MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY

Eightieth Session
May 7, 2019

The Committee on Judiciary was called to order by Chairman Steve Yeager at 8:07 a.m. on Tuesday, May 7, 2019, in Room 3138 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 Steve Yeager, Chairman
Assemblywoman Lesley E. Cohen, Vice Chairwoman
Assemblywoman Shea Backus
Assemblyman Skip Daly
Assemblyman Chris Edwards
Assemblyman Ozzie Fumo
Assemblywoman Alexis Hansen
Assemblywoman Lisa Krasner
Assemblywoman Brittney Miller
Assemblywoman Rochelle T. Nguyen
Assemblywoman Sarah Peters
Assemblyman Tom Roberts
Assemblywoman Jill Tolles
Assemblywoman Selena Torres
Assemblyman Howard Watts

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Joyce Woodhouse, Senate District No. 5
Senator Yvanna D. Cancela, Senate District No. 10
Senator Dallas Harris, Senate District No. 11
Senator Julia Ratti, Senate District No. 13

STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Bradley A. Wilkinson, Committee Counsel
Karyn Werner, Committee Secretary
Melissa Loomis, Committee Assistant

OTHERS PRESENT:

Homa S. Woodrum, Chief Advocacy Attorney, Office of Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition, Aging and Disability Services Division, Department of Health and Human Services
Misty Grimmer, representing Nevada Resort Association
Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce
Andy Peterson, Vice President, Government Affairs, Retail Association of Nevada
Mendy Elliott, representing Reno Sparks Chamber of Commerce
Ron Skibinski, Deputy Sheriff, Douglas County Sheriff's Office
Steven Schultz, Deputy Sheriff, Douglas County Sheriff's Office
Mike Maynard, Game Warden Captain, Law Enforcement Division, Department of Wildlife
Jennifer Jeans, representing Coalition of Legal Services Providers
Lauren A. Peña, Directing Attorney, Civil Law Self-Help Center, Legal Aid Center of Southern Nevada
Jordan Ross, Chairman, Southern Nevada Rural Constable's Alliance; and Constable, Laughlin Township
Bailey Bortolin, Attorney, Legal Aid Center of Southern Nevada
Izzy Youngs, representing Nevada Women's Lobby
Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada
Mackenzie Baysinger, Intern, Human Services Network
Shane Piccinini, Government Relations, Food Bank of Northern Nevada
Amy Jones, Executive Director, Housing Authority of the City of Reno
Amber Baltzley, Asset Manager, Southern Nevada Regional Housing Authority
Patricia Stephens, Director of Operations and Affordable Housing, Southern Nevada Regional Housing Authority
David Brown, Hearing Master, Las Vegas Justice Court
Susan L. Fisher, representing Nevada State Apartment Association
William Brewer, Executive Director, Nevada Rural Housing Authority
Jonathan P. Leleu, representing NAIOP, the Commercial Real Estate Development Association, Southern Nevada Chapter

Chairman Yeager:
[Roll was called. Committee protocol and rules were explained.] To give everyone a lay of the land in how we are going to take the bills, we are going to take them in a slightly

different order than they are listed on the agenda. We will start with Senate Bill 121 (1st Reprint). We will then go to Senate Bill 177 (1st Reprint), then to Senate Bill 433 (2nd Reprint), and last to Senate Bill 151 (2nd Reprint). That is the plan at the moment, but as sponsors arrive, we may have to adjust that. I will now open the hearing on Senate Bill 121 (1st Reprint).

Senate Bill 121 (1st Reprint): Revises provisions relating to fiduciaries. (BDR 13-99)

Senator Joyce Woodhouse, Senate District No. 5:
As a member of the Senate Health and Human Services Committee during the 2013 and 2015 Sessions, I participated in discussions related to Alzheimer's disease, as well as other forms of dementia. I realized that this was an issue that required a much deeper analysis. During the 2017 Session, I sponsored Senate Bill 121 of the 79th Session, which provided for an interim study concerning the deeds related to behavior and cognitive care of older persons. One of the goals of the interim committee [Committee to Study the Needs Related to the Behavioral and Cognitive Care of Older Persons] was to examine, research, and identify policies to assist and support caregivers and others who are representing the best interests of older persons with behavioral and cognitive care issues. The measure before you today provides the recommendations of the interim committee relating to guardianship and other legal issues.

This measure does four different things. First, it creates a form for a power of attorney for health care decisions for persons with any form of dementia, which is similar to the form used for persons with intellectual disabilities. It removes from statute certain declarations that are currently required to be made by a notary public. It also provides that a person who has executed a power of attorney for financial decisions retains that authority to act on his or her own behalf, unless the power of attorney specifically removes this authority. It extends powers that a public guardian currently has regarding investigating financial and familial issues, as well as accessing certain information regarding a protected person. The measure provides that these powers also apply to a potential protected person if the guardian has received a referral form from three different sources: Aging and Disability Services Division [Department of Health and Human Services], a law enforcement agency, or a court in relation to a civil or criminal matter involving the potential protected person. Finally, the measure provides that a public guardian in a county of less than 100,000 population who seeks to conduct an investigation of a potential protected person is authorized to petition the district court in the relevant county to order such an investigation before a guardianship is established.

I urge your support of this measure, which enhances policies to assist and support fiduciaries who are looking out for the best interests of older persons with behavioral or cognitive health issues. I might say, parenthetically, that one of the things we found as we went through the research of the interim committee was that it was not just older persons who were going through these kinds of diseases, whether it was Alzheimer's or dementia. It no longer is for individuals who are over a certain number of years.

Homa S. Woodrum, Chief Advocacy Attorney, Office of Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition, Aging and Disability Services Division, Department of Health and Human Services:

Prior to starting with the Aging and Disability Services Division in January 2017, I was an attorney in private practice in Las Vegas, predominantly in the field of guardianship. By way of disclosure, my clients included individuals facing and fighting guardianship, persons under guardianship, familial guardians, objectors, and the Clark County Public Guardian.

I will walk through the sections of the bill and then give further background on the need for this law. Section 1 creates the durable power of attorney for health care decisions for a person with a dementia diagnosis. It protects the already existing presumption of capacity while addressing liability concerns for providers. It is in a form and focus that is easy for the principal and the agent to use as an alternative to going from diagnosis to guardianship in a pipeline, which can be costly, unnecessary, and unduly burdensome. It speaks in the first person and lists the acts of the agent to help the individual who may be sick or injured. It asks doctors to consult with both the principal and the agent together in an endeavor to include the individual—the principal—in their care choices. Importantly, it asks the agents to sign that they understand the role that they are to undertake, which is unique to the power of attorney for intellectual disabilities. It is an example of the innovations for persons with disabilities that should be available and incorporated in other arrangements to secure the understanding of agents about their role and the scope of their authority to assist.

Section 2, subsection 7, amends *Nevada Revised Statutes* (NRS) 162A.460 and amends the statutory form to state, "Except as otherwise expressly provided in a power of attorney, the authority of a principal to act on his or her own behalf continues after executing a power of attorney and any decision or instruction communicated by the principal supersedes any inconsistent decision or instruction communicated by an agent pursuant to a power of attorney." This emphasizes what has been common law in this field, which is that an agent does not have absolute authority if the principal seeks to revoke it. It also recognizes the ongoing capacity of persons to participate in choices associated with their care.

Section 3 amends the form of the financial power of attorney similarly to the power of attorney for health care and affirms the ongoing right of a principal to retain their agency. They are sharing their authority with their agent, not giving it away.

Sections 4, 5, and 6 make conforming changes to NRS Chapter 162A to include references to the dementia power of attorney for health care.

Finally, section 7 seeks to amend NRS 253.220 to clarify the ability of public guardians in counties with populations under 100,000 residents to receive information about potential protected persons from the Aging and Disability Services Division, a law enforcement agency, or a court. They may then petition the court to investigate further the possibility of guardianship or use the completed investigation from Elder Protective Services [Aging and Disability Services Division] to make a guardianship filing.

In my outreach on the subject of rights in Nevada, I often return to the concept of changing cultural views of disability and vulnerability and then address where the law can help, as well as where it can hurt.

During the 2015 Session, a bill was introduced by Assemblywoman Benitez-Thompson. Assembly Bill 128 of the 78th Session created a power of attorney for intellectual disabilities. I can report that the law has made a real difference in the lives of persons with intellectual disabilities, and the statutory form is a boon to me when I teach about powers of attorney in general because of the clear language employed. The concepts involved a clear power of attorney form that made the appointment of an agent for health care decisions for persons with intellectual disabilities more accessible. The form of the document was held in testimony as a way to avoid unnecessary guardianship. At the time, Attorney John Sasser of Washoe Legal Services testified as to the circumstance where doctors would not accept individuals' own consents and would not accept that they had offered their consent to the assistance of an agent under a regular power of attorney [Assembly Committee on Judiciary, February 23, 2015]. Persons with a dementia diagnosis find themselves in a similar quandary.

As Senator Woodhouse mentioned, this is not just regarding older persons. For example, I was doing outreach in Winnemucca recently, and an individual who represented the Veterans of Foreign Wars [of the United States] mentioned to me that our returning soldiers who may have traumatic brain injuries actually experience early-onset Alzheimer's and dementia, so this is really important for these individuals as they may not have made their future plans. They are younger individuals who did not think about planning their futures, and then they receive a diagnosis that could cut them off from the very legal mechanisms that would allow them to pick the people they trust.

The refusal of health care providers to serve persons with a dementia diagnosis denies those people access to care. Further, when a person cannot get care using nomination of an agent, often the only option available to them is guardianship, which could bring an extreme result when all that was needed was consent, for example, to dental care. I have had cases statewide where doctors refused to even evaluate someone's capacity because they believed the person lacked the capacity to consent to that very evaluation. If you envision a timeline with guardianship at one end, the law allows personal choice and direction, not only up to the guardianship threshold, but it also includes points beyond through due process offered by court-appointed counsel and the protected person's bill of rights [Senate Bill 360 of the 79th Session.] If we acknowledge the legislative intent to preserve an individual's agency even beyond the appointment of a guardian, how can that fact be reconciled with refusing to allow individuals to enter into these agreements or the right of the individual to accept the assistance of an agent without a guardian's support? The durable power of health care attorney for intellectual disabilities is well suited as a template for the circumstances of persons who find themselves with a dementia diagnosis, but are then barred from engaging in the planning that will help them obtain important care.

I have been in discussions with the Cleveland Clinic Lou Ruvo Center for Brain Health in Las Vegas about two medical billing codes that allow medical providers to counsel patients on the importance of advance planning as they attempt to determine how a person referred for neurological consults can then take advantage of sound provider advice. The thing I have found most sobering as an attorney in the field of dementia is the difference between executive function and memory. A person may not be able to remember short-term details, such as the serial sevens or how to spell the word "world" backwards—both common aspects of testing for memory loss—but they can still understand who they trust and what is important to them. To cut that individual off from accessing legal options and then allow for assistance in health care because of the beginning of the memory decline ignores their own abilities, their own presence of mind, and their desire to nominate an agent. One of the additional barriers to accessing care through a power of attorney comes from being disallowed from being able to use the document after diagnosis.

