighters of Nevada):

I am representing the Professional Fire Fighters of Nevada on this bill. My wife's career was law enforcement. She served as a jailer, a marshal, a deputy chief, a chief and the director of the Department of Public Safety. She has been in more fistfights than any ten men that I know. I cannot tell you how many people this woman has arrested. There are a lot of people out there who have a grudge against her. We have been dragged into lawsuits after she retired because of things that happened in her long career. These jobs are tough. For someone to be able to go back and identify her is wrong. As Mr. McAllister said, they can

have all that other information, but they do not need names. There are people out there who have grudges.

The same thing happens to firefighters. This year, the local firefighters' union hall was set on fire. Someone broke in, poured gasoline around, and set it on fire. This is the second time this has happened. Who knows why that happened? But there are people who have grudges against these public employees.

There is no reason, none whatsoever, to include names in public information, not even a Department of Motor Vehicles (DMV) worker. How many people love the DMV or leave there happy? Not many.

It is about time for this bill. We want to thank Senator Ratti for bringing it.

SENATOR GOICOECHEA:

Why does any of this information need to be public?

MR. THOMPSON:

I can understand why they might need the amounts paid out, but I agree with Mr. McAllister. If I am working and paying into social security, at what point is it my money? It is my money because I earned it. The same thing applies for public employees. They were paid with taxpayer dollars, but once they earn that money, it is not taxpayer dollars anymore, it is their money. I understand the need to be able to massage the data, but there is no reason to have the name associated with it.

SENATOR GOICOECHEA:

Could we aggregate the data? Eureka County has X employees who are getting X amount of dollars in benefits. Why do we need to break it down any further than that?

MIKE RAMIREZ (Las Vegas Police Protective Association; Southern Nevada Conference of Police and Sheriffs):

I represent the 8,000 members of law enforcement associations in Nevada. We are in full support of S.B. 384.

The system for current employee information also need revision. I will give you a quick personal example. About a year ago, a lieutenant in the gang unit called

me and said, "We just did a raid on a gang member's house, and we found some of your information. Do you remember this guy?" The gang member had my personal information. That happens to us daily while we are in active service, let alone when we retire and want to have our own time. These protections are much needed, and we appreciate Senator Ratti for bringing this bill forward.

MICHAEL GIURLANI (President, Nevada State Law Enforcement Officers Association):

I am also part of the Nevada law enforcement coalition. I am here today on behalf of my Association and the Nevada Association of Public Safety Officers. We are in support of S.B. 384. I echo the comments made by Mr. Thompson and Mr. Ramirez. I am retired after 25 years with the Nevada Highway Patrol, and we need this protection. People who are not in law enforcement also need this protection. With computer technology advancing daily, it is hard to keep up with the defenses against hackers, and this bill would help that. It is just common sense.

PRISCILLA MALONEY (American Federation of State, County and Municipal Employees Retirees):

We are in strong support of this bill. We appreciate the hard work Senator Ratti and RPEN have done on this bill.

We would like to reiterate Senator Ratti's point that there is a need to protect the First Amendment to the U.S. Constitution. We need a free press to help us understand what is going on in the communities and the world we live in. However, that needs to be balanced by the growing problem of the exploitation of elderly people, including abuse, neglect, identity theft and other kinds of exploitation. We appreciate the protections in this bill and feel they should be sufficient to satisfy those First Amendment concerns. We also appreciate Senator Goicoechea's position, as you heard from the applause that greeted his words. As we become older and more aware of these problems, it is of great concern to our members.

TERRI LAIRD (Executive Director, Retired Public Employees of Nevada):

We are in support of this bill. I have written testimony ([Exhibit S](#)) describing my personal experience with identity theft and urging your support for S.B. 384.

JACK HARRIS (State President, Retired Public Employees of Nevada):

We support S.B. 384. We have heard a lot about identity theft, but there are other risks involved in others having access to personal information from the PERS files. Four years ago, we were approached by a company out of Texas that specializes in group member benefits. Their representatives' approach was, "We'll increase your membership by 1,000 members per year guaranteed." That sounded great, but when we started getting into the specifics, we found out the company does this by mining information. Mining information is taking the information that is available and identifying and using it to track down individual people.

