

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

**Eightieth Session
April 4, 2019**

The Committee on Government Affairs was called to order by Chair Edgar Flores at 8:52 a.m. on Thursday, April 4, 2019, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/80th2019.

COMMITTEE MEMBERS PRESENT:

Assemblyman Edgar Flores, Chair
Assemblyman William McCurdy II, Vice Chair
Assemblyman Alex Assefa
Assemblywoman Shannon Bilbray-Axelrod
Assemblyman Richard Carrillo
Assemblywoman Bea Duran
Assemblyman John Ellison
Assemblywoman Michelle Gorelow
Assemblyman Gregory T. Hafen II
Assemblywoman Melissa Hardy
Assemblyman Glen Leavitt
Assemblywoman Susie Martinez
Assemblywoman Connie Munk
Assemblyman Greg Smith

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman Tyrone Thompson, Assembly District No. 17
Assemblyman Skip Daly, Assembly District No. 31
Assemblyman Al Kramer, Assembly District No. 40

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Mark Peckham, Committee Secretary
Trinity Thom, Committee Assistant

OTHERS PRESENT:

Sarah Robbins, Private Citizen, Pahrump, Nevada
Chris Daly, representing Nevada State Education Association
Anthony Ruiz, Senior Advisor for Government Relations and Community Affairs,
Office of the President, Nevada State College
Luis F. Valera, Vice President, Government Affairs and Diversity Initiatives,
University of Nevada, Las Vegas
Megan Rockefeller, representing Food Bank of Northern Nevada
Joi Holliday, Senior Policy Analyst, Nevada System of Higher Education
Mariana Kihuen, Interim Director of Government Affairs, College of Southern
Nevada
Tom Clark, representing Nevada Outdoor Business Coalition
Meghan Wolf, Environmental Activism Manager, Patagonia, Inc.
Kyle J. Davis, representing Nevada Conservation League
Fawn Douglas, Private Citizen, Las Vegas, Nevada
Blaine Elliott, Lead Organizer, Nevada Conservation League
Janet Carter, Executive Committee Member, Toiyabe Chapter, Sierra Club
Sheila Billingsley, Treasurer, Save Red Rock Canyon Community Development
Corporation
Jocelyn Torres, Nevada Program Director, Conservation Lands Foundation
Mauricia M. M. Baca, Executive Director, Get Outdoors Nevada
David Dazlich, Director, Government Affairs, Las Vegas Metro Chamber of
Commerce
Ron Hunter, Senior Manager of Environmental Activism, Patagonia, Inc.
Laurel Saito, Nevada Water Program Director, The Nature Conservancy
Megan LeBerth, Private Citizen, Reno, Nevada
Jessica Wise, representing Human Services Network; and Food Bank of Northern
Nevada
Chris Joyce, Distribution Center Director, Patagonia, Inc.
Annette Magnus, Executive Director, Battle Born Progress
Bradley Crowell, Director, State Department of Conservation and Natural Resources
Richard Karpel, Executive Director, Nevada Press Association
A.J. Delap, Government Liaison, Office of Intergovernmental Services, Las Vegas
Metropolitan Police Department
Matthew Christian, Assistant General Counsel, Las Vegas Metropolitan Police
Department
Laura Rehfeldt, Deputy District Attorney, Clark County District Attorney's Office

John Fudenberg, Coroner, Government Affairs, Office of the Clark County
Coroner/Medical Examiner; and representing Clark County
Kathy Clewett, Legislative Liaison, City of Sparks
David Cherry, Government Affairs Manager, City of Henderson
Dylan Shaver, Director of Policy and Strategy, Office of the City Manager, City of
Reno
Vinson Guthreau, Deputy Director, Nevada Association of Counties
Kelly Crompton, Government Affairs Manager, Office of Administrative Services,
City of Las Vegas
Wes Henderson, Executive Director, Nevada League of Cities and Municipalities
Brian McAnallen, representing City of North Las Vegas
Steven Tackes, representing Carson City Airport Authority
Mary C. Walker, representing City of Carson City

Chair Flores:

[Roll was taken. Committee rules were explained.] I will open the hearing on
Assembly Bill 461.

**Assembly Bill 461: Makes changes to provide assistance to homeless youth to access
opportunities for post-secondary education. (BDR 18-1089)**

Assemblyman Tyrone Thompson, Assembly District No. 17:

The bill before you today is intended to help our homeless high school students achieve greatness. They already face many obstacles in their lives, but when and if they get out of high school, they should be afforded the same opportunities as others to seek higher education—or other alternatives, such as trades and vocational schools. I wanted to make sure we did a series on vulnerable populations where I serve as the Chairman of the Assembly Committee on Education. During one of the presentations around homeless youth, there was a young lady who nailed it. She described her journey in seeking higher education—she is on the phone right now.

Sarah Robbins, Private Citizen, Pahrump, Nevada:

I have never had a consistent home life; but there are two recurring themes in my life story: I have always been homeless or at risk of homelessness, and education has always been a top priority in my life. I grew up in Pahrump, Nevada, in an abusive, single-parent family. My typical styles of abode included living in cars—without any heat in the dead of winter; sleeping on the floor of a stranger's home; or temporarily residing in a home of my own for a few weeks until my mom got evicted. In my short life, I have moved over 25 times, and I am only 21. School serves as an escape for me from my violently unstable home life. It is where I feel as if I have control and a place where I can thrive. An education is something that, once received, cannot be taken away. For myself, it is the only opportunity I will get to break the cycle of poverty and homelessness to which I belong.

Due to the numerous obstacles and barriers that homelessness presents, I have not had the same access to education as my non-homeless peers. In the middle of my senior year, my

home had become an unbearable and dangerous place to live—I became unexpectedly homeless. I was at a crossroads in my life where I had to strongly consider dropping out of school to get a full-time job—so I could afford food and shelter. I felt as though everything I had worked so hard to accomplish in high school would mean nothing. I had to choose between basic survival and an education. It felt like my education was being taken away from me.

Linda Fitzgibbons, the Nye County School District Homeless Liaison, caught wind of my situation, and I was offered services from the McKinney-Vento Homeless Assistance Act of 1987. They helped me find a place to live so I could finish my high school education. They also provided me with support services and academic supplies so I could direct my focus entirely on school, rather than homelessness—like most other kids my age were doing. With the help of the McKinney-Vento program, I was able to graduate with an advanced high school diploma and attend college and earn not one, but two associate's degrees. I am currently working on three bachelor's degrees as a triple major in political science, public service and public policy, and justice studies.

This has been an uphill battle—one that I have faced numerous times while being homeless in college—including this past month when I have been living in my car. In postsecondary education, there are no resources or a point of contact on college campuses for homeless students like there is in the McKinney-Vento program. The college arena is much different to navigate than high school, especially for first-generation college students who have likely never been exposed to the environment, like most homeless students and myself. We are essentially left to fend for ourselves, and we often slip through the margins without any hope for the future. There have been numerous times, including recently, when I have had to consider dropping out of college to pick up a second full-time job.

With the passage of Assembly Bill 461, homeless students will have the opportunity to attend college, similar to those who do not have to worry about where they will sleep or whether they will eat at night. Having a permanent contact to help facilitate resources and educate faculty and students on issues homeless students face will alleviate the difficult navigation of the college system. By helping homeless students overcome the barriers and obstacles that homelessness presents in accessing higher education, we will have the opportunities to develop into scholars who can, and will, change the world to make it a better place. We are the future neurosurgeons, innovators, business people, artists, and perhaps even a future assemblyperson on this Committee. We just need a little support so we can have the opportunity to focus and work hard to achieve those futures.

I am here today, not only to share my story of trying to earn an education while homeless, but to advocate on behalf of the over 18,000 known homeless students who reside in the state of Nevada. I ask for your support helping homeless students so we do not become just another statistic. I have confidence, with the passage of this bill, Nevada can change the statistics and lead the nation with the highest graduation rates among homeless students. You have the power to change the lives of young students and to address and help fix one of the most prominent issues faced by homeless youth. I hope you give the highest consideration to this

bill, and I would like to give you my sincerest appreciation for allowing me to share my story and allowing a platform where homeless students can be heard by the government that serves them.

Assemblyman Thompson:

Thank you, Ms. Robbins. I will now go through the bill. Section 6 states that the liaison would be in the Department of Employment, Training and Rehabilitation. During discussions with our Nevada System of Higher Education (NSHE) colleagues, we felt it would fit better under their oversight. We did research on other states and found that the governor actually appoints this position. There is potentially some reworking of the framework for the classification of the person that is mentioned in section 6, subsection 2, paragraphs (a), (b), and (c). The liaison would complete the College Cost Reduction and Access Act of 2007 grants to justify a position and gain more resources. This is a federal act that fills the gap for homeless students in high school to move to college. We had a meeting with the stakeholders and NSHE. I am glad that many of the campuses in our state either met with me on the phone or in person to discuss this issue. There are some grant dollars that have been available since 2007, potentially for our state, that this person would be able to take advantage of. The funding of this position, even though you are not a money committee, would be based on money available. Once we get the grant, we need to do well on it and diversify. The liaison would need to develop a database to track, monitor, and analyze trends in the rates of graduation and take an inventory of how many students this will potentially serve.