Another barrier is also associated with the improper use of a power of attorney to control and isolate. I provided training to investigators at the Office of the Attorney General some time back, and they believed, as many do, that if someone has a power of attorney as their authority, they have broad consent of the principal to take actions that may be over the objection of the principal. Existing law, however, provides that the authority over one or more of someone's rights does not absolve the holder of that delegated authority of the obligation to act responsibly. This is important to the fiduciary relationship, which means the agent must act in good faith with due regard of the interest of the other party. Sections of the bill relating to this retained authority help make clear that retained authority.

Finally, regarding referrals to public guardians' offices across the state, the amended bill allows Elder Protective Services and other entities to communicate with rural public guardians, so they can evaluate how best to serve these individuals in their communities and to help them avoid unnecessary guardianship. Unfortunately, this does not extend to counties with populations over 100,000. For counties under 100,000 in population, these public guardians and other entities will be able to receive a completed Elder Protective Services' investigation that would include substantiation of abuse, neglect, isolation, or abandonment. Then they work with the team to figure out if there are alternatives to guardianship or to obtain assistance in contacting the court to get further authority for investigations.

Assemblywoman Miller:
I have lived through this almost 20 years ago with my grandmother when she was going through Alzheimer's and dementia. It was early on in the sense of where we are now with our medical knowledge and as a society. We know that people are living longer, so we are going to have larger populations.

For a person to enter into this agreement—and I know there are different times when someone becomes afflicted with this—there is a time period when someone can continue to live their life as if everything is completely normal. Oftentimes, the family has to really argue with the doctors because they know something is not right. As with any other person, they can still mask a lot of the symptoms. By the time the symptoms become obvious and

blatant to the outside world, cognitively, they are past accountability and the decision-making ability. There are still parts in here, like the power of attorney, where the person can still grant them the authority to give things away or to change things like beneficiaries and such. What stage are we in when we would say that this person was at his or her absolute decision-making self? Where is the line when we determine that we may have gone past it? The number one goal is to keep people from being manipulated into doing anything and to ensure the most qualified, caring person is representing them. Where is that line because I do not see it here?

Homa Woodrum:
To the second part of your question, the power of attorney for dementia is limited very narrowly to health care decisions. Regarding the concern about beneficiaries, it would not actually apply to the financial power of attorney. The financial power of attorney does appear in the bill packet since there is a section in there that is being amended to make clear that, if the agent is acting inconsistent with their fiduciary obligation to the principal, there can be consequences. As to the power of attorney for dementia specifically, we are talking about very narrow authority to help assist in making health care decisions.

One of the concerns people have who have lived through a loved one having this diagnosis is exactly what you described: They can mask their symptoms. There is concern about the caregivers influencing the loved one because of trust. The question becomes: Where do we want the balance of power to rest? What we find in Elder Protective Services right now is that—because of a misunderstanding of how powers of attorney work—health care providers will often rely on the agents' directions even though the principals are saying they are not happy, and that is not something they want. While we are trying to avoid unnecessary guardianships, guardianships give us a couple of tools if we force this family into the courtroom arena to address where the line on capacity is. Counsel will be appointed free of charge. They will be protected by the protected persons' bill of rights.

An example I gave in testimony on the Senate side comes from a real case from Elder Protective Services [Senate Committee on Judiciary, February 26, 2019]. A health care agent demanded that a health care facility give his mother salt water because he believed that the ocean had healing properties. The provider did it since the statute appeared to be written to give liability protection if the provider relied carte blanche on the decisions of an agent, even though he knew the agent was breaching his fiduciary duties. We want to flip that relationship and put the burden on the caregiver to show that what he or she is trying to do for mom or dad or grandma over their objection is the right thing. If that cannot be surmounted, we actually need to get in front of a judge. Many Elder Protective Services' cases involve agents who act improperly, and we have to go to guardianship to remove the bad power of attorney to help the individual in a way that would not have been necessary but for the abuse. We generally like bright-line rules; we like things that are clear.

The average time from diagnosis of dementia to passing is about eight years. There is a lot of living that can be done in those earlier stages. If it is a matter of getting your medication, it is a matter of getting to the doctor. We do not want families to have those barriers. There

will come a time—and it is a fuzzy line in terms of finding out when that time is—where it would be necessary to go to court. We have to remember that the law, as it stands, presumes capacity until a judge says otherwise. While we might see a loved one and say they cannot make that choice, technically, they have every right to make those choices. That is what this bill seeks to address: that continued right. Obviously, we have a lot of partners. We have Elder Protective Services to say, Okay, if you are being unduly influenced, we have concerns about your safety. Doctors and providers are actually mandatory reporters. They would have to make the call that either mom is self-neglecting, she is not making good choices, she is not directing her agent appropriately, or the agent is not making good choices. It fits in an overall system that is valuable, but requires this extra guidance and extra option so that we are not allowing people who have a dementia diagnosis to do a more expansive power of attorney that would let them change their finances. It is very limited to access to care.

I often say there are cases where families come together and take care of one another, but I do not see those cases. I am existing in the world of everything that can go wrong. The hope is that a family who uses this document can allow their loved one to live as independently as possible for as long as possible. That is a valid goal.

Assemblywoman Cohen:
I want to start with the form in section 1.5, subsection 1. The form, at the top of page 6, on line 1, states, "I can take away this power from my agent at any time, either by telling my agent that he or she is no longer my agent or by putting it in writing." When you are dealing with someone who is in the beginning stages of dementia, there can be anger or irrational behavior. What if someone is angry because they are having a bad day, and they revoke the power? Do they have to sign everything again to reinstate the agent?

Homa Woodrum:
What is interesting about revocation is, throughout NRS Chapter 162A, that is the actual law. People do not often realize that a regular power of attorney can be revoked this way. Let us say someone is a sundowner. Part of the day, he is always agitated. He attempts to revoke the power of attorney. The onus would be on the caregiver to know the individual and to take his objections and complaints seriously. I do not think it would go as far as fully revoking the document as much as it would create a concern that he is trying to revoke it. The caregiver could possibly circle back at another time when the principal is more lucid and ask him if that is really what he wants. The idea is that this is only in place as long as the principal is content with the arrangement. If the person gets to the point that he is agitated and confused, we probably should look at other options. If someone revokes the power of attorney, you can turn around and have him reissue it. We might talk about filing a petition with the court for guardianship. It is really meant to exist in a situation where all is well. That is an important responsibility to rest on the principal because of the declining nature of dementia. It is a valid concern, except that—although you are sharing your authority with someone else through the power of attorney—when you no longer have the ability to exercise that authority appropriately, a discussion about your best interest may be had, which could lead to guardianship.

Assemblywoman Cohen:
In the forms, there is reference to retaining a copy. I believe we have the Lockbox option. Should the form reference the Lockbox option to let people know it exists for their use?

Homa Woodrum:
The power of attorney for intellectual disability does not make use of the [Living Will] Lockbox. I believe that has to do with the more informal or fluid nature of this document. You would not want the Lockbox retaining your revocation. I do not see why they could not put it in the Lockbox, but someone from the Office of the Secretary of State would be better equipped to answer that. When I have heard them present, they mention that people send in a lot of different types of documents, not just the classic part of their estate plan. That might be an available resource for them. If the sponsor is amenable to amending the form, and it is the Committee's pleasure, it could make reference to the Lockbox.

Assemblywoman Cohen:
You referenced the confusion about the documents and what takes precedence, so what are we doing to support our agents? What are we doing to make sure they understand which documents take precedence? With the problem of medical decline, there are now new documents. How are we ensuring everyone knows what the precedence is, and what help there is for agents?

Homa Woodrum:
As we try to affect cultural change about being a dementia-friendly Nevada, there is a lot of outreach that needs to be done. We value our caregivers. The interim committee took a lot of testimony from caregivers about their struggles. It is really important for our partners, such as the Alzheimer's Association among others, to do outreaches. Recently, the Aging and Disability Services Division applied for a three-year grant with the Administration for Community Living of the United States Department of Health and Human Services for a medical-legal partnership with Cleveland Clinic and the Southern Nevada Senior Law Program. The idea is to do a lot of robust outreach to caregivers, partners in the community, our law enforcement partners, and people such as those from NV Energy. The more people in our community who know about these rights and know which way these rights cut, the better we can serve them. Nine times out of ten, when I meet with families, they want to do the right thing; they are just not getting the right education. That is always an area in which we can improve.

Chairman Yeager:
Do we have additional questions from Committee members? Seeing none, I will open it up for testimony in support of Senate Bill 121 (1st Reprint) if there is anyone here or in Las Vegas who would like to testify. I do not see anyone coming forward for support, so what about opposition? Is there anyone opposed? Seeing no one, is there any neutral testimony? I do not see neutral testimony either. Are there any concluding remarks from our presenters? There are no concluding remarks. At this time, I will close the hearing on Senate Bill 121 (1st Reprint). I will ask everyone to sit tight as we wait for the sponsor of our next bill [in recess at 8:37 a.m.].

We will come back to order [at 8:40 a.m.]. At this time, I am going to open the hearing on Senate Bill 177 (1st Reprint).

Senate Bill 177 (1st Reprint): Revises provisions relating to employment practices. (BDR 53-723)

Senator Yvanna D. Cancela, Senate District No. 10:
This bill was heard in the Senate Committee on Commerce and Labor, so it has taken a journey. I will walk through a bit of the history on the bill and then go through each section.

The bill deals with employment discrimination. The *Nevada Constitution* covers categories that are not covered under Title VII of the Civil Rights Act of 1964. Title VII of the Civil Rights Act of 1964 covers an employee from being discriminated against for race, color, religion, sex, or national origin. Title VII also provides the remedies and relief available for individuals who are found to have a credible case against an employer for discrimination based on those things. The *Nevada Constitution* protects people from discrimination based on race, color, sex, religion, or national origin, all of the categories that are covered under Title VII. It also protects people from discrimination based on sexual orientation, gender identity or expression, age, and disability. If an individual sues for one of the four categories that are protected under the *Nevada Constitution* but are not protected under Title VII, there are no remedies assigned. When an employer is found guilty of discrimination based on the four categories that are in the *Nevada Constitution* that are not protected under Title VII, the bill attaches those remedies to the discrimination based on those four categories. That is the problem this bill intends to solve.

Section 9, subsection 4, of the bill requires the Nevada Equal Rights Commission (NERC) to notify the person who filed the complaint that they may request a right-to-sue notice.

Section 2 requires that, once 180 days have passed from the time a Nevada Equal Rights Commission investigation has been started, an individual may then request a right-to-sue notice. Once they have requested a right-to-sue notice, an individual has 90 days to file suit against the employer.

Finally, in section 3, the remedies from Title VII are attached to the provisions that are in the *Nevada Constitution* that are not covered under Title VII.

Sections 4 through 8 provide conforming changes.

Assemblywoman Peters:
I was reading section 7 and got confused. I will read it to see if I am misreading it, and if I am, you can correct me. Section 7, subsection 1 states, "If the Nevada Equal Rights Commission does not conclude that an unfair employment practice within the scope of [*Nevada Revised Statutes*] NRS 613.310 to 613.4383, inclusive, and sections 2 and 3 of this act has occurred, the Commission shall issue a right-to-sue notice." If they have not yet

found that there is an unfair employment practice, shall they then issue a right-to-sue notice? Can you please clarify?