We attended the state convention for the retired public employees of California, and representatives from the same company were there. They were expounding on the fact that the company had brought in 1,200 members in the last 6 months. It even had a workshop on how to do this. The representatives went through the steps they used to mine information, using CalPERS and other retirement systems in California. The company sent out a mass mailing to 120,000 retirees in California and hired people to follow up and contact these individuals personally.

Identity theft is not the only risk we face. There is also the ability for individuals to use that information for their own personal financial benefit. We would like to add that to the conversation.

TOM WELLMAN (President, Nevada State Education Association – Retired):

We are in support of S.B. 384. I have written testimony ([Exhibit T](#)) urging your support.

JUDITH HAMBLIN:

I am a retired school teacher. I probably fit into every category mentioned so far. I am in the seasoned group; I am vulnerable; I live alone. I have no family other than my friends, and I have very few people to look out for me. That in itself is difficult, but to add to it is the vulnerability that whatever goes wrong will be my fault and my burden to carry.

I appreciate this bill, and I wholeheartedly agree with the idea that you can leave off the names. They have enough information. It should not take you more than three or four minutes to figure out from the computer just who I am with

the information they have asked for: the public employer, the position and the amount of annual salary I last had.

As a school teacher, I had not taught two weeks before people asked me why I was spending their tax money on the groceries I bought. That started at the very beginning of my career, 47 years ago. Because I am a public servant, I have always been questioned about what I am spending their tax money on—not mine, but theirs. That still goes on. I hope there will come a day when we can be private citizens, when everybody does not know our business just because we worked as school teachers or any other position that pays into PERS in Nevada. We have the right, somewhere along the line, to be who we are. I hope it does not come about that the only time I will be a private person is when they put the headstone on my grave.

VICKI CAMERON (Nevada Silver Haired Legislative Forum):

One of the things the Nevada Silver Haired Legislative Forum addressed this year is in regard to guardianship. Last night in thinking about S.B. 384, it came to my mind how vulnerable our retirees could be for a guardian to abuse them. One of the many ways predators get information on people is to look in the tax records to see who is a widow or a widower, and when they see how much their income is, that is who they target to abuse.

I am sure you are all familiar with the case of guardianships that are in the courts today. Those are also one of the things that concerns me with our privacy. We need to keep our vulnerable seniors' information private so they will not be so vulnerable.

TINA M. LEISS (Executive Officer, Nevada Public Employees' Retirement System):

The Public Employees' Retirement Board has not yet had an opportunity to take a position on S.B. 384. However, staff will be recommending a position of support for this bill consistent with prior Retirement Board positions.

Our support of this bill is primarily based on the need for clarity and certainty as to what is and is not confidential regarding the information and records we maintain for our members and beneficiaries. We hold extensive personal and sensitive information on over 300,000 individuals who have either worked for a public employer in Nevada or who are beneficiaries, spouses or children of someone who has worked for a public employer.

I will provide the Committee with a brief history of the relevant statutes and interpretation of those statutes to hopefully provide some context as to why PERS believes clarity and certainty is necessary for the best interests of all parties concerned.

Nevada Revised Statute 286.110, subsection 3 provides in part that the official correspondence and records, other than the files of individual members or retired employees, are public records. Further, NRS 286.117 provides a limited list of people who may review or copy records maintained for our members or beneficiaries. These statutes were enacted in 1977 to resolve a question as to whether or not our records and information were confidential or subject to the public records law.

In 1974, the Office of the Attorney General (AG) advised PERS that the individual retirement file of a member was not subject to the Public Records Act. In 1976, the AG's Office further advised that certain portions of the file may be available for public inspection, but information of a personal nature should be removed. Because of the conflicting advice, it was brought to the Legislature in 1977, at which time the Legislature decreed that the files of members and retirees are not public records. That was the interpretation of the AG's Office consistently from 1977 to 2013: that the files are not public record, and any information contained in those files is not public record. We were advised for over 35 years that we could not legally release any of the information in those files.

In 2011, PERS was sued by the *Reno Gazette-Journal*, seeking five or six pieces of information from the files. The court ruled that we could release those pieces of information being sought and were required to do so, but everything else was confidential. Again, the issue was in determining what is and is not confidential.