I have been working with some of the key organizations in our community that work with homeless youth every day, trying to pinpoint how many may be coming from high school to college. The liaison would help with all their basic support services, including housing; look into the possibility of anyone in the community willing to open their doors, like a foreign exchange student program, to allow these students to get back on their feet; and create awareness with the professors and advisors, not asking for them to be easier but sometimes stepping in should the person have struggles along the way.

In section 11, one of the key parts of our discussion was the word "may." It says, "The Board of Regents may grant a waiver of registration fees and laboratory fees for a person who is identified as a homeless or unaccompanied pupil." We are still discussing this section. In section 12, we want to keep the effective date, but it is only as funds are available—as our state is growing, we have limited funds in our overall budget.

Chair Flores:

Thank you, Assemblyman Thompson. You have been a champion in this area for a long time now.

Assemblyman Carrillo:

One thing that concerns me is that we are talking about higher education. How does this work for the individuals who are homeless who do not want to go to college? What if they want a different alternative?

Assemblyman Thompson:

Not everybody is college-bound or wants to go to college. The federal act for our homeless youth is the McKinney-Vento program—it is in all of our schools. It is a federal law that there are resources allocated for our students in our education system which starts in elementary school and continues through high school. At that point, there is the opportunity for the liaison to connect with whoever is doing the McKinney-Vento work in the high schools and find out what the next best move is for each student.

Assemblyman Leavitt:

In section 11, subsection 1, the language says, "For the purpose of assessing fees and charges against a person to whom such a waiver is granted, including, without limitation, tuition charges pursuant to NRS 396.540, the person shall be deemed to be a bona fide resident of this State." Are tuition fees waived under this bill as well?

Assemblyman Thompson:

Every student should fill out the Free Application for Federal Student Aid (FAFSA) packet to go into higher education. One of the challenges with a homeless student is that the parent has to be able to sign off and give information about themselves—there are waivers available in the College Cost Reduction and Access Act of 2007. They will be eligible to go through the FAFSA process, but this is not to pay for the tuition, it is just to pay for that certain section. If I can make it clearer, I will do it in the amendment.

Assemblywoman Munk:

Would the student be required to get a job?

Assemblyman Thompson:

No. This is where the liaison would connect with them. They could work if they chose to; some students can balance work and school, and some just need to be focused on school—it would be a case-by-case situation. I would like to go back to Assemblyman Leavitt's question; this also allows those students to have access to state scholarships.

Assemblyman Leavitt:

Thank you for clarifying that. I think you should add language that says, To help make them eligible for FAFSA, tuition assistance, or any scholarships that may come before them. As long as it is clear that this bill is just covering registration and lab fees and to make them eligible for the other things that are out there.

Assemblywoman Hardy:

The bill refers to a waiver of the fees. If they are not homeless anymore, would they still qualify for the waivers?

Assemblyman Thompson:

Let me find out a little more. We do not want to continue to label that person, but this is their entry point. I would say that the waiver would stay in place. The last thing that we want is for one of our homeless youths to become a homeless adult.

Assemblyman Ellison:

When they start the program, do they automatically file for the federal grant?

Assemblyman Thompson:

I want to be clear that this is not a program. This is going to be the appointment of a liaison. There are no set guidelines, but the key point is the connection of the McKinney-Vento coordinator in the high schools, working with the liaison and the student.

Assemblyman Carrillo:

The McKinney-Vento is for homeless people.

Assemblyman Thompson:

It is specified for homeless youth, children, and their families.

Assemblyman Carrillo:

I pulled it up online and it talks about homeless people, supportive housing programs, and other things. I just did not know if other homeless people, such as adults, could use this. Is it specific just to youth?

Assemblyman Thompson:

Specifically under McKinney-Vento, I would say not an older adult. There are Continuum of Care Programs for the homeless throughout the state. I want to dispel the myth that our homeless youth are not the ones who are sleeping on the streets; they are doing more couch surfing. We all know the scenario: Jeremy is sleeping on the couch a lot at his best friend's house—that is pretty much the role of our homeless youth. Or they are maybe in parks. They want to avoid certain authorities because they want to keep their independence. Unfortunately, most of them are out of their homes for a reason with some disconnect in their home life.

Assemblyman Ellison:

I agree, they are not out there living in cars everywhere. Those are the ones who need the help; they have no family or they have a broken family.

Chair Flores:

The intent is that we utilize every resource out there, either state or federal first, then we are adding the liaison which will help the homeless students. All the other services out there will continue; they will work in concert. Is there anyone who wishes to speak in support of Assembly Bill 461?

Chris Daly, representing Nevada State Education Association:

The Nevada State Education Association is in support of A.B. 461 to create the position of liaison for postsecondary education for homeless pupils. Educators across the state work every day with the 17,000 to 18,000 homeless students, in the classrooms and at the school sites. Many educators go above and beyond, but we know that much more is needed in terms

of support, especially in this transition from high school to college or career. For most of the 1990s I worked with homeless people on the issue of homelessness.

**Anthony Ruiz, Senior Advisor for Government Relations and Community Affairs,
Office of the President, Nevada State College:**

We are in support of A.B. 461, and we see it as complementary to existing programs that are already in place. We currently have a team that helps students access immediate emotional support services and develop a short-term plan such as bus passes, food pantry, free mental health services, and therapy, but our resources are limited. We hope through this position we can bolster these programs and continue to work with NSHE institutions.

**Luis F. Valera, Vice President, Government Affairs and Diversity Initiatives, University
of Nevada, Las Vegas:**

We are in support of this bill. It aligns with a number of the programs and services we currently have at the University of Nevada, Las Vegas (UNLV), among them the UNLV Hope Scholarship; our collaborations with the Nevada Partnership for Homeless Youth; as well as the UNLV food pantry which is a year-round program.

Megan Rockefeller, representing Food Bank of Northern Nevada:

We would like to express our support for A.B. 461, as well as thank Assemblyman Thompson for bringing this forth.

Joi Holliday, Senior Policy Analyst, Nevada System of Higher Education:

We do support A.B. 461. There is no doubt we need to be doing more for our homeless students as well as the entire population within the Nevada System of Higher Education. This bill will allow for a larger capacity for us to do just that.

Mariana Kihuen, Interim Director of Government Affairs, College of Southern Nevada:

We want to thank Assemblyman Thompson not only for his foresight, but also for bringing all the NSHE institutions together. He listened to our feedback and worked with us on the language of the bill—to ensure this bill is carried out in the way we are all thinking about it. As a former Clark County public defender, I worked for many years with the homeless population—their challenges are real. We believe having the liaison based in the Nevada System of Higher Education is the right way to go. It would also help us with a database and the inventory to track the students and ensure that we are addressing their needs in a holistic manner. The purpose would be to continue having the liaison work with other government agencies to ensure that all of their needs are being met—not just enrolling them in higher education, but ensuring they succeed in the programs that they register for. We hope this position also gets the proper funding to be effective.

Chair Flores:

Is there anyone to speak in opposition? [There was no one.] Is there anyone to speak in neutral? [There was no one.] We will close the hearing on Assembly Bill 461. I will now open the hearing on Assembly Bill 486.

Assembly Bill 486: Creates the Division of Outdoor Recreation within the State Department of Conservation and Natural Resources. (BDR 18-840)

Tom Clark, representing Nevada Outdoor Business Coalition:

The Nevada Outdoor Business Coalition (NVOBC) is a group of about 40-plus businesses. We are the business spokespeople and the people who have the interest in promoting outdoor recreation within the state of Nevada. Last year, the NVOBC talked about the idea of having an office of outdoor recreation—as it turns out, so did the conservation community. Rarely do you see businesses come together with conservation groups to say, We have the same mission. The bill and the amendment, which Mr. Davis will go through, gets to that point. The Nevada Office of Outdoor Recreation, which will be a division within the State Department of Conservation and Natural Resources, will send a clear message, not only to the people who live here, but also to all the other states that are promoting outdoor recreation. I uploaded to the Nevada Electronic Legislative Information System (NELIS) a roster of the states that are part of the confluence of states ([Exhibit C](#)).

This was an effort between the Nevada Outdoor Business Coalition and the industry, working with the Director of the Department of Conservation and Natural Resources. The Office of the Lieutenant Governor was a key part in much of the conversation. We were trying to figure out how to promote what we have, but also become and remain good stewards of what we have. That is important for the members of the Nevada Outdoor Business Coalition. We want people to come out, hike, camp, and see the beauty that is Nevada. But we also want to make sure that our state parks are clean and healthy and that our trails are maintained. We want to promote important elements such as "leave no trace," so we do not end up like our national parks, being totally degraded and torn apart when government was not there to watch. For a big part of Nevada, there is no one there to watch; but we still want you to get out and enjoy those areas and promote the stewardship of that land.