Senator Cancela:
That language is meant to allow an individual to request a right-to-sue notice even if the investigation has not been completed. Investigations can take longer than 180 days, so if the investigation is ongoing, the individual is now permitted to request the right-to-sue notice. It makes the timeline for that explicit.

Assemblywoman Backus:
I am confused by your response, so I want to clarify it. In section 2, in light of the automatic right-to-sue letter going out after the Commission has made its decision, are we now cutting off the agency's decision-making ability by allowing a person who has filed a complaint with NERC to make the request for a right-to-sue notice midstream? What are the parameters for their issuing it?

Senator Cancela:
I believe there are folks from the Commission who can elaborate on this. My understanding is that an individual may file a complaint with NERC, and they may decide to undergo a full investigation of that complaint. Once the case is open with NERC, the bill allows for that individual to request a right-to-sue notice after 180 days. After they have requested the notice, they have 90 days to decide whether to file suit. There is a window in which there may be an outcome at NERC. If they find—in that time or even once the suit has been opened—that the claim is not credible, that may be used as part of the potential litigation.

Assemblywoman Backus:
I do not work in this area, and I am used to exhausting administrative remedies. My understanding is that this is to catch those open investigations that do not go to fruition where there is a final ruling. Does it keep these matters that are in limbo?

Senator Cancela:
Not necessarily those that are in limbo. It could be that individuals decide they no longer want to pursue the NERC route, but want to pursue litigation. This would simply clarify the process. If someone from the Commission is not here, I will follow up to get detailed clarity on that.

Chairman Yeager:
Are there any more questions? I do not see any, so I will now open it up for testimony in support of Senate Bill 177 (1st Reprint). If there is anyone here in Carson City, please come forward, and if there is anyone in Las Vegas to testify in support, please come forward as well.

Misty Grimmer, representing Nevada Resort Association:
We are supportive of this piece of legislation just as we were on the Senate side. We agree that NERC does not always have all the resources or the ability to complete the investigation, so this provides another alternative for the individual.

Chairman Yeager:
Is there anyone else in support? Seeing no additional testimony in support, I will now take opposition testimony. Is there anyone opposed to the bill? I do not see anyone coming forward. Is there anyone in the neutral position? If there is anyone in Las Vegas who is neutral, please come to the table.

Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce:
We originally had some concerns about the bill, but with the amended version, we believe it provides employees additional resources and remedies, while providing them consistency with federal laws regarding the right to sue. Therefore, the Las Vegas Metro Chamber of Commerce's concerns have been mitigated, and we are neutral on this bill.

Andy Peterson, Vice President, Government Affairs, Retail Association of Nevada:
We, too, are neutral and agree with Mr. Moradkhan's testimony.

Mendy Elliott, representing Reno Sparks Chamber of Commerce:
We agree with Mr. Moradkhan's presentation.

Paul Moradkhan:
The Nevada Franchised Auto Dealers Association could not be here, but they asked to also be put on the record as neutral.

Chairman Yeager:
Are there any questions for the three at the table right now? I do not see any questions. Is there anyone else in Carson City or Las Vegas in the neutral position? I do not see anyone else coming forward. Senator Cancela, would you like to make any concluding remarks? The concluding remarks are waived. I will now close the hearing on Senate Bill 177 (1st Reprint). Moving along, I will now open the hearing on Senate Bill 433 (2nd Reprint)

Senate Bill 433 (2nd Reprint): Revises the provisions of the California-Nevada Compact for Jurisdiction on Interstate Waters. (BDR 14-439)

Senator Dallas Harris, Senate District No. 11:
I am here to introduce Senate Bill 433 (2nd Reprint). This bill was sponsored by the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency (TRPA) and the Marlette Lake Water System (MLWS), also known as the Tahoe Oversight Committee. It has provided oversight of the TRPA, either through an interim study or as a statutory committee, since 1985.

This last interim, the Tahoe Oversight Committee held six meetings: three in Carson City and three in the Lake Tahoe Basin. The meetings addressed a variety of activities, issues, and programs relating to the TRPA and the MLWS. Specific issues addressed include environmental improvement, forest restoration, nearshore ecosystems, shoreline development, and transportation. Upon conclusion of the interim, the Committee voted to forward six recommendations as bill draft requests to the 80th Session of the Nevada Legislature, including the one we are discussing today, S.B. 433 (R2).

Of the many topics discussed during the interim, the Committee received information regarding the California-Nevada Compact for Jurisdiction on Interstate Waters. According to testimony provided at an interim hearing [July 23, 2018], language in the Compact is outdated regarding advancements in geographic location technology in that it assumes law enforcement is unable to determine the precise location where a criminal act has been committed. In addition, the Compact only provides concurrent jurisdiction on the water, and there are times when law enforcement officers need to conduct follow-up investigations and bookings, and to provide assistance on land. Based on this information, the Tahoe Oversight Committee voted unanimously to draft S.B. 433 (R2).

One final note, since this is a multistate compact, the state of California must approve the same language for the bill to become effective.

To provide more information and a detailed description of the bill, I would like to have Deputy Sheriff Ron Skibinski of the Douglas County Sheriff's Office provide additional testimony.

Ron Skibinski, Deputy Sheriff, Douglas County Sheriff's Office:
I am assigned to our maritime unit at Lake Tahoe, and I oversee the maritime unit at Topaz Lake as well.

As Senator Harris mentioned, this Compact went into effect in 1987, and since then there have not been any revisions or updates to the Compact. One of the issues we have found while working at Lake Tahoe is in Article 1, section 1, where the Legislature recognizes that it is hard for us to know exactly where we are on the water. As has been said, with the advancements in GPS, if equipped—which most new law enforcement boats are—we know exactly where we are, but there are also times when deputies running smaller vessels or jet skis during certain operations do not know. We want it recognized that we do know where we are on the water, but with the limited resources we have on Lake Tahoe—the area of it is 191 square miles of water and 72 miles of shoreline—we believe the lake still needs to stay with concurrent jurisdictions where the limited resources are able to work together in the needs of public safety.

In the current Compact, the jurisdiction is only on the waterway. There are times when we need to go onshore to do follow-up investigations. An example is a hit-and-run boat accident where the people leave the water, trailer their boat, and either move away from the ramp or

are on the ramp. We are asking to have that jurisdiction changed to up to five air miles so that we can follow the investigation and continue to do our job.

Assemblywoman Peters:
It is important that we talk about how interstate waters function within different jurisdictions. The U.S. Army Corps of Engineers considers it interstate water as well because it has the bridging between states. Can you give us an example of why you would need to go outside the lake as far as five miles? Would you be in pursuit of something? Can you give me an example of why you would need to do that?

Steven Schultz, Deputy Sheriff, Douglas County Sheriff's Office:
Multiple incidents have occurred on Lake Tahoe where the ability to go onshore was needed by a maritime officer. The best way to describe this, and the way the statute is now written, is what we call a "feet-wet violation" versus a "feet-dry violation." An incident occurs on the lake, the crime or incident occurs in the water, but the person can leave the lake. The example Deputy Skibinski gave is a hit-and-run, or a hit-and-run boating under the influence accident, where someone may abandon their vessel and either flee into the surrounding forestland, return to a campsite, or go to a hotel. It gives the maritime officers the ability to further that investigation by going on land to collect evidence, conduct interviews, or make an arrest if necessary. Those are details that are best handled by the maritime officers who are investigating the incident that occurred on water.

Assemblywoman Peters:
I can appreciate that. I was thinking about the Fourth of July weekend at Lake Tahoe and how crazy things can get. I am also concerned about ensuring that the engagement including both state authorities is made appropriately. We do not want to deteriorate our relationships with our adjacent states by suggesting that Nevada's state authority has primary jurisdiction over a specific situation or by not bringing the others into the case.

Steven Schultz:
That is an excellent point. To address that specific point, we have been working very closely with California agencies that abut the lake, as well as at Topaz Lake, which would be Mono County. All of the agencies—law enforcement and public safety, as well as the U.S. Coast Guard—understand the purpose behind this. In order for this to become effective, the California Legislature would be required to adopt similar language. The current Compact has mirroring language. The only offenses that can be enforced would be statutes of similar authority between the states. An example would be boating under the influence. California has a boating under the influence statute that is very similar, if not a mirror, to the Nevada statute. Those are the only statutes that we could enforce. An example of a statute that we could not enforce would be El Dorado County's code section that prohibits swimming in open waters or channels, meaning a person cannot swim more than 300 feet from shore without being attended by a vessel, a kayak, or a boat to make sure they do not get run over. Unfortunately, on the Nevada side, we do not have a county code statute that mirrors that. I, as a Nevada officer, would not be able to enforce that El Dorado statute because we do not have a mirror to it. Our concurrent jurisdiction and authority within that jurisdiction would

not apply to that particular incident. It would require the officers on the lake who are doing law enforcement to be familiar with both states' laws that are applicable.

Senator Harris:
There were some similar concerns on the Senate side, and we attempted to put some guardrails on this by ensuring that the conduct must be on the lake. There will not be any issues with Nevada law enforcement going onto someone's land in California and attempting to enforce some law, or vice versa. This is designed to be in the areas where they are presently working together on the lake anyway. That just extends the investigation. The conduct itself must have happened on the water.

Assemblyman Daly:
You said several times that California would have to adopt substantially similar language. Do you know where they are in that process? Is there a bill in their legislature to address that so we can get this in place?

Senator Harris:
I am in contact with a couple of legislators in California. We will likely move first, so we have the opportunity to set what the language might be. They are well aware that we are having our hearing in the second house. I will continue to keep them updated. We will make sure that the processes work together.

Assemblyman Daly:
Along the lines of what you were just saying about the conduct having to occur on the lake and that conduct progressing onto the shore, the boat patrol officers would not be able to go onshore and do anything about a guy who is speeding. Would he call the other jurisdiction? I am sure they are dealing by radio and would contact the other jurisdiction if they knew something is going on onshore to have them waiting. I assume that would happen and that it would be the normal case.

Senator Harris:
I believe you are correct. There will be no opportunity for furtherance of enforcement once they are already on the land. I fully anticipate that the two authorities will continue to work together as they have done thus far.

Ron Skibinski:
Absolutely. That is not our intent. It is our intent that, if there is a crime being investigated on the water that goes onto land, the crime is the only reason they are there. It is not to open the door to do other law enforcement in other communities or jurisdictions. Working with all of our partner agencies at the lakes, they all understand that and respect it. I believe we all want the same thing. It is just so that we are able to begin an investigation on the water and, if it goes onto shore, we are able to continue that investigation and put a close to it.

Chairman Yeager:
Are there any additional questions? I do not see any questions. At this time, I will open it up for testimony in support of Senate Bill 433 (2nd Reprint), if there is any. Please come forward if you have testimony in support. I do not see anyone coming forward for support, so I will take opposition testimony if anyone is opposed. Seeing no one, is there anyone who has neutral testimony?