In 2013, the Nevada Supreme Court affirmed part of the former decision but also vacated part of the decision. It reiterated that the files of members and retirees are not public record. However, it also ruled that where information is contained in a medium separate from the individual files, including administrative reports generated from data contained in those files, such reports or other media are not confidential merely because the same information is contained in the files. The Nevada Supreme Court also vacated District Judge Russell's order to the extent it required us to create a new document or customize reports by searching for information in the files.

As you probably know, PERS is a fiduciary to our members and beneficiaries. The Supreme Court order placed us in a very difficult situation when determining how to put the legislative intent into place of the 1977 statute, the Supreme Court order, and the interests of our members and beneficiaries.

The issue is this. The information in the members' files is confidential if that is the only spot where it is contained. Once we run a report to do our jobs and pull the information out of the files—for instance, to send the information to the actuary to value PERS or to find a certain class of people whose benefits we need to audit for a certain issue—the information becomes public under the Supreme Court order. That puts us in the position that we are inadvertently making confidential information public as a by-product of doing our jobs.

Our belief is that it is not our job to determine what is public or confidential, and that it is not in the best interests of anyone for the courts to determine this on a case-by-case basis. We feel it is best for this policy-making body to be the ones to tell us what is public and what is private without making a distinction about where the information is held.

That is the basis of our support for S.B. 384. We would like to not have this issue repeatedly decided in court. Every public records request for personal information is different. Because of the tension between the statute, the Supreme Court decision and 35 years of interpretation by the AG's Office, we do not have the certainty we need to respond.

CHRISTOPHER G. NIELSEN (General Counsel, Nevada Public Employees' Retirement System):

Senate Bill 384 attempts to resolve in a reasonable fashion the current tension between the Public Records Act and the confidentiality statutes Ms. Leiss referenced. It is my understanding that this bill will ease this tension by deeming certain pieces of individual member and retiree information confidential and keeping the rest of the nearly infinite amount of information we have on members, retirees and their families confidential, regardless of whether the information is kept in an individual file or is generated as part of a report or audit needed for PERS to conduct its business.

It is part of my job to assist and advise staff on how to comply with a public records request. Public records requests are received at PERS almost daily, and the vast majority of these requests are complied with. We take them very

seriously and recognize the importance of the Public Records Act. We provide individuals, companies, the media and other interested parties with information regarding PERS investments, accounting information, financial information, contracts with our investment managers, and so on. However, when it comes to public record requests regarding individual members, retirees or family members, it is difficult to determine what is and is not confidential. This is because of the rules in the Public Records Act, the Public Employees' Retirement Act, and the Supreme Court decision. In my opinion, existing law is murky at best when it comes to the confidentiality of individual information.

In summary, I believe PERS should not be in the position of determining what is or is not confidential. This is clearly a policy decision for the Legislature to make. This is an area of law that needs clarification because it can lead to litigation. We do not want to be in the business of litigation or determining what is or is not confidential. We are in the business of providing retirement income to the tens of thousands of retirees who previously worked for public employers and who rely on that income for their daily needs.

SENATOR GOICOECHEA:

I am concerned that this bill would interfere with PERS' ability to compile data.

EARNEST C. ALDRIDGE:

I am here in vehement opposition to S.B. 384. I have written testimony ([Exhibit U](#)) explaining my concerns about the bill.

I listened to Senator Ratti talk about the intent of this bill, and it does have a noble intent. But it hides a serious problem we have in Nevada. You are trying to revise NRS 239, the Public Records Act.

I am not familiar with identity theft and have never had problems with it. The employees of Nevada have to be protected, and as a citizen, I insist that they are protected by my government. However, you are trying to limit public access to real important information. You are trying to limit public access to NRS 239.

The problem is that NRS 239 addresses not just employees, it also covers public officers. I have used NRS 239 to get information on public officers. I find it very poorly administered. Nobody is watching the store. In NRS 239, you can request the certificate of election, the oath of office and the public surety bond for any public officer. I have used it for that, and I have discovered that none of

the public officers of Nevada have a public surety bond in place. Public official surety bonds are governed by NRS 282. It requires all legislative, executive, judicial and ministerial officers, prior to assuming the duties of office, to post a surety bond. In fact, NRS 282.200 states that if the public officer does not qualify, the office is considered vacant. That has caused a constitutional crisis. Now you are trying to limit the public's access to the information on the people who are holding public office but have not qualified by filing that surety bond. You want to set them behind a curtain of secrecy.