One key element of the bill is that it will allow for private industry and this office to go forward and attract grants and foundation money to help promote its mission. It is important because there are a lot of programs out there looking to the outdoor industry, and federal money is available. Private money is available for the promotion and the economic development piece of this, which is very important as well. It is about access for handicapped persons. It is about access for veterans—get them out of the deserts of Iraq and show them the deserts of Nevada—it is a phenomenal part of their reacclimation back into the community. We want to go after the kinds of resources available as we promote this.

There are currently eight states in the confluence of states; it is a tough crowd. There are four pillars that each state commits to in order to become a member of the confluence. Those pillars are Conservation and Stewardship; Education and Workforce Training; Economic Development; and Public Health and Wellness. Education and workforce training is really important not just to tell people what we have within our state, but to work with the other states to see what is working and how we educate the general public about the stewardship of those programs. There are small businesses that want to work in places such as Ely, Austin, Winnemucca, Elko, and the urban areas as well. Maybe you are an outfitter, or maybe you

are a retired individual who loves fishing and always wanted to open your own shop and be the guy whom everyone calls and asks, Where are the fish biting right now? We want to promote the economic development perspective of this industry.

As far as the fourth pillar of the confluence, Public Health and Wellness, one of our newest members of NVOBC is Renown; they understand a healthy patient is the one they do not have to see all the time. Public health comes in so many forms. When you just get outside and see what it is that we have to offer, there is a lot of health that comes along with just being with your family in the great outdoors. We have the darkest place on earth right here in a corner of Nevada—go out to the Black Rock Desert and watch the Perseid meteor shower, it is amazing. If you see a shooting star, it looks like someone lit up the sky. We not only want to promote the fact that we have those wonderful places to visit in our state, but we want to make sure that when you go, you take care of it.

With the confluence of states, we send a clear message that Nevada is taking the industry of outdoor recreation extremely seriously. It reminds me of when we opened up the Office of Energy. We did that to send a message to the renewable energy world that Nevada was open for business when it came to renewable energy. We firmly believe by creating this division, we will send that same clear message. To join the confluence, we have to have one of the eight states sponsor us to come in.

Meghan Wolf, Environmental Activism Manager, Patagonia, Inc.:

[Read from prepared testimony ([Exhibit D](#)).] I am a founding member of the Nevada Outdoor Business Coalition. I am fortunate to live in Reno, where I moved 14 years ago for my job, and also for the incredible outdoor access that Nevada provides. Patagonia supports [A.B. 486](#), and I would like to talk briefly about how the Division of Outdoor Recreation can add to the diversification of our economy and protect the resources that support so many of our businesses.

The outdoor recreation economy is a strong driver of business activity across our country. According to the Outdoor Industry Association, the outdoor recreation economy generates \$887 billion in consumer spending and supports 7.6 million jobs nationally ([Exhibit E](#)). Nevada is no exception. Outdoor recreation generates \$12.6 billion in consumer spending; \$1.1 billion in state and local tax revenue; 87,000 jobs; and \$4 billion in wages and salaries. With those 87,000 jobs, outdoor recreation ranks third in jobs sustained in Nevada behind only gaming and tourism, and health care. It is ahead of logistics, operations, information technology, and mining in jobs sustained. Nevada business owners recognize a clear connection between public lands, outdoor recreation opportunities, quality of life, and their bottom line. State parks and national monuments inject vitality into local economies with tourism and recreation dollars. Just as important for the future of the state's economy, public lands and the outdoor opportunities they provide play a key role in why companies choose to do business in Nevada. The access to stunning outdoor landscapes, mountains, rivers, and trails—all are assets companies use to attract and retain a talented workforce.

Establishing the Division of Outdoor Recreation is an opportunity to promote Nevada while protecting our unique natural beauty. I would like to stress the importance of providing adequate funding and resources to make the division effective and the importance of the division collaborating with many other parts of state government.

As Nevada continues to find ways to diversify its economy, the creation of this division would formally recognize and support an additional strong pillar to help achieve that diversification. We see this office as helping to both expand the industry and coordinate conservation efforts to protect those resources that sustain this economy. Nevada truly is an outdoor recreation treasure, and we urge the Committee to adopt A.B. 486.

Kyle J. Davis, representing Nevada Conservation League:

We are excited to be here today in support of A.B. 486. This piece of legislation is one of the priorities of the Nevada Conservation Network, which is a coalition of conservation groups throughout the state. We are very excited about the opportunity to showcase the outdoor recreation opportunities in Nevada because of our access to public lands. [([Exhibit F](#)) and ([Exhibit G](#)) were submitted by the Nevada Conservation League.]

I would like to discuss the amendment that was submitted to the Committee ([Exhibit H](#)). The amendment does not substantively change the goals of the legislation, but does make a couple of key changes. I will explain the four key changes that are being made by the amendment. As drafted, the bill contemplated the idea of dual administrators for this division. The amendment changes it to a single administrator and assigns the duties that were outlined to those two administrators to the division generally. This conforms it to how other divisions throughout the state are run.

The second key change it makes is adding to the Advisory Board on Outdoor Recreation, the Administrator of State Parks, the Director of the Department of Wildlife, the Director of the State Department of Conservation and Natural Resources, and the Chair of the Nevada Indian Commission. It also converts the Director of the Department of Health and Human Services and the Superintendent of Public Instruction to individuals with experience in those subject areas. Those departments do not necessarily have the expertise of the connection between, say, education and outdoor recreation, but there are plenty of people within our state who do have that expertise.

The third key change is it removes a broad statement about the Division of Outdoor Recreation managing all natural resource issues in the state. That was not our intent, and it more properly rests with the entire Department of Conservation and Natural Resources rather than the Division of Outdoor Recreation.

Finally, during bill drafting, the responsibility for development of the comprehensive statewide outdoor recreation plan was taken from the Division of State Parks and transferred to this new division. That also was not our intent; we would like to leave that responsibility with the Division of State Parks, which is what this amendment does.

Overall, the bill creates the Division of Outdoor Recreation within the State Department of Conservation and Natural Resources. Section 1 creates that position of Administrator and sections 2 through 6 create the Division of Outdoor Recreation in statute. Sections 7 through 14 define terms for the bill. Section 22 is key; it defines the role of the division. Essentially this division would market business development as it relates to the outdoor recreation industry and coordinate with the Department of Tourism and Cultural Affairs, Office of Economic Development, Department of Wildlife, and other interested organizations. It would also promote growth for the outdoor recreation economy, balanced with stewardship of our public lands and natural resources, and make recommendations for policies that could enhance outdoor recreation and protect areas that are crucial for outdoor recreation.

Finally, sections 27 and 28 create the advisory board and outline the duties of the advisory board. This advisory board would be chaired by the Lieutenant Governor and would help implement at least the initial creation of the division and would act as a sounding board for the division as they think about different things they might be able to do to promote outdoor recreation in our state.

Assemblywoman Bilbray-Axelrod:

You mentioned we need to have a sponsor from the confluence of states. Is there a state willing to be our sponsor? With the amendment, does the legislation compare with the other states that are part of the confluence?

Tom Clark:

The way the bill works, it puts us in line. The states we have talked to are hesitant to commit to being a sponsor until the legislation is passed. I can tell you that we are really close. The passage of this particular legislation will get us to the finish line. We rewrote the bill to ensure that the elements, especially of the advisory commission and the scope of work that the office will have, meet with the standards of the confluence of states.

Chair Flores:

Before we continue, could you discuss what is happening right now, who is fulfilling this role, and to what level is it being done? I think everyone understands the importance of what you are trying to do, but if we could compare where we will be and where we are now, it would be very helpful.

Kyle Davis:

What we are envisioning with this division is that it would really bring together some things that may be happening but not in any kind of a coordinated fashion. This state does a pretty good job of marketing some of our outdoor areas from a tourism perspective, but not necessarily of helping residents understand and connecting residents to those areas. I think working with the Division of Tourism can have a lot of effect in terms of opening up those opportunities—getting a handle on the industry itself, from a Nevada-specific perspective. I also think it would be valuable for us to understand the overall economic impact of this industry on our state and how important it is in all our communities, urban and rural. I think that is another opportunity that comes forward by the creation of this division.

Assemblyman Hafen:

Can you give me your definition of outdoor recreation?

Tom Clark:

That is a really good question. When you look at the different stakeholder groups, everybody has their own definition of what outdoor recreation is. In coming to an actual definition of outdoor recreation, it is simple to say, "Let's go outside." Outdoor recreation is going outside, enjoying, but also taking the responsibility, being good stewards of that land, and recognizing that it needs to be protected as well as played in. We want to go play, but we want to protect.