Mike Maynard, Game Warden Captain, Law Enforcement Division, Department of Wildlife:
With me is Captain Brian Bowles, who is our State Boating Law Administrator. We came here today as a state agency to testify in the neutral position and to be available for any questions that you may have.

Assemblyman Daly:
Do you have the same jurisdiction as they do for fish and wildlife enforcement on the lake under the Compact, or are you separate?

Mike Maynard:
Actually, we are the state's primary boating law enforcement agency. Brian Bowles, our Boating Law Administrator, interfaces with the Coast Guard for the Recreational Boating Safety Program. We frequently use the Compact on both waters. We have one compact with Arizona as well, which I am more familiar with. I did 18 years down in the Las Vegas area patrolling on Lake Mohave where we frequently had contact on the Arizona side for various violations through the power of the compact that exists—and as this compact would provide as well—along with a couple of memorandums of understanding that flesh out additional details and permissions so that we make sure we are not stepping on any other agency's toes.

Assemblywoman Hansen:
Do we have this type of compact in southern Nevada on our waters where we intersect with other states, or are we just talking about Lake Tahoe?

Mike Maynard:
Yes, we have a similar compact that is in *Nevada Revised Statutes* Chapter 171 for Arizona as well [Interstate Compact for Jurisdiction on the Colorado River]. This would mirror the language almost identically, and if not, very closely. We also have additional memorandums of understanding, which we use to cover certain things like flat-wake areas, how to enforce fishing, boat registration, the automatic identification system, and additional details that would come up in the course of our duties. We have used that for years. Our highest-intensity boating patrol area in the state is probably the Colorado River system. We have boating in Topaz Lake as well as Lake Tahoe. This compact would have consistent language with that one, plus the final language and whatever California agrees to. We would also work toward memorandums of understanding with relevant agencies to ensure we are covering the finer details, such as we do with Arizona.

Assemblywoman Hansen:
If this bill passes, would we be covered as far as our waters that border other states? That would be Topaz Lake and Lake Tahoe in the north. Are we covered in southern Nevada?

Mike Maynard:
Yes, that is correct.

Chairman Yeager:
Are there any other questions? I do not see any. Is there anyone else in the neutral position? I do not see anyone. Are there concluding remarks, Senator Harris? Concluding remarks are waived. I will now close the hearing on Senate Bill 433 (2nd Reprint). I will open the hearing on our last bill on the agenda, Senate Bill 151 (2nd Reprint).

Senate Bill 151 (2nd Reprint): Revises provisions related to certain proceedings concerning property. (BDR 3-516)

Senator Julia Ratti, Senate District No. 13:
I was honored to be the chair of the interim Committee to Study Issues Regarding Affordable Housing. This bill, while it did not come directly out of that committee, was a product of that committee. It was the balance between tenant and landlord. We took a lot of testimony during the committee, but in our four meetings, we could not quite get to a proposal that we wanted to bring forward, so I took it upon myself as an individual legislator to bring this forward.

This particular bill has come a long way through extensive negotiations with many stakeholders. I know we have all heard from our constituents about the challenges they are facing in a very tight housing market and what happens when someone gets behind on their rent and loses their place to live and how difficult it is to find another safe, affordable housing situation. Home ownership is out of reach for more than half of Nevadans, and renters are being priced out of the rental market. Over 200,000 Nevada families are what is known as "rent-burdened," making them just one emergency or unexpected expense away from missing a rent payment. "Rent-burdened" is defined as more than 30 percent of your income going toward the cost of housing.

In Nevada, we have the fastest eviction process in the West. When a tenant encounters an unexpected expense threatening their ability to make rent, they may only have 4.5 days before they could be facing an eviction order. When you consider that the law provides for 30 days before a car is repossessed, 12 days before your utilities can be shut off, and months before your home can go into foreclosure, 4.5 judicial days, which is roughly one week, is not enough time. I am going to say that again. If you are late on your car payment, you have 30 days. Miss a utility payment, and it is 12 days. Miss a rent payment, and you are facing roughly a week (Exhibit C).

Let us talk about what we can do about it. Section 1.7 takes the moderate step of increasing the time for tenants to pay rent. It moves the number of days before you have to contest an eviction to seven judicial days. That will typically give folks a weekend or a couple days off in their workweek to be able to address their move. Section 1.7 also ensures that tenants receive at least 24-hours' notice of an eviction order before they are removed. You will hear from some of the folks who will testify today of the incredibly rapid state of evictions that are experienced in some communities. In some cases, the tenants are receiving their notice and being evicted only minutes later. To solve that, we are trying to address how eviction notices get served so they have at least 24 hours.

Sections 1 and 2 remove the ability of housing authorities to utilize the summary eviction process in what is known as "conventional public housing." This is a very narrowly defined type of housing. These are housing projects that are run by a housing authority and do not include Section 8 [Housing Choice Voucher Program, U.S. Department of Housing and Urban Development] or other programs administered by private entities or landlords. As you will hear from Ms. Jeans, these programs involve the application of much more complex federal laws. In addition to having to move, these tenants face losing a subsidy that keeps them from being homeless.

Some of you have sat in on hearings in the Assembly Committee on Government Affairs or other committees where we have looked at the issue of trying to get more housing built and more housing available, and you know that getting to the top of the waiting list for an affordable housing project is almost like winning the lottery. When those particular tenants are at risk of being evicted, they are not just losing their housing, but they are also losing their subsidy and their spot in line that has kept them from being homeless.

We believe that these cases are inappropriate for our current summary eviction process and the subject experts will explain what that is. It is only meant to be used in uncontested cases. It is our premise that there is too much at stake for there not to be a third-party judicial hearing and not just an administrative process.

Section 3 gives additional rights to tenants when properties are sold. Under current law, even tenants who have a lease agreement—they have a lease in place and think their housing is secure—can face eviction for no cause after only three days' notice if the property they live in sells. This change on page 13 of the bill [section 3, subsection 3, paragraph (b)] will ensure that tenants' lease agreements will be honored by the new landlords. The new landlord and the tenant can mutually agree to terminate the agreement, but the lease is secure until the end of the lease.

Section 4 tightens the rules regarding service of the notices for evictions for nonpayment of rent. Current law allows too much room for abuse, and as you will hear, landlords have been found to have falsified service of eviction notices or served illegal ones, seeking to force tenants out illegally and without judicial oversight. This bill greatly limits those practices as professionals will oversee what is served to tenants and ensure that they are served.

The bottom line is that housing is a fundamental need that affects education outcomes, health care outcomes, domestic violence victims, and many of the societal challenges that we as lawmakers seek to improve. Eviction is not simply a condition of poverty, it is a cause of poverty. Senate Bill 151 (2nd Reprint) adds some humanity to our eviction laws and provides tenants with increased housing stability, which I believe will improve outcomes in all of these areas.

Jennifer Jeans, representing Coalition of Legal Services Providers:
I am here to explain Nevada's summary eviction procedure and why it is the fastest in the West. I represent Washoe Legal Services, the Southern Nevada Senior Law program, Volunteer Attorneys for Rural Nevada, and Legal Aid Center of Southern Nevada. These organizations represent low-income tenants facing eviction and have participated in almost every landlord-tenant bill since the early 1980s.

I will start out by explaining why our eviction process is different from other states. I can explain why the modest reforms in this bill are necessary and are going to have a real impact on the lives of the tenants. In all states, a notice must first be given directing a tenant to pay rent or leave. Our time frame of 4.5 days is in line with other states. I submitted an exhibit that is a chart prepared by the Legislative Counsel Bureau, which outlines the time frames of evictions in other states (Exhibit D). In the other states, after service of that notice, a landlord then institutes a lawsuit by filing a summons and complaint. After being served, a tenant can file an answer to the summons and complaint, which will contain a trial date, usually seven days or more away. In Nevada, however, no summons, complaint, lawsuit, trial, or hearing is required to evict. If a tenant does not file an affidavit contesting the notice, the landlord can get an order removing the tenant within 24 hours. Senate Bill 151 (2nd Reprint) does not change the summary eviction procedure itself. Instead, it brings Nevada's total time frame more in line with other states by increasing the time for tenants to respond to notices to pay or quit from 4.5 judicial days to 7 judicial days.

Section 1 also clarifies existing law to ensure all tenants receive at least 24 hours' notice of an eviction order before they are removed. This has been the practice in Clark County, but not in other jurisdictions where tenants are served with the eviction order and given ten minutes to vacate the property.

The last paragraphs of section 1 and section 2 remove conventional public housing from our summary eviction process. The change only affects this specific type of property operated exclusively by public housing authorities, not Section 8 vouchers or projects administered by private entities or landlords. These subsidized units are available only to very low-income folks and typically are the only things protecting them from homelessness. Rent is limited to 30 percent of their adjusted gross income, and the difference is paid by the federal government. In these cases, the housing authorities would use the formal eviction process, which is already set forth in statute and is similar to the eviction lawsuit used in most states that I explained earlier. This is also the process that is currently required for eviction of a mobile home owner from a mobile home park. Like tenants in public housing, these tenants have much more at stake than tenants in unsubsidized housing.

By statute and Supreme Court decision, our summary process is only intended for uncontested cases where tenants cannot raise any legal defense and there are no material facts in dispute. Evictions from public housing involve application of comprehensive federal laws, regulations, and case law that frequently provide legal defenses and require the dismissal of summary evictions. Due process in these cases, as is the case in mobile home evictions, requires the ability to confront and cross-examine witnesses, seek discovery, and have a decision on the merits. Summary evictions, which sometimes last only as long as five minutes, do not guarantee these process protections.

Lauren A. Peña, Directing Attorney, Civil Law Self-Help Center, Legal Aid Center of Southern Nevada:

The Civil Law Self Help Center is operated by Legal Aid Center of Southern Nevada under contract with the courts. We offer a free service where we provide forms, information, and resources to everyone who finds himself in the unfamiliar territory of being self-represented in court. At the Self Help Center we see about 50,000 visitors a year, and a large percentage of those visitors are there with landlord-tenant issues. As an attorney who assists low-income Nevadans with their landlord-tenant issues on a daily basis, I am appearing today in support of Senate Bill 151 (2nd Reprint).

As my colleagues have noted, currently, a tenant has 4.5 days to respond to a nonpayment of rent notice after service. That is 4.5 days to figure out why a social security check was late; to pack up everything they own and to move out; or 4.5 days to arrange to take time off from work, arrange for child care, and trek down to the courthouse to file an answer. That is 4.5 very short days to determine their future and their housing, which is an incredibly crucial aspect of their day-to-day survival.

A few months ago, an elderly gentleman limped into the Center, out of breath and gasping for air. In his left hand, he was holding a plastic bag with a hospital logo on it, and in his right hand, he was holding an order for eviction. After sitting down and taking his time to catch his breath, he explained to us that he had been admitted to the hospital over a week ago for a variety of health issues. Upon being discharged that morning, he went home to discover that his door locks were changed, and there was an eviction notice on it. He had missed his rental payment while he was in the hospital. In the flash of 4.5 days, as his health put him in the emergency room, his housing also became an emergency. He had the ability to pay. This senior citizen had a routine to walk his rent payment into the property managers every month and hand it to them in person, except this month. I have no doubt that, with a little extra 2.5 days, he would have had the opportunity to call the landlord, a neighbor, or a friend and arrange for payment and avoid eviction. Instead, he was left with the aftermath of this very fast eviction process. He was left with his doors locked, everything he owned locked in that apartment, and nowhere to go.