CHAIR PARKS:

Most of the people covered by PERS are not public officers. They are retired public employees.

MR. ALDRIDGE:

I am not talking about the retired employees. I am talking about the Governor, the Secretary of State and other public officers.

CHAIR PARKS:

This bill has to do with retired public employees, people who have contributed to PERS.

MR. ALDRIDGE:

Are you saying you are not trying to modify or alter NRS 239?

CHAIR PARKS:

The bill does amend NRS 239, but we are not seeking to do what you are indicating. Please restrict your comments to the bill itself rather than NRS 239 or NRS 282.

MR. ALDRIDGE:

In reading the proposed amendment in [Exhibit O](#), I see that it starts out by amending NRS 239.

CHAIR PARKS:

Yes, but you were referring to people filing surety bonds. There is nothing about that in NRS 239.

MR. ALDRIDGE:

No, that is in NRS 282. But NRS 239 allows the public to access public records. Citizens must have access to public records. If these employees are not part of the public record, if their information is not part of the public record, it does not concern this bill. You want to amend NRS 239 to place a bar between the citizen and the public officer.

CHAIR PARKS:

This bill has nothing to do with public officers. Please wrap up your testimony.

MR. ALDRIDGE:

My summation would be to protect the public employees by all means. However, do not limit citizens' access to the public records.

CHAIR PARKS:

We support that.

STUART MCKAI:

I echo the concerns of Mr. Aldridge. If none of the members of the Committee have surety bonds, your positions are vacant and you may not vote on this bill or any other. I need to know if I am talking to a real Committee or not.

CHAIR PARKS:

I assert that you are talking to a real Committee. Perhaps we could have Counsel address this.

MS. CHLARSON:

I am not aware of any requirement that each individual Legislator have a bond. This Committee is certainly empowered to take action on these bills.

MR. MCKAI:

So NRS 282 does not exist as far as this goes.

MS. CHLARSON:

I am not aware of any requirement in NRS 282 applying to individual Legislators.

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MR. MCKAI:

In fact, NRS 282.200 says all public officers have to have a surety bond. If they do not, their positions are vacant and they cannot vote, and these laws they are passing are null and void. That goes for the whole Legislature.

CHAIR PARKS:

Thank you, Mr. McKai. We will research that.

BARRY SMITH (Director, Nevada Press Association):

We are neutral on S.B. 384.

In the initial bill, section 1 was too broad, in my opinion. The amendment in [Exhibit O](#) takes that section away.

I appreciate the approach Senator Ratti has taken to this bill to try and solve a problem and clarify what is going on. It was never the intent of the newspapers to put anyone at risk of identity theft. We would encourage any provisions that reduce that possibility. I hope to continue working with the sponsor of the bill.

SENATOR RATTI:

I appreciate the testimony from Ms. Liess and Mr. Nielsen on the clarity we are seeking to achieve in this bill. The issue of whether information pulled from an individual's file and put into a different form is still confidential is at the heart of much of the lawsuits. We received written testimony ([Exhibit V](#)) in opposition to S.B. 384 from Robert Fellner from the Nevada Policy Research Institute saying the courts have said some of the arguments in support of this bill are not valid. I disagree with that. With all respect to the judiciary, it is our role to set policy, and part of the problem here has been that the policy has not been as clear as it could be. I hope this bill clarifies that policy: we will give enough information for meaningful public discourse, but still not so much information that retired public employees are put at risk.

CHAIR PARKS:

We have also received written testimony in support of the bill from Kent M. Ervin of the Nevada Faculty Alliance ([Exhibit W](#)).

I will close the hearing on S.B. 384 and open the hearing on S.B. 494.

SENATE BILL 494: Revises provisions relating to grants for water conservation and capital improvements to certain water systems. (BDR 30-356)

SENATOR PETE GOICOECHEA (Senatorial District No. 19):

Senate Bill 494 comes today from the Legislative Commission Subcommittee to Study Water to deal with cloud seeding. I know there are some concerns about the bill from the Treasurer's Office with regard to bond funding. As you may know, A.B. No. 198 of the 66th Session established a grant program, known as the AB 198 Grant Program, to assist with the cost of capital improvements to publicly owned water systems. It has been limited because of our bonding capacity. We have put \$10 million a year into the AB 198 Grant Program to help finance small rural water projects. At some point, we are going to have to fully fund it if we want to make these projects happen and continue.