Assemblyman Hafen:

As an avid outdoorsman, I appreciate this bill. I encourage everyone to go outside, and I encourage everyone to protect the outdoors as well, because I want it to be there for future generations. Why is there no coordination with the Commission on Off-Highway Vehicles?

Kyle Davis:

We do not specifically talk about the Commission on Off-Highway Vehicles. By virtue of this division being located in the Department of Conservation and Natural Resources, the Commission on Off-Highway Vehicles is also located there. I think there will be some opportunities for synergy between the two, and that has certainly been our conversation with the Department. The addition of the Director of the Department of Conservation and Natural Resources to the advisory board ensures that as well—to make sure that the perspectives of all the divisions that fall within that department are heard. It is not specifically called out in the legislation, but that was certainly a part of our vision by putting it in the Department of Conservation and Natural Resources. This division would be able to coordinate well with the Division of State Parks, Recreational Trails, and with the Off-Highway Vehicle program, to make sure all those entities are working well together.

Meghan Wolf:

When you talk about the range of outdoor recreation activities, it is a pretty broad spectrum. We have camping, fishing, hunting, we do include off-roading, snow sports, skiing, snowboarding, snowmobiling, snowshoeing, trail sports, hiking, trail running, mountain biking, bicycling, and water sports—it can go on and on. On the Outdoor Industry Association website, there is a list of what they include in their measurements. One of the things that stands out is this is not an office of tourism; I feel tourism is pretty targeted. When I think about outdoor recreation, it is more adventuring, exploring, and all the other activities that people do that do not necessarily fall within the gaming industry or a lot of what we do attract to this state. It is just in addition to those things.

Assemblyman Leavitt:

Who is doing this right now?

Tom Clark:

There are little elements of this bill that are taking place throughout different divisions in the state of Nevada and by private industry. I wish we had called this the implementation commission instead of the advisory commission. This office will take those micro-parts of what is occurring throughout the state, whether it be off-highway vehicles, or tourism talking about "Don't fence me in," or the economic development side of it, and look at it from a perspective of, How do we implement what is already happening? The Division of State Parks does a great job, and is a good example of what needs to occur. This office will help make those things happen, whether it is going out to get federal grants to help pay for it, or bringing the right coalition of businesses into the fold to make sure those elements are there. This is not a duplicative office; little pieces of it are happening throughout the state. We want to bring it all together under one roof and say, This is the place where it will get done.

Chair Flores:

Is there anyone to testify in support of Assembly Bill 486?

Fawn Douglas, Private Citizen, Las Vegas, Nevada:

I am a member of the Las Vegas Paiute Indian tribe, but I do not speak for my tribe. I am speaking as a concerned Nevadan in support of A.B. 486. This is a resource; and I hope other Native-American tribes see this as a resource. In the state of Nevada, we have over 27 federally recognized tribes—from the Southern Paiute, Shoshone, Northern Paiute, and Washoe. All of these tribes are gateways to these beautiful outdoor recreation areas. We have many visitors who pass through our lands many times. I see this as a resource and something that everybody can get behind, not only our governments but our tribal governments. This is a positive thing, and I hope to see more of this in the future.

Blaine Elliott, Lead Organizer, Nevada Conservation League:

A 2017 study by the Outdoor Industry Association found that outdoor recreation in Nevada generated \$12.6 billion in consumer spending annually. That money supports 87,000 direct jobs and creates \$1.1 billion in state and local tax revenue. Added to this lucrative equation, according to the U.S. Bureau of Economic Analysis, the outdoor economy grew by 3.8 percent last year, which outpaced the overall economy by a full percentage point. This economic potential is why many of our neighboring states in the West have created their own offices in outdoor recreation. They have created a tool to recruit outdoor businesses and build outdoor recreation economies. It is vitally important that Nevada not fall behind our neighbors. For people in the urban parts of this great state, including myself, access to conserved lands for public recreation is essential to our physical and mental health and our overall quality of life. Personally, I go hiking in Red Rock Canyon every free moment I have. For rural Nevadans, however, a healthy outdoor recreation economy is a fantastic way to boost tourism spending in these areas. Many of these communities are gateways to our spectacular public lands and the myriad recreation opportunities that those lands offer. Creating the Division of Outdoor Recreation is a vital way to remain competitive with our neighbors in the rapidly growing outdoor recreation economy. It will be a benefit to Nevadans for generations to come, both economically and spiritually. For these reasons, the Nevada Conservation League strongly supports A.B. 486.

Janet Carter, Executive Committee Member, Toiyabe Chapter, Sierra Club:

[Read from prepared testimony ([Exhibit I](#)).] We represent some 30,000 members and supporters within the state of Nevada, and we would like to speak in support of this bill. We believe it is a very important bill, not only for the economic benefits it will bring, but also because it gives a coherent way of helping to preserve our outdoor areas so we all can enjoy them. The motto of the Sierra Club is to enjoy, explore, and protect the planet. We think that if we are going to protect the planet, it starts by exploring it and enjoying it. Hopefully the people who do so will go on to protect it. One of the ways that we can protect it is by making sure that we have organized systems in place that help for the proper use of our outdoor areas. We think that this division will go a long way towards doing that. We have seen with the recent federal shutdown what can happen to some of our parks and outdoor areas when we do not have these types of systems in place.

Sheila Billingsley, Treasurer, Save Red Rock Canyon Community Development Corporation:

We are a grassroots nonprofit and our focus is right here in the Red Rock Canyon National Conservation Area. We feel that this office will help protect and enhance smart usage of the fragile crown jewel of southern Nevada, the Red Rock Canyon National Conservation Area, and we speak in support of A.B. 486.

Jocelyn Torres, Nevada Program Director, Conservation Lands Foundation:

We have submitted comments as well, so I will not go into a lot of detail ([Exhibit J](#)). We have worked in this state to protect national monuments and national conservation areas like Red Rock, and every single time, outdoor businesses came to our support and made the case of why these were important for the economic development of this state. We wanted to make sure we turned out in support of them in this venture. The creation of the Division of Outdoor Recreation is important to make sure that all of the little pieces are coordinated together. We can grow what is already a billion-dollar industry into something bigger and something that can help this state.

Mauricia M. M. Baca, Executive Director, Get Outdoors Nevada:

I, too, have submitted testimony ([Exhibit K](#)). It is significant that states from Washington to Maine have developed offices of outdoor recreation or similar ventures. It is a recognition of the fact that this industry has continued to grow, even during recessions and tough economic times. This industry is unique; it depends upon stewarding and caring for the outdoors and the resources that make this industry possible. I think what makes this particular office and division so important is that it brings together the emphasis on the economy and development, along with caring for the resource, so we can all continue to enjoy these places for future generations to come. Get Outdoors Nevada strongly supports A.B. 486.

[Assemblyman Carrillo assumed the Chair.]

David Dazlich, Director, Government Affairs, Las Vegas Metro Chamber of Commerce:

The outdoor recreation industry is a vital part not only of the tourism economy, but for residents within the state of Nevada as well. The presenters did an excellent job of going into the benefits, both economic and for quality of life. The Las Vegas Metro Chamber of Commerce is strongly in support of A.B. 486.

Ron Hunter, Senior Manager of Environmental Activism, Patagonia, Inc.:

I am here today to offer Patagonia's support of A.B. 486. I would also like to heed the advice of the late, great Congressman Mo Udall, who said, "Everything has been said, but not everyone has said it." So I will make my comments brief. When Patagonia moved its global service center to Reno over two decades ago, we moved here for three reasons: the proximity to quality outdoor recreation that a wild Nevada had to offer; having a university nearby for a source of outdoor enthusiasts to work for us; and there is no inventory tax. There were 75 of us back then, moving into an empty 170,000-square-foot warehouse, with people sleeping in their cars in the parking lot. Fast forward 22 years. We now have over 800 employees and over 500,000 square feet of warehouse and office space, and hopefully everyone has a roof over their head. Business has been good for us, and we love being in Nevada. We attribute that to being able to hire great employees who enjoy what we all enjoy, a healthy and vibrant outdoor lifestyle. However, having a Division of Outdoor Recreation is not just about strong business or increased tourism, but creating a new generation of outdoor stewards here in Nevada. This is of utmost importance to Patagonia, and we are willing and eager to be part of this movement. For these reasons, Patagonia strongly supports A.B. 486.

Laurel Saito, Nevada Water Program Director, The Nature Conservancy:

I am speaking on behalf and from the written testimony of our Nevada State Director of The Nature Conservancy, Mr. Juan Palma ([Exhibit L](#)). The mission of The Nature Conservancy is to preserve the lands and waters on which all life depends, and we envision a world where people and nature thrive. The Nature Conservancy supports policies that connect people to nature. Providing the means for all people to access and appreciate our natural places not only improves our quality of life but instills lifelong appreciation for nature and wildlife. At the same time, recreational opportunities need to be carefully managed to minimize the adverse impacts that these activities can have on the environment.