Another gentleman came into the Center recently who was deaf. He was holding a nonpayment of rent notice. It was his practice to wait for his social security check, get a money order, and mail it to his landlord. This month the landlord said she never received the money order. He brought a friend down to the self-help center, and we arranged for an

interpreter. We looked through all of his paperwork. By the time we sorted through all of that, he was at his eleventh hour. He had no choice but to file an answer with the court to preserve his time. The current law gave him 4.5 days to find a friend to bring him to the courthouse, for us to arrange an interpreter, to track down the original money order, ultimately cancel it, wait for his checking account to repopulate, issue a new money order, and mail it to the landlord. That is an impossible series of tasks for nearly anyone in such a short window. All the while, he was packing his belongings and getting ready to move with an eviction attached to his name. I have no doubt that, with 2.5 extra days, he may have been able to pay his rent in full, may have been able to work something out, and may have been able to stay in the place he called home.

Too often at the Self-Help Center, we see renters who have the ability to pay, but they are managing around life's curve balls: additional medical expenses for a child, a death in the family, funeral expenses, fewer hours at work this month—but more to come next month—or a federal government shutdown. The 2.5 extra days is short, but it gives tenants a little bit of breathing room to determine what their next step will be. If the goal is for tenants to have secure housing and the goal for landlords is to have occupied, paid units, then adding a little extra time to this process will achieve that goal for both sides.

Senate Bill 151 (2nd Reprint) also changes the manner of service of eviction notices so that tenants are assured due process. The current law allows for too much abuse and, unfortunately, it has been abused. We see tenants who never receive an eviction notice on their door, never receive it in person, and never receive it in the mail. What happens when a landlord controls a tenant's mailbox? We see this too often. What happens when tenants never see a notice posted on their door? We see that as well. Sadly, these fraudulent declarations of service can get through court and result in an eviction order without anyone being the wiser. Sometimes tenants receive fraudulent notices, and they do not know what to make of them. They will see something posted on their door with tape. We might know that the language of that notice would not pass muster because it does not contain what is required by statute, but a tenant who is not a legal expert might be terrified into leaving. A judge may never see this case. All we have is a "he said, she said" scenario where the abuse is hard to prove. If we make it where tenants are afforded this due process, tenants will understand an eviction notice is going to be served by a licensed process server. If we make it so they understand the process more clearly, this will give the tenants a better understanding of something that is crucial to their survival, and it gives accountability to the landlords.

The examples I have cited today are not extreme. The impact of this bill would reach a vast number of Nevada's citizens. With the population of Nevada reaching nearly 3 million and 44 percent of Nevadans being renters, the eviction procedures affect nearly half the Nevada population. In Las Vegas Justice Court alone, in 2018 there were 32,385 summary evictions. Las Vegas is only 1 of 11 justice courts in Clark County. Looking at Nevada as a whole and applying this to all of it, the scope of this issue and the number of citizens this could impact is extreme. Every day we see tenants at the Self-Help Center who have suffered the effects of this lightning-fast eviction process. Housing is crucial and it affects every other aspect of

a person's life. Giving a person a little bit of additional time is not only logical, but it is simply more humane.

Jordan Ross, Chairman, Southern Nevada Rural Constable's Alliance; and Constable, Laughlin Township:
I will limit my comments to items I can speak to with some expertise regarding technical subject matter. I would first like to draw your attention to section 1.7 and assure you that any concerns you may have that imposing the 24-hour requirement for the posting of the final eviction order before the lockout occurs is not an undue burden for any civil enforcement agency, whether it be a sheriff or a constable.

Most importantly, section 4 of this bill is particularly important, and what you have been hearing revolves around what we refer to as "strong-arm evictions." This is where landlords essentially craft their own eviction notices that make no mention of the person's rights or ability to ask for a hearing. I have had in my possession notices brought to me by constituents that simply say, "Get out in 48 hours." I am pleased that the property management community has worked with Senator Ratti to come to some accommodation on this bill, but the bad actors who continue to do strong-arm evictions need to be addressed once and for all. Removing their ability to serve their own notices of eviction will remove the vast majority of strong-arm eviction problems that we see in this community. We, the constables and our deputies, see the destruction and collapse of people's lives right then, standing in their doorways telling them they have 15 minutes to get out while they change the locks. Some of these people are not prepared. When we post notices, they are relatively clear, but there are going to be people who are always going to be, if not intimidated, bewildered by the legal system.

Going back to section 1.7, providing that last-minute opportunity to realize this is now real and you need to address this will not be an undue burden. Section 4 provides a way for us to finally put an end to, if not all, the vast majority of strong-arm evictions. It will go a long way to improve the quality of life for some of our most vulnerable citizens.

Chairman Yeager:
It is very important for our state in going forward to try to deal with our affordable housing crisis.

Assemblywoman Backus:
With respect to section 4, I notice there is an agent of an attorney that could also provide service. I did not see where that was defined. Are we giving the ordinary definition of any agent?

Jennifer Jeans:
The idea was to defer to common-law agency principals. If we need to be more specific, we can take a look at that. The intention was to defer to those common-law agency principals where, if someone is acting at the direction of, on behalf of, or under the authority of an attorney, they would be acting as their agent.

Assemblywoman Backus:
I can see that this could be used when attorneys have the onsite managers serve as their agents. I was curious if that was what was contemplated. Looking at section 4, subsection 7, paragraph (b), would that be permissible as long as paragraph (a) was also met?

Jennifer Jeans:
Yes, that is the intention as long as the agent is acting under the direction, authority, and supervision of that attorney. The attorney would certify to that effect in the pleadings. We felt that would provide the necessary oversight. It also addresses some of the concerns of the stakeholders of the bill, but would also provide the necessary oversight to ensure someone is responsible for actually serving these notices.

Assemblywoman Backus:
I was trying to flesh out the actual certification of notice under section 4, subsection 6, paragraph (a), subparagraph (2). I am reading this as, if you have any service other than personal service to the tenant—personal service is in section 4, subsection 6, paragraph (a), subparagraph (1), where it is anticipated that the tenant would sign off on a declaration—a certificate of mailing would be required. Would it then be acceptable for the witness to be the person actually doing the service?

Jennifer Jeans:
I am not sure if I understand your question. The people being served the notices can sign that they received it. Then the property manager serving it—as an agent of the landlord—would also be able to sign it.

Senator Ratti:
It just occurred to me that we forgot to reference the amendment (Exhibit E) that we brought forward in our presentation. Before we go too much further, we should discuss that. It does not reference any of the questions that have been asked. As we mentioned, stakeholders have worked a lot on this bill. Later in the process, we started getting concerns from the housing authorities. The amendment addresses the concerns that were brought forward from the Nevada Rural Housing Authority. It tightens the definition of the housing authority portion of the bill. You will probably hear that we have not met all of the requests of all of the housing authorities. It is still a conversation that we are having because it came late in the process. I want to ensure that everyone sees the amendment when you are asking your questions. That is part of this.

Assemblywoman Nguyen:
I listened to Ms. Peña's presentation about moving this from the 4.5 judicial days and giving them a couple of extra days. Is there a reason why? Is that normal for other states? Why not give 2 weeks or 30 days, or additional time such as that? It seems appropriate.

Senator Ratti:
We started with a more aggressive version of the bill. What you see before you is the result of well-meaning and well-intentioned negotiations. If we were to go where my heart lives,

we would eliminate summary evictions altogether. That would bring us in line with most of the other states in the country, but that would be a very significant shift for our state. Before we put the bill in, we decided that would be a bridge too far. We started with more time, ten judicial days, which was closer to two weeks. Through the negotiation process, this is where we landed. I am comfortable with getting them a weekend, or at least a couple of workdays off. This will give them some more time to get to the help center for assistance from friends and family when they are not working. That is the real effect: it gets a weekend in there.

We believe this will actually reduce the number of evictions that go to trial. Giving people a little more time to cure will result in more people being able to cure and, therefore, fewer cases going through the entire court process. If we are successful in getting this bill through, we will watch that very closely. If it is still not adequate time, we will have another conversation.

I have another compelling story. A friend, who is a special education teacher, volunteered to go with her middle school students to Washington, D.C., for a week. With the chaos that is the life of a special education teacher who does extra volunteer activities, she missed a rent payment. When she returned from Washington, D.C., there was a lock on her door. In that situation, a couple more days would have made a difference. Is it perfect? No, but it will make a difference for real people.

Assemblywoman Nguyen:
I know there was a lot of discussion, and my heart is in the same place as yours. I am curious to see how this affects those who deal with this problem, such as Legal Aid Center of Southern Nevada. I frequently work in the Regional Justice Center, and I see a lot of indigent people who are struggling. I appreciate this legislation and increasing the days.

Assemblywoman Cohen:
I know this is anecdotal, but talking about landlords, do you find that the larger companies are more understanding, flexible, and willing to work with their tenants, or is it the smaller owners who just have property they rent out? Are there any trends you can tell us about?

Lauren Peña:
To be fair, I see it on both sides. We see abuse from the smaller landlords in terms of eviction notices that are not really eviction notices. It is that strong-arm eviction that Constable Ross mentioned where a piece of paper is taped to the door that looks somewhat official and terrifies the tenant. The tenants do not understand their rights, so they leave rather than contesting it. They cannot risk having an open eviction case while searching for a new place.

In terms of the larger landlords, we see less personalization with the tenants. If someone comes in who has been paying regularly, but is late, there is less workability.

Assemblywoman Cohen:
I want to make sure I am following. Section 4, subsection 6, paragraph (a), subparagraph (1), has the affidavit, or declaration, signed by the tenant. Is that just one of the options? If you cannot get a tenant to sign an affidavit—I imagine there are a lot of situations where you are trying to evict someone and they are not going to help you out—are there other options for proof of service?

Lauren Peña:
Yes. The priority is to have personal service, but if that type of service fails, there is secondary service, which is traceable mailing. You can also give it to someone who is of suitable age and discretion. If that fails, the third is posting and mailing.

Assemblywoman Cohen:
Even with personal service, civil law does not require the person being served to sign anything. I want to be clear on this. You still have personal service even if the tenant refuses to sign, the same way as in a civil suit.

Lauren Peña:
We see that situation quite frequently where property managers or landlords assert that the tenant has refused to sign. In that regard, our judges agree that service failed, so we move to the second type of service, which is service upon a person of suitable age and discretion, as well as mailing. Generally, in the scenario where the tenant has been served but refused to sign, it is now mailed and given to that other person. If that fails, it is also posted and mailed.

Assemblywoman Krasner:
We want people to have affordable housing. It is huge to get people to come to our state and to make sure they have a place to live. We help with homelessness. The Legislative Counsel's Digest for the bill says:

> Existing law authorizes a landlord to utilize procedures for summary eviction when a tenant of a dwelling unit, part of a low-rent housing program operated by a public housing authority, a mobile home or a recreational vehicle is guilty of certain unlawful detainers. (NRS 40.254) Section 2 of this bill eliminates the ability of a landlord of a low-rent housing program operated by a public housing authority to utilize such procedures for summary eviction.