This bill allows for entities to apply to the AB 198 Grant Program to support weather modification programs. We want to make sure we are not talking about research programs. This has to be hard costs, so we will need to amend the bill. The goal is to allow the AB 198 Grant Program to fund the capital purchase of equipment for cloud seeding.

There is another amendment from Southern Nevada Water Authority that will be presented by Omar Saucedo. This amendment renames the AB 198 Grant Program the Joe Dini Fund. He brought the original bill in 1991 and did a tremendous amount of good for the small rural water systems.

I will stand for questions, with the understanding that we have a lot of work to do on the bill yet.

MIKE L. BAUGHMAN (Humboldt River Basin Water Authority):

I have written testimony ([Exhibit X](#)) that gives some background information about cloud seeding and explains the benefits it can provide for Nevada. I believe the amendments dealing with the AB 198 Grant Program address the concern of the Treasurer's Office with regard to limiting this to capital projects and infrastructure. That is our intent as well.

As the meeting was starting today, I received a call from Gordon DePaoli, who is with the Walker River Irrigation District. He asked me to indicate that they support the bill. I also have a letter ([Exhibit Y](#)) from Doug Busselman with the Nevada Farm Bureau Federation expressing their support for S.B. 494.

OMAR SAUCEDO (Southern Nevada Water Authority):

I am here today in support of S.B. 494. I have a proposed amendment to the bill ([Exhibit Z](#)) that has been referred to previously.

I will walk you through the amendment. Section 1 of the bill relates to weather modification, specifically to cloud seeding. We had multiple discussions with interested stakeholders during the Interim, and a consensus was reached that water augmentation was important and these funds could be expanded to include water augmentation projects. The Southern Nevada Water Authority (SNWA) has utilized multiple water augmentation projects to protect our water sources and manage the critical resource that is water in southern Nevada. The SNWA used the Desert Research Institute (DRI) as a partner and has helped fund cloud-seeding activities across the State.

During the Governor's drought forum, Governor Sandoval stressed the importance of funding drought resiliency projects across the state. Our amendment conforms to the discussions that occurred during the last Interim.

[Exhibit Z](#) also adds a new section to the bill changing the name of the AB 198 Grant Program to the Joe Dini Water Grants Program. Assemblyman Joe Dini worked tirelessly to improve the lives of all Nevadans. He was first elected to the Assembly in 1967 and served until 2001. He served as the Speaker of the Assembly a record eight times and was the longest-serving Assemblyman in Nevada's history. He was renowned for his famous ability to work past partisan politics to benefit all citizens of Nevada.

In 1991, the Legislature created the AB 198 Grant Program to provide grants to purveyors of water to assist with the costs of capital improvement to publicly owned community water systems and publicly owned nontransient water systems. To date, more than \$170 million has been awarded. The AB 198 Grant Program enables citizens to comply with health regulations and to provide for safe and adequate drinking water. This program has made it possible to ensure that the costs of improvements do not overwhelm or cripple water systems.

We are in support of this important piece of legislation.

SENATOR MANENDO:

Your amendment states Joe Dini was first elected in 1967. In fact, he was elected in 1966 and served his first Session in 1967.

MR. SAUCEDO:

Thank you for the clarification.

JIM SMITHERMAN (Water Resources Program Manager, Western Regional Water Commission):

The Western Regional Water Commission's Legislative Subcommittee has taken a neutral position on S.B. 494. The Subcommittee is meeting today and is considering this bill, and I believe they will change their position to support the bill. After reviewing [Exhibit Z](#), I believe they will support the amendment as well.

FRANK McDONOUGH (Desert Research Institute):

I am an atmospheric scientist with DRI. I am available if there are any technical questions on cloud seeding.

CHAIR PARKS:

Everyone is talking about using drones for cloud seeding. Do you have any thoughts on that?

MR. McDONOUGH:

The *Executive Budget* for business development has funded some research into that topic, and we have made significant progress. We are waiting for the Federal Aviation Administration to give us permission to do test flights in clouds. We have successfully flown the aircraft and deployed cloud-seeding material, and we hope to have that as viable technology in the next several years.