Establishing the Division of Outdoor Recreation will provide a necessary foundation for aligning the goals of recreation and environmental management of our public lands. A good example of how this works is the Utah Office of Outdoor Recreation. This office was created in 2013 to coordinate the activities of the outdoor recreation industry, land management agencies, and conservation organizations. As the State Director for the Bureau of Land Management in Utah at the time this office was established, I witnessed the formation and rollout that provided benefits to public lands. The office provided a structure for Utah to coordinate the environmental management of the state's natural assets with the needs of the outdoor business community and recreational user groups. Having an office solely dedicated to outdoor recreation has allowed Utah to grow its outdoor recreation

economy in a way that sustains the natural resources for years to come. Now, as the State Director for The Nature Conservancy in Nevada, I see the need and benefits for the same structure in Nevada. For these reasons, The Nature Conservancy supports the creation of the Division of Outdoor Recreation as outlined in [A.B. 486](#). Please contact our Director of External Affairs, Jaina Moan, if we can be of assistance or provide further information.

Megan LeBerth, Private Citizen, Reno, Nevada:

As a native Nevadan, I know how much our state has to offer in outdoor recreation. I spend many weekends on trails in Tahoe. Fifty-seven percent of Nevada residents participate in outdoor recreation each year. Nevada residents are also more likely to participate in day hiking or backpacking because of our diverse and beautiful landscape. We should have a state Division of Outdoor Recreation to reflect this. As western communities strive to develop sustainable, diverse economies that are less tied to the boom-and-bust cycle of extractive industries, outdoor recreation offers a promising path to prosperity. Last summer I took a trip to Ecuador. As a place that is big in forest depletion, they have this small indigenous community which has thrived off of its sustainability and it is what has made their economy. I just wanted to share that story to express that a sustainable economy is important for our future.

Jessica Wise, representing Human Services Network; and Food Bank of Northern Nevada:

We just want to go on the record in support of [A.B. 486](#). We know it is important for families to be outdoors and active. It helps children build connections with the world through exploration instead of spending it behind a screen. It also provides children with multiple physical and psychological health benefits while at the same time strengthening the bonds of the family. We urge the Committee's support for [A.B. 486](#).

[Assemblyman Flores reassumed the Chair.]

Chris Joyce, Distribution Center Director, Patagonia, Inc.:

Patagonia has grown to 800 employees and we are heading to 1,000 within the next 18 months. Recreation is our business; recreation is our lives. It is the balance of this office that is important to us as well—that balance between business and lifestyle and the opportunity to manage that. It would be a place for us to connect and an office that we would have an opportunity to partner with in order to continue our great works. Patagonia enjoys giving back to the community, to support the community and outdoor recreation. I am a recent convert to the state of Nevada. I drove through three times last year on the way to move to Portland, Oregon, another state known for its outdoor spaces. On the three drives, I decided this was the place I wanted to be because of the recreation and the beauty of the state of Nevada. Patagonia supports [A.B. 486](#).

Annette Magnus, Executive Director, Battle Born Progress:

I am here as a native Nevadan and to represent the 20,000-plus subscribers to our Battle Born Progress network statewide. We rise in support of [A.B. 486](#). Our organization has a long and proud history of supporting conservation efforts in Nevada and protecting and promoting

our public lands all across this great state. Creating a Division of Outdoor Recreation is an effective way to prioritize access to parks and public lands and give special attention to an important industry for our state and the rest of the nation.

Nevada's public lands attract many people from all over the world. This office would not only help continue to promote our state's natural treasures to tourists, but would also engage Nevadans and encourage us to get outdoors and enjoy our state. People who travel through Nevada to get to other beautiful places in the West should stay in Nevada and recreate here, which would be good for our economy. An example of this would be when people from all over the world fly into Las Vegas to travel to the Grand Canyon. It would be great if we could keep those people here in our state, and have them visit Gold Butte National Monument, which is our piece of the Grand Canyon. This bill would help us do just that. It would create an office that would specifically promote and enhance the Silver State's outdoor recreation industry while creating opportunities to engage people who live here to enjoy the natural treasures in our own backyard. We would like to thank Assemblywoman Maggie Carlton and the Nevada Legislature for taking the lead on this critical issue and figuring out ways to prioritize and promote our public lands.

Chair Flores:

Is there anyone to speak in opposition to Assembly Bill 486? [There was no one.] Is there anyone wishing to speak in the neutral position?

Bradley Crowell, Director, State Department of Conservation and Natural Resources:

[Read from prepared testimony ([Exhibit M](#)).] The Division of Outdoor Recreation would be housed within the Department of Conservation and Natural Resources (DCNR). I am here today to present neutral testimony on Assembly Bill 486, but the Department does agree with the spirit and intent of the bill. I am joined by our Deputy Administrator for the Division of State Parks. The mission of the Department of Conservation and Natural Resources is to protect, manage, and enhance Nevada's cultural, natural, and recreational resources. The DCNR is currently composed of ten unique divisions and programs, all of which intersect on one or more levels with outdoor recreation. The most obvious intersection is with the Nevada Division of State Parks, which manages 27 outstanding state parks, recreation areas, and historic sites across Nevada. In 2018, the Division set a new record with 3.69 million visitors while undertaking the creation of two new state parks, one in the north and one in the south. In addition to managing our state park system, the Division also plays an important role in helping create outdoor recreational opportunities beyond our park boundaries to encourage people to get outside. One important way this is accomplished is by providing grants to numerous state and local agencies via the federal Recreational Trails Program and the Land and Water Conservation Fund.

Another outdoor recreation-oriented program housed within the Department is the Off-Highway Vehicles (OHV) Program, which promotes the safe and responsible use of Nevada's off-highway recreational opportunities. The program is overseen by the Commission on Off-Highway Vehicles to ensure that the OHV registration fees are used on the ground to create tomorrow's off-highway adventures. Each year, the OHV Commission

awards approximately \$1 million in grants to fund planning, mapping, signage, land acquisition, education, et cetera.

Chair Flores:

In the interest of time, I am going to have to cut you off, but we still have some questions.

Assemblyman Hafen:

We heard a lot of testimony about Utah's Office of Outdoor Recreation and also about the economic benefit that is currently being brought into our state. In looking at Utah's Office of Outdoor Recreation, it is actually under the Office of Economic Development. Do you know why it is going into your department instead of the Department of Economic Development, Office of the Governor?

Brad Crowell:

Each state is organized a little differently. In order to meet the intent of what the Division of Outdoor Recreation should do, and looking at how Nevada is organized, it fits best within DCNR. It does not fit perfectly within any one entity, which is somewhat of the challenge in creating this program. That being said, most of the key features of what the Division of Outdoor Recreation would do fall within our Department. We also have a successful history of working both cross-programmatically within the Department, but also with our other agencies. There is a good relationship right now with the Division of Tourism and the Division of State Parks. We would be building similar relationships with the Office of Economic Development in the Office of the Governor, as well as other state agencies, to make sure it is a successful and holistic program. We are supportive on the intent but neutral on the specific bill for the time being.

Tom Clark:

I think everything has been covered on all of these elements. We appreciate Assemblywoman Carlton for bringing this bill forward, and we think it is a great asset for the state of Nevada.

[[\(Exhibit N\)](#) and [\(Exhibit O\)](#) were submitted but not discussed and are included as exhibits for the meeting.]

Chair Flores:

We will now close the hearing on Assembly Bill 486. We will open the hearing on Assembly Bill 371.

[Assembly Bill 371](#): Revises provisions governing public records. (BDR 19-16)

Assemblyman Skip Daly, Assembly District No. 31:

I have experienced a lot of frustration with a variety of public agencies in obtaining public records. They use all kinds of defenses other than the statute that specifically declares a public record to be confidential. Several years ago the courts made their own rulings that have filtered their way in—and people use those as defenses. There are some legitimate

defenses. Besides just having something be declared by statute to be confidential, you have attorney/client privilege defenses.

I was in the Eureka County Clerk's office and asked for a document on voter registration numbers. The first question that was asked of me was, "Who are you?" I gave them my name, but I was thinking to myself, My name is John Q. Public; it is none of your business who I am. The next questions was, "What do you want it for?" The real answer is, It does not matter. Those questions are never appropriate, but that is just one example.

I have had Carson City clerks cite case law out of Pennsylvania as a defense to not give a public record. We had to argue with them. I actually went to the Mayor of Carson City and said, If we do not get satisfaction, we will end up suing you.

There have been instances where the Legislature, for a variety of reasons, has specifically said that we are going to say that this is a public document. At the same time, it is in *Nevada Revised Statutes* (NRS) 239.001, subsection 5, which says, "If a public book or record is declared by law to be open to the public, such a declaration does not imply, and must not be construed to mean, that a public book or record is confidential if it is not declared by law to be open to the public and is not otherwise declared by law to be confidential." We wanted to eliminate the potential for public agencies to use as a defense the legal axiom of *expressio unius est exclusio alterius*, which means the expression of one thing is the exclusion of the other. That has been used as an explanation of why someone would not produce a public record. The Legislature said this is public, so they must have meant the other stuff is not public. Contrary to what the law says, they use it anyway. We should strip all of that away and get down to the facts: Is it a public record? If it is a public record, is it declared confidential? If it is not declared confidential, by law, then you have to produce it. Then it takes the courts out of the equation, which is also my goal, because sometimes you get good decisions and sometimes you do not.