I believe you said they would have to go through a formal eviction process. The bad landlords that you described are terrible, and we do not want that. Let us say there is a good landlord and a tenant who is living in a low-income housing unit, but is disruptive and loud and does not pay his rent. How would a landlord get that person out? What is that procedure?

Senator Ratti:
Before Ms. Jeans jumps in with the actual process, I want to be very clear that this is very narrowly focused on housing authorities only. The only landlord we would be talking about in this situation would be a housing authority, such as the Housing Authority of the City of Reno or the Southern Nevada Regional Housing Authority. It is only for those properties that are owned and managed by those housing authorities. No other landlord would be subject to this process.

Jennifer Jeans:
They would use what we refer to as our "plenary eviction process." It is set forth in statute, *Nevada Revised Statutes* (NRS) 40.254. It is the procedure that is required by statute whenever a tenant raises a legal defense or an issue of material fact in the summary eviction. As I mentioned earlier, that is also the process that is used for an eviction from a mobile home park when the tenant owns the mobile home. It is very similar to the processes the other states use. It is an eviction process, so attorneys regularly bring these cases. They serve a summons and complaint. They may also request an order shortening the time in a hearing on a temporary writ of restitution. It is then set for hearing. The tenant has an opportunity to file an answer and to request discovery. Witnesses are sworn, with opportunity for cross examination, and all of those procedures that occur in a normal lawsuit that do not occur in a summary eviction. It is very rare, in my experience with summary evictions, for any witness to be sworn or for an opportunity for cross examination because it is only designed to be a procedure used when there is no dispute as to the law or as to a fact. In a lot of cases where I have represented people in conventional public housing, the courts dismiss those summary evictions because a legal defense has been raised through the myriad of federal laws that pertain to those types of properties.

Assemblywoman Krasner:
Are you saying that it is a full-blown hearing then? That is the way to evict?

Jennifer Jeans:
Yes.

Senator Ratti:
That is absolutely right. It is the process. The point I want to make is that it is not the process that every other state around us uses. Summary eviction is unique to Nevada; we do this. Very few other states do anything like this. Our premise is that it is already an unusual practice. It should be used only in a very limited scope when there is no point of fact or legal argument to be made. I can make an argument that it should not be used anywhere, but we are not making that argument. We are making that argument for our most vulnerable tenants who are one step away from homelessness if they lose that subsidy. They should be afforded the same rights and processes that they would be afforded if they were in a housing authority project in any other state.

Assemblywoman Torres:
It was only a couple of weeks ago that I contacted someone from Legal Aid Center of Southern Nevada because I had a former student reach out to me. He received a summary eviction. He was helping his sister parent their young sibling because their father had passed away. The family was still trying to get back on its feet. I recognize this as an issue, and I see that 4.5 days was not enough for them. It is hard when you do not understand the legal court system. Is there anything we can do with this piece of legislation to help those families? My student was lucky that he knows me and could contact me to find out what he needed to do. Honestly, even I did not know. Is there something we can do in this piece of legislation so individuals can clearly understand the process, or where to go, or to refer them to a particular location? Right now, it is difficult for most people.

Jennifer Jeans:
We are trying to strike a balance with this piece of legislation. One thing that will help tenants in that situation is ensuring they are actually served with a legal eviction notice. That is why it is so important to have licensed process servers or an attorney overseeing the certification and service of those notices. The notices lay out that they have so many days to respond, which justice court to go to, and how to contest the eviction. I would love for it to say that you can contact Legal Aid Center of Southern Nevada, but that would be for another session.

Senator Ratti:
One justice court in Clark County handles 30,000-plus evictions, and that is only 1 of 11. How we get the word out and how we get the assistance to that many people is a big challenge. You are right; it is not addressed in this bill. We believe making the process more humane and dignified for the tenants in these challenging situations is a good first step.

Assemblywoman Hansen:
I have an interesting approach to this because I have lived on both sides of it. As a child of a single parent growing up, I lived in hotels, motels, mobile home parks, and many times with friends of my mother. I know what it is like to have utilities turned off and to have things repossessed.

On the other side, I have found myself in the role of a landlord. I must admit I am a terrible landlord. I should say that I am a fabulous landlord because I have really been taken advantage of. I am trying to find the fit here. I see there is a need on both sides to protect those who are in a hard position with the rent, but to also protect the real estate interest. There are a lot of mortgages on those properties that these landlords own. Maybe now, with this bill and talking about public housing, it is in the bigger scope of things. I do not have any discomfort in moving the days up. I think this is a reasonable fit.

With the current number of days for an eviction, what percentage of tenants cure? I know a lot of times my mother was just in over her head. She was never going to be able to cure it. If we give them extra days, do we have an idea if they will be able to cure? That is what we hope will happen.

Jennifer Jeans:
I do not have that data, and I cannot answer specifically what percentage of tenants cure and under what time frame. I can say that, in my experience in this market, tenants have a very strong incentive to maintain their housing. It is such a hard thing to find new housing that they can afford. What this bill seeks to do is to provide enough time for tenants who can maintain their rent long term—but just had an unexpected expense or an emergency that made rent challenging—to cure. This little bit of time gives them the ability to do that, especially when you look at how much people are paying in rent. As rents increase, they are paying more and more of their income on rent. It makes them much more vulnerable to struggling to pay rent.

Assemblywoman Hansen:
I knew that you might not have those statistics, but it popped into my mind. Who were the members of that interim committee?

Senator Ratti:
I was the Chair. Assemblyman Thompson was the Vice Chair, and the other members of the Committee were Senators Cancela and Kieckhefer and Assemblymen Flores and Jauregui.

Jordan Ross:
I want to add a little to what Ms. Jeans said. In our experience, generally speaking, the majority of eviction notices are cured. However, it is clear to me—because we are directly interfacing with the people we are having to evict—that there would be a higher percentage cured if there was just a little more time. May I also point out that this will have a corresponding additional benefit in the reduction of cases that the justice courts are required to carry.

Assemblywoman Tolles:
If I understand this correctly, we are only applying this to the housing authorities.

Senator Ratti:
I feel there is some confusion. We may be responsible for creating that, so let me do everything I can to endeavor to make it clear. The removal of summary eviction is only for that very narrow definition of existing affordable housing projects that are run by housing authorities. Everything else in the bill applies broadly to all landlord-tenant relationships, except for commercial.

Assemblywoman Tolles:
Now I will have to read this with that in mind. I am trying to reconcile this. I have looked at the exhibits and the opposition letters, and I know we will be hearing from them. I am trying to reconcile some of the statistics that we have heard. It is shocking to hear that there are 30,000 evictions in one year just in Clark County. This broadens the scope of the impact of this, and I can appreciate the moderate increase of just a couple more days. I now understand that this does not apply to all of the 30,000 in Clark County or the 3,000 in Reno-Sparks, but specifically to the housing authorities. According to their statistics, this legislation would

narrow it down to just 8 last year in Reno and 47 in southern Nevada for nonpayment. Is this how tight this is? Are we talking about moving it from 5 to 7 days for 8 people in the Reno Housing Authority and 47 people in the Southern Nevada Regional Housing Authority?

Senator Ratti:
It really is important that we get this piece correct. Summary eviction exists for everyone, and it is a process where you can have a very rapid eviction if there is no contested point of fact that could lead to some type of legal argument to overturn your eviction. It is unique to the state of Nevada. There is a portion of this bill that eliminates summary eviction, but only for this very narrow targeted situation of specific types of housing projects that are run by housing authorities. Those are the numbers that are referred to by the opposition in the housing authorities. It is a small number of people. For that small number of people, the stakes are incredibly high. These are very low-income folks who have a highly subsidized unit. The premise of that portion of the bill is for those people who should have the same high level—and we acknowledge that it is a high level—of judicial review as people who live in these types of projects all over the country. Summary eviction is a very unique, very fast type of eviction process that we have in this state. That very high-stake, very narrow group of clients should have the full, heavy judicial process. That is just one part of the bill.

The rest of the bill—the adding of additional days, the requiring professional process servers, the making sure it is at least 24 hours' notice, and the saying if you have a lease and the property sells, your lease is still honored—applies to all 30,000 and every other landlord and tenant relationship in the state. It is only the removal of the summary eviction that applies to that very narrow audience. All of the other protections apply to all other situations.

Assemblywoman Tolles:
That makes it clear. That is incredibly fair. I will save my questions for the opposition since it seems their testimony is that they have a longer process now. Does this shorten it for the housing authorities? Their testimony is that there are 14 and 30 days. I am concerned that there may be an unintended consequence that actually shortens the time for them. It could change their current process that includes a lot of grace periods.

Senator Ratti:
The housing authorities have to comply with federal and state law, so there are some federal protections that are in addition to the ridiculously fast summary eviction process. They are not as strong as it would be if you remove summary eviction. Yes, they do have to do more than some, but we think it is not enough.

Assemblyman Roberts:
We were just talking about the housing authority provisions in the bill. Does that also apply to Section 8 vouchers? Those are normally not managed. I see you shaking your head no, so I am good with that.

Senator Ratti:
For the record, no.

Chairman Yeager:
If you have additional questions, you can find the presenters in the hallway. At this time, I am going to open it up for additional testimony in support. If there is anyone testifying in support, please come forward, both in Las Vegas and here in Carson City.

Bailey Bortolin, Attorney, Legal Aid Center of Southern Nevada:
I want to say on the record that Dr. Nancy E. Brune, executive director of the Kenny Guinn Center for Policy Priorities, had an unexpected personal conflict this morning, but was planning to be here. She will email each of you the testimony from the Guinn Center on some research they have done about evictions and how it affects our Title 1 schools, our low-income schools, and the education system. You can see an eviction chart that she submitted in the Senate [Senate Committee on Judiciary, March 12, 2019, (Exhibit I)] that shows we have eviction filings at the same rate as the nation, but we have a lot more evictions than the national rate, which is due to the unique summary eviction process.

The only personal note that I will add is that I have been working for Legal Aid Center of Southern Nevada for a few years now, and I get a lot of calls from constituents, legislators, lobbyists, and advocacy groups who reach out and ask if this is something Legal Aid can help with. I have never had as many of those calls about people who need assistance as when we brought this eviction bill. I get a couple of calls a week from people here in Carson City saying they do not know what to do or where to go on evictions. It has been eye-opening for me that these people need resources and assistance. During that 4.5 days, they need someone to walk them through the process. From my personal perspective, I think it will make a huge difference.

Chairman Yeager:
For Ms. Brune and the Guinn Center, are they in support of the bill or are they neutral?

Bailey Bortolin:
They are in support. She will follow up with an email to the Committee today.

Izzy Youngs, representing Nevada Women's Lobby:
The Nevada Women's Lobby is a nonpartisan coalition of organizations and individuals who are committed to women and families in Nevada. They have identified housing as a top priority for this legislative session. The rights that this bill provides to tenants of rental housing are extremely important in terms of bringing our tenant laws in line with the rest of the West. This bill will help prevent homelessness by moderately increasing the amount of time tenants have to resolve rent payment issues, which can be the result of hospitalizations, sudden job loss, or another unexpected circumstance. It will predominantly help women who are often the primary caregivers of children and are at an increased risk of precarious finances and of losing their children as a result of homelessness.

Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada:
We all need a safe and stable place to call home. Yet today, Nevada is in a housing crisis, especially when it comes to renters. Rent is rising much faster than wages, and fewer and fewer people can find an affordable place to live. When a family loses its home due to an eviction, they have a small window of time to come up with what is often thousands of dollars to move. Finding an affordable, vacant home on short notice often means moving away from their current school, day care, support network, and place of employment. Seniors, people with disabilities, and people with health issues are particularly at risk when they lose access to their care providers and communities. Senate Bill 151 (2nd Reprint) makes a moderate extension to the eviction time frame that will make a huge difference in the lives of those struggling to make ends meet. It allows people to make plans for how to move forward rather than pushing them into homelessness and sending them into a spiral of poverty. We ask that you vote yes on Senate Bill 151 (2nd Reprint).

Mackenzie Baysinger, Intern, Human Services Network:
As a social work student, I look at this bill a bit differently. I see the extension of eviction days as being crucial to the health of our community. One study found that low-income people with difficulty paying rent, mortgage, or utility bills were less likely to have a usual source of medical care and more likely to postpone treatment and use the emergency room for treatment. Living on the street or in shelters also brings a risk of communicable diseases and violence because of the crowded living conditions and lack of privacy or security. Medications to manage health conditions are often stolen, lost, or compromised due to rain, heat, or other factors. With 44 percent of Nevadans being renters, we need to ensure they are protected and do not end up on the streets. We firmly believe this bill will create a safer and healthier community, and we urge you to support it.

Shane Piccinini, Government Relations, Food Bank of Northern Nevada:
All of my favorite talking points were discussed. A lot of our clients who come to us for assistance bring us their summary eviction notices with absolutely no idea what to do. They do not have a legal degree. They do not have lawyers in the family. They have nothing. Really, by the time they figure out what to do, there may only be 2.5 or 3 days before they get any assistance. Any backstop that we can provide as a society would be a step in the right direction.

Chairman Yeager:
Is there any additional support of Senate Bill 151 (2nd Reprint)? I do not see anyone. I will now take opposition testimony if there is anyone in opposition. Please come forward.

Amy Jones, Executive Director, Housing Authority of the City of Reno:
I would like to point out that we have had conversations this morning with the proponents of the bill, and we are willing to work with them and continue the conversation so we can come to an agreement.

As Senator Ratti clarified, section 2 of this bill specifically refers to housing authorities only. We are respectfully in opposition to the bill regarding the change in the eviction process for public housing authorities (Exhibit F). Otherwise, we are in full agreement with the bill and would support it.

I would like to walk through our eviction process for our public housing residents if they do not pay their rent. Rent is due on the sixth day of the month. If they do not pay by the sixth business day, at that time they would receive a 14-day notice to pay or quit. If the residents do not agree with their rent calculation or they have had some unforeseen issue in their family or their income, we have a grievance process, and they are able to come meet with us, request a file review, and discuss that with us. That would stop the eviction process so we can resolve this issue. If, in fact, we are not able to resolve it, the family has the 14-day period which gives them to the twentieth of the month, if not later. If they are able to pay the rent at any point during that time, we stop the eviction and do not go through with the eviction process or the lockout. We have no issue with the extended time frame. As you can see, we give those families more time than what you are looking at.

I would like to share a couple of stories with you. In December, we had three families that were in jeopardy of being evicted because they had not paid their December rent. Obviously, that is Christmas, so when they did not pay by the twentieth of December, we did not move forward with the eviction. The first of January came and we still did not move forward with the eviction. We gave the families an additional week to come up with their December rent. Two of the families were able to pay. We had one family that we had to file the lockout on. That family immediately came to us after the lockout. They were able to come up with the money, and we had staff stay on site until 6 p.m. to collect the money from them. We paid overtime so the family could get back into their unit.

We have three senior public housing sites. When those seniors go into the hospital, we are fully aware of it. We work with their social workers and stay in contact with them. The last thing we want is for that senior to get out of the hospital and come home to a unit they have been locked out of. We want them to come back to their home.

The Reno Housing Authority (RHA) does not want to evict families. There is an increased cost to us when we have to evict families. We have to go through the eviction process. We have to turn those units. We have to repair them and paint them. There is a vacancy loss for us. Our mission is to keep families housed. We understand the difficulties that families face. They face lack of income, lack of resources, or lack of transportation. Some of our families have disabilities and high medical bills. These are just a few of the concerns that we hear from our families daily, and the last thing we want to do is put them out or evict them.

We created the Workforce Development Department to help those families. We refer families to that department to help them with budgeting and to assist them to manage their finances. The three families I referred to previously were referred to that department in December, and they are no longer paying their rent late.

Previous testimony indicated that, in Reno and Sparks, there were 3,043 summary evictions in 2018. Of those, eight were from public housing for nonpayment of rent. The large figure is not coming from the public housing authorities. Because we have concerns about families being evicted, we created the Homeless Prevention Program through Washoe Affordable Housing Corporation, which is a subsidiary of the Reno Housing Authority. We received $100,000 from the Housing Division within the Department of Business and Industry, and we pledged $100,000 of our own funds to help families not be evicted when they face unforeseen situations. To date, we have helped 181 families not be evicted because of those circumstances. Those families also met with the Financial Guidance Center as a requirement of this program so they can discuss budgeting to help them not be in this situation again. If housing authorities have to go through the formal eviction process, it is going to increase our burden. Housing authorities are already underfunded and operating at a loss. We receive federal funding for those programs.

The RHA is governed by a board of commissioners. We are more than willing to look at our policies and procedures and to compromise in order to address these concerns on a local level. I respectfully ask that the language in section 2 eliminating the ability of landlords of low-income public housing authorities to utilize summary eviction be eliminated. We have a lot of policies and procedures in place that protect our residents. I wish this was applied more to the public sector. We have families that receive evictions in the public sector, and we continually refer them to Nevada Legal Services. We have a great working relationship with them, and we want to continue that relationship to protect our families.

Assemblywoman Backus:
I am confused because you walked us through the federal process that you follow. Why is it that you want the state law to apply if you already have to follow the federal law with respect to proper noticing?

Amy Jones:
We have to go through our regulations; then to obtain access to the unit, we have to go through the eviction process, the summary eviction process.

Assemblywoman Backus:
I know that some of these low-income housing project evictions need to be "for cause." I assume that applies under Title 24 of the *Code of Federal Regulations*. When there has to be for cause—and I am finding this in Clark County—you have to move forward with the court process. Can that happen right after you do the 14-day grievance period, that time is exhausted, and you then file the complaint and serve it? Are you trying to go through the summary eviction at that point?

Amy Jones:
We file the 14-day notice, and it is filed in court as well. If they do not pay, we can go forward with the lockout at that point. The resident does have an opportunity to contest our 14-day notice at that time within the court. If they disagree with us, we can then meet with the judge to go forward with the eviction process. We do try to resolve those before we get

to court if they are disputing what that eviction is for. As you said, we do need to have for cause with public housing. To put it in perspective, last year we had a total of 31 evictions, 8 of those were for nonpayment of rent. The remaining were for criminal drug activity or other lease violations. Did I answer your question?

Assemblywoman Backus:
Yes and no. Is the 14-day grievance policy something that is in your internal policies and not under federal law? How I read this is that you still have to abide by the *Code of Federal Regulations*, the federal laws that govern this. It sounds like that is what you are doing. I was trying to wrap my mind around this. It is necessary that you cannot not be excluded because you already have to follow the federal law.

Amy Jones:
Correct.

Amber Baltzley, Asset Manager, Southern Nevada Regional Housing Authority:
For time purposes, I do not want to seem too redundant. Ms. Jones explained it very well. We operate very similarly with our programs. As she said, we have spoken with the proponents of the bill, and we are working toward a resolution, specifically with just removing the housing authorities from the summary eviction process. We do not have any issues with the notice period or with the notices being served. We provided in our exhibit copies of our notices (Exhibit G), and you can see that they are very detailed. It provides the resident with the opportunity to file for our own grievance process. It talks about the Violence Against Women Act and reasonable accommodations. We go above and beyond to ensure that our families remain housed prior to the eviction process. The biggest issue that the housing authorities face is that we already receive limited subsidies, and to be able to operate under very tight budgets, we have to be very resourceful as it is. Having to obtain legal counsel for a formal eviction process is extremely costly. We cannot afford it. It will take away from serving the families, maintaining the property, and making capital improvements. We do not see that this is necessary considering we go above and beyond with the federal regulations of our administrative process with the hearings.

We are in opposition of that one component and, hopefully, we can work with Senator Ratti. We appreciate her big push with affordable housing. We have 2,500 public housing units alone in southern Nevada, not including the over 1,000 affordable housing units and the Section 8 vouchers that we have for our families in southern Nevada.

Patricia Stephens, Director of Operations and Affordable Housing, Southern Nevada Regional Housing Authority:
Our agency has approximately 1,200 units. We do not want to keep beating a dead horse, but Senator Ratti made a comment that the stakes are really high for our public housing residents that pay based on their income. I beg to differ that, with this policy, it is not just the conventional public housing residents who are at a disservice. We still have over 1,100 Section 8 vouchers, almost 1,200 affordable units, and other properties. Those individuals could still be considered as being low income who are paying an exorbitant

amount of income toward their rent. It is not just for the public housing individuals that this is helping by taking out the private sector, Section 8, and the Low-Income Housing Tax Credit (LIHTC) properties. We do not feel as though it serves and helps the individuals who really need it.

Our internal process already exceeds what the bill is proposing with the notice days. We do the 14 days, and they have time to file the grievance within that time frame. They go through the grievance process. We have even had conversations with the Coalition of Legal Services, and we are possibly willing to do something where we could add another layer of mediation. With the Las Vegas Justice Court, we have the Neighborhood Justice Center, where we could possibly do the process with our grievance policy and add that additional layer with the Neighborhood Justice Center as a means of mediation prior to going through the summary eviction. We want to make it known that all of the housing authorities are in the business of housing individuals. We do not gain anything by putting them out. As a matter of fact, we lose subsidy money from the government if these units are not occupied. That is the business we are in.

Chairman Yeager:
Do we have any questions from Committee members? I do not see any. Is there anyone else in opposition to the bill? I do not see anyone in Carson City coming forward or anyone in Las Vegas. How about neutral? Is there anyone neutral on Senate Bill 151 (2nd Reprint)? We will start in Las Vegas.