LORI CHATWOOD (Deputy Treasurer, Debt Management, Office of the State Treasurer):

We are neutral on S.B. 494. I have written testimony ([Exhibit AA](#)) explaining the bond issues involved and suggesting an amendment to the bill. This testimony was prepared before I received [Exhibit Z](#).

The question is whether we are using bond proceeds to fund working capital, operating expenses or capital expenditures that have a useful life for the

amortization of the bonds. That is where the Treasurer's Office is concerned. It has nothing to do with which programs are involved in the AB 198 Grant Program or how the Legislature feels the Program should be made up, but rather how the bonding is affected.

In the case of the AB 198 Grant Program, we have already done our affordability analysis. In the *Executive Budget*, the Governor has recommended the allocation of that affordability, and the AB 198 Grant Program was given \$1 million of allocation for bond funding. In the intra-fund loan program that we are suggesting as a possible alternative in [Exhibit AA](#), we could do an intrafund borrowing because at the moment the Consolidated Bond Interest and Redemption Fund has cash flow that could afford that. Rather than issuing a bond that would have to be taxable, we could loan those proceeds to the A.B. 198 Grant Program. They would administer that as normal, and then we would pay that inter-fund borrowing back with property tax, similar to how we would pay debt service with property tax.

SENATOR RATTI:

Thank you for bringing suggestions along with concerns. I look forward to seeing Senator Goicoechea work with you to figure it out.

JENNIFER CARR (Deputy Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources):

The Division of Environmental Protection is neutral on S.B. 494. I have written testimony ([Exhibit BB](#)) providing some background information on the topic.

SENATOR MANENDO:

How much money has the Treasurer's Office allocated for the AB 198 Grant Program?

Ms. CARR:

Our records indicate that over the life of the Program, the grants issued have totaled \$117,053,585.98.

SENATOR GOICOECHEA:

This bill will take some fixing. As I stated earlier, I am concerned about the funding for this Program. We will not be able to expand it until we get some actual money in the Program. All the same, this is a way to find solutions for Nevada's ongoing drought issues. We will continue to work on the bill.

CHAIR PARKS:

I will close the hearing on S.B. 494.

VICE CHAIR MANENDO:

I will open the hearing on S.B. 188.

SENATE BILL 188: Revises provisions prohibiting certain discriminatory acts.
(BDR 18-106)

SENATOR DAVID R. PARKS (Senatorial District No. 7):

Over the past few Sessions, the Legislature has passed a number of bills addressing both sexual orientation and gender identity, dealing with broad areas of statute. This bill resulted from a conversation I had with Clark County Commissioner Chris Giunchigliani following the 2013 Legislative Session. Commissioner Giunchigliani informed me that the term "gender identity or expression" was not included among the protections in statute dealing with the Nevada System of Higher Education. From there, I asked our legal staff to undertake a review of other possible oversights in the NRS consistent with the various pieces of legislation previously passed over a number of Sessions. I then brought forward S.B. No. 164 of the 78th Session, which was passed unanimously by the Senate but did not make it out of Committee in the Assembly. Senate Bill 188 is essentially a slimmed-down version of that bill.

Senate Bill 188 brings statute in line with recent legislation over the last half-dozen Sessions. It is a cleanup bill, making technical corrections to previously overlooked statutes. Rather than going through every section of the bill, I would like to offer an overview of its provisions. Sections 4 and 5 define the terms "gender identity or expression" and "sexual orientation." Section 3 provides that these definitions be included in the primary chapter of the NRS as a reference point. Section 9 adds "gender identity or expression" to the list of attributes that may be considered as an aggregating factor in a first degree murder case.

For a representative sample of how the statutes are updated throughout the bill, we can look at sections 1 and 2, which revise provisions concerning the membership and activities of the Nevada Equal Rights Commission. The new language requires that NERC be representative of all groups, including without limitation those based on religion, disability, race, ethnicity, sexual orientation, and gender identity or expression, as well as being representative of both sexes.

This replaces the original language, which required NERC to be representative of religious, disabled, racial and ethnic groups of both sexes in the State.

Other sections of S.B. 188 similarly update language concerning, among other groups, State and local employees, children, inmates, persons involved in real estate transactions, charitable corporations, school employees and students, the National Guard, and gaming licensees and patrons. Even the Charter of the City of Sparks is updated in section 34 and adds a person's gender identity or expression to the circumstances under which a person shall not be appointed, removed, favored or discriminated against.