We asked the City of Reno for a record; they said no; we asked them to show us the law or reason for withholding. We said, If you are going to withhold something, you have to cite the provision that says it is confidential. Their answer was, We have given you everything we are required to give you. They did not cite any reason why they were withholding the information, and it is currently in litigation.

I went to the University of Nevada, Reno to get the two-hour list on a project, which is a list of subcontractors that they give us all the time. They would not give the list to one of my employees, so I went up there myself. I spent 40 minutes arguing with them. I said, "It is two in the afternoon, I am here to inspect this public record, and you give it to us routinely. I know it is past two hours of the bid opening, I know you have it, please give it to me." The gentleman behind the counter said, "This is what you are going to do. You are going to fill out this form, and you are going to request the information, and in five days we will tell you if we are going to give you the information or where it is." I said, "No, that is not what I am going to do." After a few minutes, and now there are three people at the counter, I said, "One of you could have gone to get this information in five minutes instead of wasting 40 minutes

with three people here arguing with me." I got my phone out and turned the recorder on. I said, "I am recording you, I want these records, and I want to document that you are denying the public information request. You should check with your legal counsel." I got a call later that afternoon, and we had the information the next morning by email. But you should not have to go through all of that.

Now I will go through the bill. Section 1, subsection 1, paragraph (c), says that the only exemption or exception must be provided by statute, and eliminates the use of the words "or balancing of interests"—this was derived from the Supreme Court case *Donrey of Nevada, Inc. v. Bradshaw*, 106 Nev. 630, 798 P.2d 144 (1990). In subsection 2, interpreting and applying the provisions of this chapter, the only exemptions would be if it is declared by law to be confidential. Section 2 lists all the exemptions in law pursuant to NRS 239.010 or otherwise declared by statute or regulation. There are some areas where records are confidential by regulation. Subsection 5 of section 2 defines regulation.

Assemblyman Carrillo:

My only concern would be if you go back to the same desk, those three individuals are there and they remember you. What is to say that this will change anything? Did they get in trouble for what they did?

Assemblyman Daly:

It was pointed out to me that there is a penalty at the end of NRS Chapter 239, but I do not think it would apply to somebody who did not give you the record. I think that only applies if you conceal the record or destroy the record. The statute does give an individual the right to sue. If a person is acting in good faith, they would have immunity. I was trying to eliminate the courts being able to create new laws or make decisions. In other words, the Legislature should be able to say what is confidential and what is not. This would eliminate that process.

Assemblyman Carrillo:

So all of the employees who would be accountable for the public record would have to be aware of the law.

Assemblyman Daly:

A lot of the public agencies have a pretty good process. The Nevada Department of Transportation asks you to put it in writing, so they know what your request is, and they respond timely and either tell you who has it or that it is going to take a few more days. They have to determine if it is confidential or not, if part of it is confidential, or if it needs to be redacted. Some public agencies would use that as a shield and not answer you for five days. Things have gotten better; some agencies use email and are pretty quick. There is a difference between some of the larger counties and some of the rural counties. There is no penalty if the person is just trying to do their job. There are quite a few who do it well, but the bad actors can create a lot of havoc.

Assemblywoman Bilbray-Axelrod:

You mentioned that the language in section 1, subsection 1, paragraph (c) was based on a Supreme Court ruling. Can you explain that a little more?

Assemblyman Daly:

That text was based on *Donrey*. There was an information request made by the press. The request was denied. The case went to court and the documents were not declared confidential, but they did not want to say they should get it either—the court came up with a balancing of interest. They said this information is not declared to be confidential, but it might be confidential—so we are going to give all of the public bodies the ability to balance their interest. My first thought when I was having this drafted was that we should take these court decisions out of the statutes and give the court just one job to do. That case is the law of the land until the law changes. As soon as the law changes, the standard, precedence, or logic that they used to make that determination would no longer be valid and a new case would have to be adjudicated under the new words in the law.

Assemblywoman Munk:

Does this bill affect us as legislators?

Assemblyman Daly:

Legislators and legislative actions are under a different statute. The Executive Branch, the public agencies, and political subdivisions come under this public information request. The Legislature does get information requests to the Legislative Counsel Bureau, which I think are different than if they were asking for the legislator information. That is a different standard, and usually our legal counsel assists us in answering those.

Assemblyman Ellison:

This may be a question for our legal counsel. I thought this was already in the statutes. I have never had a problem getting a copy or a record, unless they were busy. I notice our attorney is out sick, so can we get that on the record and find out?

Chair Flores:

We will have legal respond to that by the end of the week, if not by Monday or Tuesday, and I will make sure the whole Committee has the answer.

Assemblyman Leavitt:

The language regarding balancing of interests in public records has been determined previously, maybe through the Freedom of Information Act or different acts that are enacted both federally and by state. What does this particular legislation provide above and beyond what is already provided? I understand you may make a request of a certain entity and they do not do it as quickly as you want it done, or they make an assumption or a judgment that the information is confidential or not in the best interest of the entity to provide that information to the public through balancing of interests. What is the end goal, above and beyond what is already in place?

Assemblyman Daly:

The purpose is to strip away the reasoning from public bodies denying information requests, other than it is declared by law to be confidential. That is what we are trying to do. When the court has to make a decision because somebody was denied a record, the two questions they would be able to ask are: Is it a public record? If it is, is it declared to be confidential? If it is not, they have to give it to you. Currently they say, Other records have been declared to be public by statute. If they wanted this to be public, they would have declared it to be public as well—even though we have the NRS that says that is not the case. They have used arguments from cases in other states to say, Well, in that case in this state, this is a work document, so it is not a public record at all. This would strip away those defenses. The only question that needs to be answered is, is it declared by law to be confidential, and if it is not, it would be public. I understand there may be some problems with that, but I will make my comments at the end.

Assemblyman Leavitt:

It seems like there is a slippery slope you are going down. Unless we say we are not allowed to make a decision at the point of the transaction, there are so many variables that could be present at the time of the transaction that could be damaging, or put someone in danger of their life, because somebody along the line did not declare some document or book as confidential. If there is a breakdown in the process previously, there is no way to make up for that breakdown and process this through. That is where I have a little bit of an issue.

Assemblyman Daly:

If you look at section 2 of the bill, NRS 239.010, all of those provisions are sections of the statutes where documents, records, or information have been declared by the Legislature to be confidential. I believe it is the function of the Legislature to decide whether or not something is confidential, not somebody's decision to make at the time you request a document. I believe, as our statutes and scheme are currently set up, if it is not declared by law to be confidential, they must provide that information, unless there is some other privilege that exists—for instance, attorney/client privilege. There is a deliberation privilege, and there are some public bodies that are quasi-judicial that may have some other things that need to be addressed. That is the scheme that we have now, and I do not believe that it should be the policy of the state for any public body to be making a decision on the fly; I think that is the job of the Legislature. If you want something to be confidential, come to the Legislature, ask for a bill, convince a committee that it should be confidential, and it will be. If you cannot make that argument, then it will not be.

Chair Flores:

Is there anyone to speak in support of Assembly Bill 371?

Richard Karpel, Executive Director, Nevada Press Association:

We are here to give our qualified support to Assembly Bill 371. The support is because the culture surrounding public records in this state is toxic at many agencies. The default mode is to reject records requests—they look for reasons to reject them. Our support is qualified because we are not certain there are not situations in which the Nevada Supreme Court

balancing test in *Donrey* is not necessary. Having said that, we are not overly concerned—there are 473 statutory exceptions written into the Nevada Public Records Act already. There are other exceptions throughout the code that are not necessarily in NRS Chapter 239, and there are regulations—there are many exceptions already. There is a balancing test on top of all the exceptions, and it is unfortunately used in ways it should not be sometimes. Ultimately we think this bill is headed in the right direction and would help to change the culture around public records. I am looking forward to hearing what Assemblyman Daly has to say at the end.

[([Exhibit P](#)) was submitted but not discussed and is included as an exhibit for the meeting.]

Chair Flores:

Is there anyone to testify in opposition to Assembly Bill 371?

A. J. Delap, Government Liaison, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:

I am here this morning in opposition to the bill. We have our assistant general counsel down south; he is the one who handles the bulk of these issues and he can answer any technical questions. He has a brief synopsis of his issues and then he will be available for questions.