David Brown, Hearing Master, Las Vegas Justice Court:
I handle the summary eviction proceedings. I would like to draw your attention to one provision as it relates to the justice court, and that is regarding the time to pay on the seventh day. In section 1.7, section 1, paragraph (a), it says, "On or before 5 p.m. on the seventh judicial day following the day of service." I know the numerous justice courts have different operating hours. Las Vegas Justice Court is open five days a week, but it closes its doors at 4 p.m. Henderson Justice Court is open four days from 8 a.m. to 6 p.m. We have people who show up after 4 p.m. and are disappointed to say the least because they are unable to file an answer. If there is an instruction that they are able to file until 5 p.m., that will be cause for concern. That provision ties in to subsection 4 of section 1.7 where it provides that the tenant may file an answer at or before the time stated in the notice. It may be profitable to amend that to perhaps say they can file by the closing of the court's operating hours for that particular day. Perhaps that information, along with the address and the operating days and hours, could be required in the notice provided by the landlords. We see that as being a bit of a problem. It would be nice to cure it before that gets finalized.

Chairman Yeager:
I believe you do all of the summary evictions in Las Vegas Justice Court. I was wondering, on a weekly basis, what is the volume of your calendars in terms of the summary evictions that are being filed and granted in Las Vegas?

David Brown:
The Las Vegas Justice Court does handle all of the summary evictions in Las Vegas Valley, except for the City of Henderson and North Las Vegas. I believe, based on the numbers on the Senate side, it is approximately 75 percent of all eviction cases in the state. The volume is interesting because it is cyclical. Everything is geared based upon the due date and the late date. For the most part, 60 to 65 percent of the cases or the leases out there provide that rent is due on the first of the month and late after the fifth of the month. The notices we see generally start to be served, at least heavily, on the sixth to the tenth of the month. Probably 25 percent of all the notices are late after the third, so we see a little uptick before that. If the notices are served on the sixth in mass, the fifth judicial day would generally be seven days later. We see a massive influx of complaint filings beginning as early as the thirteenth, and we set those for hearing. There is an answer filed about seven days later.

They call it "evictions week" but it is more like "evictions 2.5 weeks." Sometimes in the spring, it is a little slower because of the tax season. We have 2,500 to 3,000 eviction filings per month. I could divide that by four and call it a weekly caseload, but it would not be entirely accurate because of the swell based upon when things become due or late. I can give you some ballpark figures if you are interested, but it is a cyclical process for the court.

Chairman Yeager:
That is useful information. I do not see additional questions from the Committee. We will continue to take neutral testimony.

Susan L. Fisher, representing Nevada State Apartment Association:
We are here neutral. We had some very severe concerns with Senate Bill 151 (2nd Reprint) when it was first introduced. As the bill was first introduced, when it required a process server, that was a real concern to us. It is a real boon for the private investigator and the Private Investigator's Licensing Board here in the state because process servers have to be licensed through the Private Investigator's Licensing Board. That is a $750 fee. They must have a $200,000 liability insurance policy, a background check, and written and oral exams. Nevada is one of the most expensive states to be licensed in by the Private Investigator's Licensing Board. That was a concern for us. Including an agent of an attorney, and with the definition as described—actually we could not find an actual definition in statute—that would be more reasonable. It is expensive to use a process server, and it is expensive to use an attorney as well.

There was a question earlier about the percentage of lockouts that are cured or prevented. We typically, on average, send out notices to 10 to 15 percent of our renters. This is across the board by all of the members who are surveyed within our association. Typically, only 1 to 2 percent of those are locked out. It is not a huge number, but when you have a complex where there are 500 or 1,000 units, the numbers do get up there. Payment arrangements are very typical. Many landlords will go beyond the eviction period and hence a low lockout percentage. Having Hearing Master Brown, a former legislator, on the bench has been a godsend, both to the landlords and to the tenants. He has a very commonsense approach

and has been very helpful. I hear wonderful reports from our side and from other advocates as well.

Assemblywoman Tolles:
I want to go back to what you said about working through the definitions and the cost and expense. Could you further define that? As the bill reads now, have your questions been answered, and is there an additional expense for the landlords?

Susan Fisher:
The way we read the bill, and in talking with Ms. Jeans prior to the start, and with the conversation here in the Committee hearing, an agent of an attorney can be a property manager who has made sure the attorney has checked all of the boxes and the forms are the appropriate forms. In that way, the cost is held down. The cost to the landlord for issuing these notices—if they are using a process server, an attorney, a paralegal, or an agent of the attorney—is passed on to the tenant. With a process server, it is typically between $45 and $75, which adds on to the amount the tenant is going to have to come up with in order to pay up. If we can help hold down that cost by having a property manager who has had the forms checked off by their attorney or by their compliance office, that makes it more cost effective both for the business and for the tenant.

Assemblywoman Tolles:
When we close, I will ask for confirmation of that. I agree that you do not want to get in a cycle where they not only owe the rent, but then they have all of these additional fees that can create a perpetuating spiral.

Assemblywoman Hansen:
As this bill is, when we talk about "commercial," is that more like apartment units or more like business property?

Susan Fisher:
Commercial property is office property, business properties. They are regulated differently than residential property. A residential apartment complex is under NRS Chapter 118 and commercial is under NRS Chapter 118C. The monthly rentals would be NRS Chapter 118A. The commercial property is not included in this statute.

William Brewer, Executive Director, Nevada Rural Housing Authority:
Although we are a housing authority and have shared some of the same concerns that you have heard from the other housing authorities, the new language in the proposed amendment defines public housing narrowly to that definition. We can be neutral on this bill since the Nevada Rural Housing Authority does not own public housing. We would not be exempted by this language. We are happy to testify neutral on this bill.

Jonathan P. Leleu, representing NAIOP, the Commercial Real Estate Development Association, Southern Nevada Chapter:
We worked to extract commercial properties from the impact of this bill. As a result, I am here to testify in the neutral.

Chairman Yeager:
Is there any additional neutral testimony? Seeing none, I will invite the sponsor back to the table for concluding remarks.

Senator Ratti:
I appreciate the significant amount of time that you put into this issue. It is one of the reasons I try to avoid the Assembly Committee on Judiciary at all costs. I am not a lawyer and I have learned to always bring legal counsel with me.

It is an important bill. It is part of a package that has been brought forward during this legislative session to try to address affordable housing holistically. I would love to be able to sit here and tell you that there is a silver bullet that will solve our affordable housing problems. What I think we have learned is that it is just not the case.

There are four bills that are going through the Assembly Committee on Government Affairs that are primarily focused on cleaning up definitions, getting us better data, and empowering local governments to have the tools they need to be part of the solution. There is also a bill going through the Assembly Committee on Health and Human Services that targets the seriously mentally ill at the homeless level that looks at housing as health care and makes sure we have wraparound supportive services for the seriously mentally ill.

There are two bills, Senate Bill 151 (2nd Reprint) and Senate Bill 256 (1st Reprint) that are working to balance the rights of tenants and landlords to get to the place where we recognize that, when we are talking about housing and Maslow's hierarchy of needs, we are talking about food, shelter, and clothing. This is not just any contract and not just any legal contract between two parties; this is about a roof over someone's head. We know that over 200,000 Nevadans are rent-burdened, meaning they are spending more than 30 percent of their income on their rent. This also means that they are making tough choices about spending money on food, medicine, or keeping a roof over their head. If one negative thing happens or they make an honest mistake, they are one very short step away from homelessness. That is a problem. The proposals in this bill are modest and focused on bringing some humanity and dignity back to the eviction process.

With regard to the very specific and narrow section on the housing authorities, we can boil it down to the difference of opinion. If a legal mistake has been made—and I want to acknowledge that the housing authorities are and should be one of our best partners in addressing the issue of affordable housing in our communities—they are also landlords and can occasionally make a mistake. The question is, When there is a legal reason why that tenant should have the right to have the eviction vacated, is an administrative process overseen by the agency appropriate, or should they have the full benefit of a judicial review?

They do have a touchpoint with the courts, but should they have the full benefits of the judicial review that includes the ability to cross-examine a witness and all of the things that come along with that? That is the main point of difference. Yes, they are already held to a higher standard because of the federal law. Yes, they have good practices. I believe they are sincere when they say they do not want to evict anyone, and they work with their tenants because that is their mission. I am grateful for that mission. The question is, For that tenant who has so much at stake, is an administrative review with a touchpoint with the courts sufficient, or does that tenant have the right to the full judicial process since so much is at stake? I am willing to go back and have that conversation. This did not come up on the other side when it was in the Senate. It is a relatively fresh conversation. We will take some time to really look into that because the stakes are very high for those tenants.

There was a comment made that we are very narrowly focusing on just one type of housing and not doing Section 8 or LIHTC or the other kinds of affordable housing. We can broaden it to include all of those. That is the other direction to go. I acknowledge that those are all high stakes as well. The approach was to try it out with one narrow portion of the market to see what the intended and unintended consequences would be before we look at anything more significant.

I hope you have all the information you need to make a great decision, and I hope you will support, not only Senate Bill 151 (2nd Reprint), but the package of affordable housing bills that are coming through. We cannot sit and do nothing; we have to make a difference this session.

Chairman Yeager:
We will wait to hear back from you on the next step. Obviously, we have a deadline coming up next Friday, but in the legislative world that is almost two full weeks. We have plenty of time to work through it.

I will now close the hearing on Senate Bill 151 (2nd Reprint). I will open it up for public comment. Would anyone like to give public comment here or in southern Nevada? I do not see anyone, so I will close public comment. Is there anything from Committee members this morning? I do not see anything else.

In terms of the rest of the week, we are going to start at 8 a.m. tomorrow, and we have two bills and a work session. We will probably have 12 or 13 bills on work session, and we will do our best to get those out to Committee members this afternoon. I think we will do a Consent Calendar again, so we will put that together. As a reminder, if you see something on the Consent Calendar that you would like pulled, or that you are going to vote "No" on, please let me know, and we will take it off the Consent Calendar. We do not have any bills scheduled for Thursday, but we will likely have a work session on one or two bills. I am not sure of the precise time, and I will let you know tomorrow. We will probably start at 9:30 a.m. or 10 a.m. on Thursday if we just have a couple of bills to do. On Friday, we have a 9 a.m. hearing with one bill on the agenda at this time. When we get to Friday, we can talk about what next week looks like.

I want to remind folks that next Friday is our deadline for second committee passage. If you have presented bills and we are waiting for amendments from you, please get them to us in a timely fashion. We will see you at 8 a.m. tomorrow. This meeting is adjourned [at 10:50 a.m.].

RESPECTFULLY SUBMITTED:

_____
Karyn Werner
Committee Secretary

APPROVED BY:

_____
Assemblyman Steve Yeager, Chairman

DATE: _____

EXHIBITS

Exhibit A is the Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is a chart on defaults and consequences, submitted by Senator Julia Ratti, Senate District No. 13, in support of Senate Bill 151 (2nd Reprint).

Exhibit D is a chart on eviction timelines for Western states, submitted by Jennifer Jeans, representing Coalition of Legal Services Providers, in support of Senate Bill 151 (2nd Reprint).

Exhibit E is a proposed amendment to Senate Bill 151 (2nd Reprint) presented by Senator Julia Ratti, Senate District No. 13.

Exhibit F is written testimony presented by Amy Jones, Executive Director, Reno Housing Authority, in opposition to Senate Bill 151 (2nd Reprint).

Exhibit G is written testimony presented by Amber Baltzley, Asset Manager, Southern Nevada Regional Housing Authority, in opposition to Senate Bill 151 (2nd Reprint).