In short, S.B. 188 brings our statutes up to date with regard to discriminatory practices by deleting archaic and overly narrow language and replacing it with broader, more culturally appropriate language that has entered into common usage.

While there are many fiscal notes attached to this bill, only the one from White Pine County School District shows a fiscal impact; that is for \$1,500 for each year of the biennium for training purposes.

SENATOR RATTI:

Basically, the legal team has gone through every chapter of the NRS to find every place this language appears to make the law consistent across Nevada regardless of where those laws live.

SENATOR PARKS:

Yes, that is what they did.

DAXEA DEWEESE:

I am a social work student at the University of Nevada, Reno. I am here today to support the passage of S.B. 188. As students of social work, it is our ethical responsibility to respect the dignity and worth of each person and promote social justice.

Senate Bill 188 aims to revise existing provisions that prohibit discrimination to include gender identity and expression and sexual orientation in a more holistic protection. The bill starts by defining gender identity and sexual orientation in the context of varieties of personal perception. It is surprising to me that the

proposed revisions are not already included in NRS protections from discrimination.

I support S.B. 188, which is essentially aiming to comprehensively eradicate discrimination from Nevada and advocate for human rights and equality.

DOMINICK ALLEN:

I am here in support of S.B. 188. I have written testimony ([Exhibit CC](#)) describing my experience growing up gay.

STACEY SHINN (Progressive Leadership Alliance of Nevada; Transgender Allies Group):

We are in support of S.B. 188. I am also a social worker, and I am proud that the last two speakers will soon be my colleagues. I am glad to belong to a profession that stands up for social justice issues.

Ms. MULL:

We support this bill. I have written testimony ([Exhibit DD](#)) urging your support of S.B. 188.

JANINE HANSEN (Nevada Families for Freedom):

I am here in opposition to this bill.

Senator Parks said this was a bill for technical corrections. I hope that is the case. I went through this bill and found ten places where the protections for religion are not extended as they are for these other factors. The ordinance of the Nevada Constitution states, "... perfect toleration of religious sentiment shall be secured, and no inhabitant of said state shall ever be molested, in person or property, on account of his or her mode of religious worship." Article 1, section 4 says, "The free exercise and enjoyment of religious profession and worship without discrimination or preference shall forever be allowed in this State"

Let me tell you why this is important to me. I am a Mormon. In the history of my religion, people were forced out of the state of Missouri under an extermination order, and many people died in the cold of winter and in other ways. When they were in Illinois, their leaders were murdered while they were in jail, and the people were forced out again. They then left the United States and went to Utah, where the federal government sent Johnson's Army after

them. Later on, many of their leaders were sentenced to jail and others went into hiding. Church property was confiscated because they had a different marriage practice than those who were in the U.S. Congress.

I understand persecution. In this very building, I have twice had to call on the Legislative Police for protection because I was threatened by people who support this agenda. I have received death threats against me and my children. I understand how important it is for people to obey the law and respect others' rights because I have often been threatened because of my deeply political and religious beliefs.

If you are making technical corrections, it is important that there are ten places where religion has been eliminated. The way this bill is worded, someone could discriminate or persecute on the grounds of religion without violating the law.

I apologize that I have not spoken with Senator Parks about this before today. I believe this is a reasonable request, if this is to go forward, that it should include basic, fundamental issues like religion as well as these other things.

WILLIAM P. TARBELL:

I came today with questions. I still have lots of questions after reading through S.B. 188. First of all, I offer a comment about my own record on the subject of discrimination and seeking justice on behalf of people. At the age of 12, I drove off two young men who were stoning a young woman of the Suquamish people. She happened to be the daughter of the chief and was also mentally challenged. When I asked them to stop, they refused, and I then gave them a taste of their own medicine. I have been in that mode my entire life. I have always been on the side of those who were powerless.

I would like to point out a housekeeping matter. We keep adding more language to the laws we pass. While it may seem like we are nearing the end of the list by adding the language in this bill, we could clean up some of this by editing. In section 18, subsection 2, paragraph (b), subparagraph (2), for example, we could simply say "Attack or demean anyone" instead of that long list. Section 10, subsection 1, paragraph (c), subparagraph (3) could refer simply to "Violence against persons or property," instead of a long list that might have to grow in the future. Just simplify the language. It seems to me that we could shorten some of the language successfully without causing any problems.