Matthew Christian, Assistant General Counsel, Las Vegas Metropolitan Police Department:

This bill represents a radical and dangerous departure from existing law. Under existing law there are certain exemptions that are not codified that protect very sensitive information that is in possession of the Las Vegas Metropolitan Police Department and many agencies. I am talking about things like the investigatory reports in open criminal cases. Those types of reports contain the names of suspects, the details of our investigations; they contain things like the names of confidential informants, undercover officers. They contain names of victims of crimes, witnesses to crimes. It is very dangerous to be required to disclose that type of information. Those exemptions we claim are not based on any codified statute; it would be nice if they were, but they are not. Those exemptions are based on the *Donrey* case and cases that came thereafter.

My final comment would be with regard to constitutionality. These exemptions that are in the common law are very much tied into constitutional rights—for instance, the right for a defendant to a fair trial. If too much of our information were disclosed before that person is set for trial, that would affect his ability to have a fair trial. Also, privacy interests are constitutional rights. It would be nice if a lot of these things were codified, but they are not. I really cannot imagine that we could sit here and think of every single thing that needs to be codified, and that is why the balancing test is needed.

Laura Rehfeldt, Deputy District Attorney, Clark County District Attorney's Office:

I am speaking in opposition of A.B. 371. This bill would eliminate a critical component of public records law, which is the balancing test that we have been discussing. The law provides that this balancing test be utilized when the statute does not explicitly make a record

confidential. Unfortunately, not every record that is confidential or that must be treated with confidentiality is expressly declared so by statute. Even if it is expressed, it is oftentimes not clear, nor can it be. It would be too great of an undertaking to list every single record. I can give a couple of examples. In some cases, privacy rights of individuals need to be protected and those documents would involve documents containing medical information, which would be in a case where the document is not explicitly considered confidential by statute.

Another example is complainants named in public response records that must be kept private in the event there is a violent or retaliatory neighbor. There are other cases where the welfare and safety of the general public should be assessed, which would include codes for traffic control timing frequency that allow emergency vehicles to respond. If these codes were included in public records, devices might be made so the general public could manipulate the timing of traffic signals for their own needs. Another one would be codes to public facilities, like flood control channels. Access needs to be restricted to public works personnel for maintenance and repair. These are just a few examples; they are not even the tip of the iceberg. The release of the records concerning privacy matters of individuals could create more litigation. It cannot possibly replace the common law balance of interest test. We cannot allow this bill to pass. It is simply not possible for every single record, portion of a record, or detail in a record, existing or future, that should be confidential to be contemplated for codification. Thank you for your consideration of these concerns.

Assemblyman Leavitt:

When a request comes in, what is the process for deeming it not for dissemination to the public? Does the person at the counter make that determination? Does it go through a vetting process?

John Fudenberg, Coroner, Government Affairs, Office of the Clark County Coroner/Medical Examiner; and representing Clark County:

We would not have a clerk determine whether or not the documents were public. An autopsy report would not be a public record using the balancing test. We confer with our deputy district attorney; they analyze it and determine whether or not the privacy interest outweighs the public interest. I am sure other departments have other processes, but I believe it is very carefully thought out, and we confer with the attorneys when it comes to applying that balance of interest test.

Kathy Clewett, Legislative Liaison, City of Sparks:

I believe that is part of the issue with all of these public records request bills that are before the Legislature this session. Every place is a little bit different because of what it is they do. In the City of Sparks we actually have two different departments that work on it. The Sparks Police does their own; it goes to the chief and he confers with our city attorney. Most every other request that comes to the City of Sparks is all on the website, it is all public information. When it does come in as a request to the city, either the Sparks Police or the city clerk gets it. The city clerk then figures out who is supposed to answer the question, and the city attorney's office gets involved as well. That is when they decide if they have to

redact anything, or if it is something that is already out there that the person just did not take the next step to find on their own. Most of our requests are done in less than three days.

John Fudenberg:

We are opposing A.B. 371. I want to make it clear that Clark County believes in being transparent and open to the public, and we understand how critical it is for the public to gain our records. We fulfill tens of thousands of public records requests annually. I take exception to previous testimony from one of the proponents of the bill when he said our default is to deny public records—that is absolutely not true. I would say our default is to allow the public access to these records; however, there are times when we need to restrict public access.

I would like to focus on the balance of interest test. The balance of interest test is used to weigh or analyze whether or not the privacy interest of an individual outweighs the right to public access. This bill removes that balance of interest test and, as it relates to the Clark County Office of the Coroner/Medical Examiner, is one of the most protected, cherished, personal documents that we deal with. We have a pending Supreme Court case, so I have to be careful about getting into too many details. We use the balance of interest test and apply it specifically to the autopsy reports. As the coroner of Clark County, I feel obligated to protect the decedent's private information, and we believe that the balance of interest test is appropriately applied in those situations.

Autopsy reports can contain very personal information to include medical records and private medical information. They also contain and will list most diseases that a decedent had been diagnosed with throughout his life. They will describe how forensic pathologists make incisions into the body, remove vital organs to include hearts, brains, and in detail describe how they are dissected. As you would imagine, whether it is parents who have lost a child, or children who have lost a parent, or anybody in between, this information is just something that families do not want public. For those reasons and others that have already been stated, we adamantly oppose this bill.

Kathy Clewett:

I have spoken a few times with Assemblyman Daly on this, and I, too, am looking forward to his closing remarks because we have discussed different ways of solving the issue in trying to get to a more harmonious outcome on this bill.

David Cherry, Government Affairs Manager, City of Henderson:

We dealt with 13,000 public records in 2017; 15,000 in 2018; and estimate that our total is going to reach 17,000 in 2019. Our average response time to get back to someone who has requested a public record is less than a day, and we fulfill those public records requests in 1.4 days. I am going to offer that the No. 1 thing that is most important for the Committee members to remember is that the system is not broken. There are instances where we end up in court, there is litigation, but oftentimes that is over the issue of balancing the need for privacy with the need for public disclosure—we take that very seriously. We recognize we are the keepers of a lot of sensitive information, and we do have a requirement that we apply

a balancing test when there is a need to look at whether or not that information should be released.

I will offer you one very concrete example for which the balancing test is important, and that is regarding victims of harassment. People may have come forward to make a complaint that they were the victims of harassment in the workplace. We would not want those people victimized a second time by their identity being released simply because there was not a statutory exemption that would allow us to protect those records. We think the current system works; we would hope that you would consider that when you are looking at this bill. We would be willing to work with the bill sponsor when he shares with the Committee what it is he has in mind. When we do deny a record, we make it clear to the individual what exemption we would be looking at under NRS or, if there is a balancing test applied, why we feel as though we are able to keep those records confidential. Oftentimes it is not the entire record; we may just be looking to redact a single email out of 300 emails that somebody requested.

Dylan Shaver, Director of Policy and Strategy, Office of the City Manager, City of Reno:

This bill appears to do one thing, but in reality it overrides about 30 years of court precedent in determining how governments can handle records. Does it replace them in the law? No. What ends up happening is that this Committee becomes the adjudicator of what is and is not a public record in each of these circumstances every two years. For example, the records of harassment victims. It is great that we have the option to come back to the Legislature in 2021, but realistically the people whose data is exposed will have to go through that for two years before this body can make a determination. Similarly, whether it is the investigative process on the police department side or the contents of a home on the fire department side—these are things we have used as balancing tests to protect our citizens in the past, and we would like to continue to do so. This is about empowering local governments to make judgments, not to withhold information but to protect our citizens. To take that protection away from our citizens we think would be an injustice, and we urge your opposition to this bill.

Vinson Guthreau, Deputy Director, Nevada Association of Counties:

For all the reasons that have been stated previously, we also concur, especially with Clark County's remarks about public entities needing to balance the public's right to know with our obligation to maintain the public trust. With that, I will not belabor it, but we are also opposed to this measure.

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

We would like to associate our opposition with the previous comments that have been put on the record and believe that the removal of the court-validated balancing test for the release or withholding of records is a concern of ours. We believe that this blanket change could have unintended consequences without a judicial review process.

Wes Henderson, Executive Director, Nevada League of Cities and Municipalities:

For the reasons that have been articulated by our members and others, we, too, oppose this bill.

Brian McAnallen, representing City of North Las Vegas:

We are also strongly opposed to this bill. We do believe the process is working. You are hearing about some isolated situations that do get resolved through the judicial process. There are some things that were mentioned by others relating to public safety and public works issues. Homeland security is also a problem. There are infrastructure elements in all of our cities that should be protected and some of those should not be brought out in public for those public safety reasons.

Chair Flores:

Is there anyone wishing to speak in the neutral position to Assembly Bill 371? Seeing no one, Assemblyman Daly, do you have any closing remarks?

Assemblyman Daly:

I understand that the public agencies that are doing public business giving public information have identified a lot of things they believe are not covered specifically by statute. I would argue that out of some of those 473 exemptions, a lot of that stuff is probably covered. I am happy those agencies have thoroughly looked at some of the things that may not be, but should be, in the statutes. Even before these agencies came to me, I started thinking about how this would go. I did believe that there would be unintended consequences. I recognize that pulling the Band-Aid off all at once may not be the best thing. I think we do not have enough information, so I do want to meet with all the stakeholders and try to figure out a way to proceed. If they really need to be confidential by statute, maybe give a little more language to the balancing test, because I do think that can be of value.