I also have to ask if there is a statutory definition of discrimination. I can think of a dozen ways discrimination might occur, but I have never seen an explicit legal definition. I am just throwing that out.

I also notice that some of these changes include religion and some do not. In section 2, religion is included in subsections 1, 2 and 4, but not in subsection 3. I do not know why.

The definitions of gender identity or expression and sexual orientation in sections 4 and 5 are not clear to me. I do not understand what orientation actually means. Is it fixed? Is it something that can be changed? What are we talking about? What do we mean when we talk about assigned sex? Who is assigning sex?

I am not objecting to the attempt to limit discrimination against anyone. Like the young man who spoke earlier, I believe everyone should be treated like human beings. I am just asking for more clarification before we put things into law so that no mistakes can be made. Discrimination, as I understand it and as I think you mean it, should not be practiced against anyone.

SENATOR PARKS:

If Ms. Hansen could provide me with her list of ten places where religion is not included in the bill, I would be happy to ask Legal to review that to see if there is some factor preventing it from being included. As you all know, I prefer to be as inclusive as possible, and I would certainly undertake that in the interest of thoroughness.

VICE CHAIR MANENDO:

We have received written testimony ([Exhibit EE](#)) in support of S.B. 188 from Jane Heenan with Gender Justice Nevada.

I will close the hearing on S.B. 188.

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CHAIR PARKS:

Is there any further public comment? Hearing none, I will adjourn the meeting at 4:00 p.m.

RESPECTFULLY SUBMITTED:

Lynn Hendricks,
Committee Secretary

APPROVED BY:

Senator David R. Parks, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	16		Attendance Roster
S.B. 397	C	4	Nancy Stiles / AAUW	Written Testimony
S.B. 397	D	1	Erika Washington / Make It Work Campaign	Written Testimony
S.B. 397	E	1	Senator David R. Parks	Written Testimony from Janette Dean
S.B. 464	F	1	John Wiles / Unified Construction Industry Council	Letter
S.B. 464	G	1	Alex Panni	Written Testimony
S.B. 464	H	1	J. Elliot Postma	Written Testimony
S.B. 464	I	1	Johnnie Taylor	Written Testimony
S.B. 464	J	1	Logan Swank	Written Testimony
S.B. 464	K	1	Danny Bentley	Written Testimony
S.B. 464	L	1	Kea Pimpton	Written Testimony
S.B. 464	M	1	Crystal Hurst	Written Testimony
S.B. 464	N	1	Senator David R. Parks	Letter of opposition from Henderson Chamber of Commerce
S.B. 384	O	1	Senator Julia Ratti	Conceptual Amendment
S.B. 384	P	9	Marlene Lockard	Declaration of Barry Johnson
S.B. 384	Q	8	Marlene Lockard	Declaration of Mayank Varia
S.B. 384	R	3	Kim R. Wallin	Written Testimony
S.B. 384	S	1	Terri Laird / RPEN	Written Testimony
S.B. 384	T	2	Tom Wellman / Nevada State Education Association – Retired	Written Testimony
S.B. 384	U	3	Earnest C. Aldridge	Written Testimony

S.B. 384	V	1	Senator Julia Ratti	Written Testimony from Robert Fellner / Nevada Policy Research Institute
S.B. 384	W	1	Senator David R. Parks	Written Testimony from Kent M. Ervin / Nevada Faculty Alliance
S.B. 494	X	4	Mike Baughman / Humboldt River Basin Water Authority	Written Testimony
S.B. 494	Y	1	Mike Baughman	Letter of Support from Doug Busselman / Nevada Farm Bureau Federation
S.B. 494	Z	3	Omar Saucedo / Southern Nevada Water Authority	Proposed Amendment
S.B. 494	AA	4	Lori Chatwood / Office of the State Treasurer	Written Testimony
S.B. 494	BB	2	Jennifer Carr / Division of Environmental Protection	Written Testimony
S.B. 188	CC	2	Dominick Allen	Written Testimony
S.B. 188	DD	1	Kimberly Mull / Nevada Coalition to End Domestic and Sexual Violence	Written Testimony
S.B. 188	EE	2	Senator Mark A. Manendo	Written Testimony by Jane Heenan / Gender Justice Nevada