One example is if someone asked for police camera footage and they are disclosing that. But if there was a shooting and someone was killed on the video, they made a balancing test decision to stop the video right to that point—I do not disagree with that. I think that would be a reasonable use of the balancing test. I am going to meet with them and hopefully come up with some conceptual ideas on how to fix the problems. We would need to have a mechanism to gather that information, require public bodies to give it, and then compile it.

Chair Flores:

I ask that you please invite Assemblywoman Hardy and Assemblywoman Bilbray-Axelrod to those conversations. We will close the hearing on Assembly Bill 371. I will now open the hearing on Assembly Bill 406.

Assembly Bill 406: Makes various changes relating to the Airport Authority of Carson City. (BDR S-50)

Assemblyman Al Kramer, Assembly District No. 40:

My district includes the Carson City Airport. As you know, other boards and general improvement districts have come up with term limits. After a while, all the people who have a real interest in it have already served their term limits. This bill would allow for someone who has served the time he or she was allowed to come back on the board after a time. We have basically cycled through the people with a desire to serve, especially those with expertise, and we are at a point where it is difficult to come up with good people to serve on the Carson City Airport Authority. We have added one more change on the amendment which you have before you ([Exhibit Q](#)).

Steven Tackes, representing Carson City Airport Authority:

The bill basically does five things. We have difficulty finding people to serve on the board. We have some really good people, and we have been through a lot of them. Section 1 of the bill allows an appointee to serve eight years instead of four years. It is not mandatory; it is optional, which also solves another problem. We have five-year planning cycles. Right now if someone only serves four years, they may be there in the beginning of the planning cycle, but they do not make it to the end or they come in midstream and they get to the end. By giving the eight-year terms, we are able to cover the entire planning cycle. Section 2 is more of an educational provision. There is a section that created the Carson City Airport Authority that identifies laws, either by statute or by name, that the Airport Authority is subject to. We are not reducing any of those; we are just adding in language so it says both the statute number and the name, because we get criticism by people who say, I do not know what laws you are subject to.

In section 3, we are changing some of the duties. Currently all the leases on the airport have to be approved by the Carson City Board of Supervisors. We go through a duplicative process: the Airport Authority identifies the leases, puts them out to bid, follows all the requirements of statutes to make sure they are fair, and then we send them for a second review to the Board of Supervisors. After 30 years, the Board of Supervisors told us that they have other things to do, plus they are now satisfied that we do it in a professional way and there are avenues for relief if anybody is dissatisfied with our process. That is also what the amendment is for ([Exhibit Q](#)). In our eagerness to try to get the language such that the Board of Supervisors does not have to do the leases anymore, we neglected to say that the Airport Authority still has the authority to do the leases.

Section 4 deletes some provisions on employment conditions; our employment counsel told us they conflict with the current federal employment law. They said instead of having the provisions written in, that we should follow the law like everybody else is required to do. There is no loss of protections to our employees, and it eliminates some problems where we had provisions that actually conflicted with the federal employment laws. The last portion is just to assure that each of the terms of the Airport Authority members is staggered so we would not have a situation where, of our seven members, five of them left at once and we did not have the continuity.

Those are the five sections of the bill and what they do. We are a small agency created by the Legislature. This would allow us to operate much more efficiently—it was done in conjunction with the City Board of Supervisors. They were very active in this and helped us with it.

Assemblyman Assefa:

Could you go through the duties of the Airport Authority? How many airports are under this Airport Authority?

Steve Tackes:

This act only applies to the one airport in Carson City. There are only three airport authorities in the state of Nevada, including the Reno-Tahoe Airport Authority, which handles the two airports in Reno—the Reno-Tahoe International Airport and the Reno-Stead Airport—and the Airport Authority of Battle Mountain, which handles the Battle Mountain Airport. Each of those airport authorities only addresses the airports in their area. This only addresses the Carson City Airport Authority. The Airport Authority basically operates the airport. They do all of the operations, safety, construction, management of the hangars, and management and oversight of the businesses that operate at the airport—the aircraft repair businesses, painting business, and all the other businesses that relate to aviation.

Assemblyman Assefa:

How much traffic is at this airport? I understand it is an uncontrolled airspace.

Steve Tackes:

Yes. This is an uncontrolled airport, meaning we do not have a control tower. When flying in, we announce where we are and what we are doing, and everybody is listening to the same frequency so you get a mental picture of where everybody is. In that sense, we are an uncontrolled airport—it does not mean things are out of control. We currently log about 200 operations a day. We have just put in motion-activated cameras so we can better track the amount of traffic and the currency of traffic. We are hoping to have even better numbers soon. We are probably one of the busiest airports for a general aviation airport. Reno-Stead has different kinds of operations. They may be busier because of the commercial types of operations, but we are an extremely busy airport.

Assemblyman Assefa:

As far as controlled and uncontrolled airfields, uncontrolled airfields are probably sometimes better managed because all pilots are in contact and we all know where we are at all times.

Chair Flores:

Is there anyone wishing to speak in support of Assembly Bill 406?

Mary C. Walker, representing City of Carson City:

This morning the Carson City Board of Supervisors did take a vote in support of A.B. 406.

Chair Flores:

Is there anyone to speak in opposition to Assembly Bill 406? [There was no one.] Is there anyone to speak in neutral to Assembly Bill 406? [There was no one.] We will now close the hearing on Assembly Bill 406. Is there anyone here for public comment? [There was no one.]

The meeting is adjourned [11:18 a.m.].

RESPECTFULLY SUBMITTED:

Mark Peckham
Recording Secretary

RESPECTFULLY SUBMITTED:

Karen Easton
Transcribing Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a document in support of Assembly Bill 486, titled "Outdoor Recreation Industry Confluence Accords," presented by Tom Clark, representing Nevada Outdoor Business Coalition.

[Exhibit D](#) is written testimony in support of Assembly Bill 486, presented by Meghan Wolf, Environmental Activism Manager, Patagonia, Inc.

[Exhibit E](#) is a copy of a letter dated April 3, 2019, in support of Assembly Bill 486, to Chair Flores and the Assembly Committee on Government Affairs, authored by David Weinstein, State and Local Policy Director, Outdoor Industry Association.

[Exhibit F](#) is a document in support of Assembly Bill 486, titled "Why Nevada Needs an Office of Outdoor Recreation," submitted by Christi Cabrera, Nevada Conservation League.

[Exhibit G](#) is a document in support of Assembly Bill 486, prepared by the Outdoor Industry Association and submitted by Christi Cabrera, Nevada Conservation League.

[Exhibit H](#) is a proposed amendment to Assembly Bill 486, submitted by Kyle J. Davis, representing Nevada Conservation League, and Tom Clark, representing Nevada Outdoor Business Coalition.

[Exhibit I](#) is written testimony in support of Assembly Bill 486, presented by Janet Carter, Executive Committee Member, Toiyabe Chapter, Sierra Club.

[Exhibit J](#) is a copy of a letter dated April 3, 2019, in support of Assembly Bill 486, to Chair Flores and the Assembly Committee on Government Affairs, submitted by Jocelyn Torres, Nevada Program Director, Conservation Lands Foundation.

[Exhibit K](#) is a copy of a letter dated April 3, 2019, in support of Assembly Bill 486, to Chair Flores and the Assembly Committee on Government Affairs, submitted by Mauricia M. M. Baca, Executive Director, Get Outdoors Nevada.

[Exhibit L](#) is a copy of a letter dated April 3, 2019, in support of Assembly Bill 486, to Chair Flores, authored by Juan Palma, Nevada State Director, The Nature Conservancy, presented by Laurel Saito, Nevada Water Program Director, The Nature Conservancy.

[Exhibit M](#) is written testimony dated April 4, 2019, in the neutral position to Assembly Bill 486, presented by Bradley Crowell, Director, State Department of Conservation and Natural Resources.

[Exhibit N](#) is a copy of a letter dated April 3, 2019, in support of [Assembly Bill 486](#), to Chair Flores and the Assembly Committee on Government Affairs, submitted by Dean DeGidio, REI Reno Store Manager.

[Exhibit O](#) is a copy of a letter dated April 2, 2019, in support of [Assembly Bill 486](#), to the Assembly Committee on Government Affairs, submitted by Shaaron Netherton, Executive Director, Friends of Nevada Wilderness.

[Exhibit P](#) is a copy of a letter dated April 2, 2019, in support of [Assembly Bill 371](#), to the Assembly Committee on Government Affairs, authored by Jim Hoffman, Nevada Attorneys for Criminal Justice.

[Exhibit Q](#) is a proposed amendment to [Assembly Bill 406](#), presented by Steven Tackes, representing Carson City Airport Authority.