

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

**Eightieth Session
February 20, 2019**

The Senate Committee on Government Affairs was called to order by Chair David R. Parks at 1:03 p.m. on Wednesday, February 20, 2019, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4404B of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator David R. Parks, Chair
Senator Melanie Scheible, Vice Chair
Senator Julia Ratti
Senator Ben Kieckhefer
Senator Pete Goicoechea

GUEST LEGISLATORS PRESENT:

Senator Heidi Seevers Gansert, Senatorial District No. 15
Assemblywoman Selena Torres, Assembly District No. 3

STAFF MEMBERS PRESENT:

Jennifer Ruedy, Policy Analyst
Heidi Chlarson, Committee Counsel
Becky Archer, Committee Secretary

OTHERS PRESENT:

Kara M. Jenkins, Director, Nevada Equal Rights Commission
Mary Beth Sewald, President and CEO, Las Vegas Metro Chamber of Commerce
Ann Silver, CEO, Reno-Sparks Chamber of Commerce
Randi Thompson, National Federation of Independent Business
Marlene Lockard, Nevada Women's Lobby
Andy Peterson, Retail Association of Nevada
Randy Brown, AT&T

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Elisa Cafferata, Planned Parenthood Votes
Christopher Sewell, Chief of Operations, Assistant to the Director, Department
of Employment, Training and Rehabilitation
Dylan Shaver, City of Reno
Mac Venzon, Deputy Chief, Police Department, City of Reno
Steve Walker, Douglas County; Carson City; Lyon County; Storey County
Javier Trujillo, City of Henderson
Kathy Clewett, City of Sparks
Steven Conger, Nevada League of Cities and Municipalities
Matt Grogan, Nevada Chapter, Association of Public-Safety Communications
Officials
Randy Robison, CenturyLink
Jamie Rodriguez, Washoe County
Corey Solferino, Washoe County Sheriff's Office
Mike Eifert, Nevada Telecommunications Association
Shelly Capurro, Charter Communications
Helen Foley, T-Mobile

CHAIR PARKS:

I will open the meeting with Senate Bill (S.B.) 141.

SENATE BILL 141: Revises provisions relating to the Nevada Equal Rights
Commission. (BDR S-249)

SENATOR HEIDI SEEVERS GANSERT (Senatorial District No. 15):

I am here to present S.B. 141, which concerns sexual harassment in the workplace. The measure clarifies the role of the Nevada Equal Rights Commission (NERC), located in the Department of Employment Training and Rehabilitation, in educating consumers on many topics, including sexual harassment. The measure requires NERC to perform outreach to educate employers, employees and members of the public on sexual harassment, and inform all parties of the resources available to combat such behaviors in the workplace.

The measure contains certain requirements for data collection and provides a small appropriation to carry out the requirements of the bill. To give you some background, workplace sexual harassment is generally defined by federal law as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of sexual nature, when this conduct explicitly or implicitly

affects an individual's employment, unreasonably interferes with individual's work performance or creates an intimidating, hostile or offensive work environment.

Sexual harassment is a form of sex discrimination, which is prohibited under State and federal law. The Nevada Equal Rights Commission and the U.S. Equal Employment Opportunity Commission (EEOC) are responsible for enforcing the laws relating to sexual harassment.

Beginning in 2017, an increased awareness of the prevalence of sexual harassment in the workplace was identified when numerous individuals, many of whom had high profiles, started to come forward expressing their experiences of being sexually harassed. Reporting such cases became known as the Me Too movement and the Times Up movement. As you know, in our Chambers, we had incidents of sexual harassment that went unchecked for years. This Body lacked clear policies and procedures if sexual harassment was reported. This needed to be addressed, and I would like to thank now-Attorney General Aaron Ford and Legislative staff and the Leadership for spearheading efforts to put policies and procedures in place.

Recognizing work needed to be done in this area across our State, I reached out to other Legislators to participate and gathered a working group during the Interim to explore the status of NERC's efforts in Nevada. I thank Assemblywoman Jill Tolles and Assemblywoman Daniele Monroe-Moreno for their support and efforts during the working group.

The new working group included representatives from large employers as well as the Reno-Sparks Chamber of Commerce and Las Vegas Metro Chamber of Commerce. We also included representatives from small businesses. Through this outreach, we realized that large organizations had policies, procedures and resources dedicated to sexual harassment. Most had human resource departments, dedicated hotlines or online forms to file complaints, and resources to respond and follow up on complaints. Many also required ongoing training for employees. However, small employers, having substantial demands on day-to-day operations, lacked resources and basic knowledge on raising employee awareness and establishing policies and procedures for their small business. They were completely unaware that NERC provides training and model policies. The Nevada Equal Rights Commission had been conducting outreach, but it was limited because of limited resources.

We also realized NERC lacked a case management software system to better track cases brought forward as required by federal and State law. To support NERC's efforts, I sponsored this legislation.

The goals of this legislation are to increase awareness of services offered through NERC and to improve data collection efforts related to sexual harassment. I will review the four changes introduced in S.B. 141.

First, it requires NERC to conduct outreach efforts to educate employers, employees and members of the public regarding its role with respect to sexual harassment.

Second, the measure also requires NERC to conduct seminars, training sessions and workshops concerning the laws relating to sexual harassment. Once training is provided, the measure requires NERC to follow up with each entity to determine if additional training or further assistance is needed.

Third, in order to clarify that a primary duty of NERC is educating various parties, the measure requires the Division of Human Resource Management to change the position of the NERC Chief Investigator Outreach Specialist to a Training Officer II. That is why there is money in this bill to upgrade that position.

Fourth, the measure requires a biennial report to be provided according to Nevada Revised Statutes (NRS) 233.080. The report will include the outreach efforts by NERC, the seminar training sessions, workshops and other educational services provided by NERC—including the number of persons who attended the offerings—follow-up communication sessions performed by NERC—including the number that required additional assistance, information or training—and sexual harassment complaints filed with NERC during the 2019 and 2020 calendar years.

The report must provide the response time of NERC to such complaints as well as the time it took to resolve the case.

The Nevada Equal Rights Commission requested three new positions and case management software in the budget request this Session. In NERC's published budget, the Commission ended up getting one person out of the three and the

software. This bill contemplates upgrading 1 position, which is the stated \$11,240 each year.

I have a proposed amendment provided in advance to the Senate Committee on Government Affairs ([Exhibit C](#)) and two other additional amendments that I will submit later. The submitted amendment is a clarification that employers need to request NERC's assistance. The Nevada Equal Rights Commission cannot compel an employer to participate in any training.

One amendment still to be submitted will change information regarding the required report in section 1, subsection 3, paragraph (d), subparagraph (1) to include—in addition to when NERC responds—what the outcomes are, in an aggregate manner, so that no personal identification information would be provided.

Another amendment still to be submitted will be to section 1, subsection 4. There is a definition of sexual harassment and we will strike that entire line. Sexual harassment is defined in other places and defined by the federal government, so we will not add another definition of sexual harassment. Assemblywoman Jill Tolles will speak on the bill. It is a friendly amendment to add her as one of the sponsors or cosponsors of this legislation.

ASSEMBLYWOMAN JILL TOLLES (Assembly District No. 25):

I am here to testify in support of S.B. 141, which is a significant step toward reducing instances of workplace sexual harassment. This legislation, as already mentioned, will require the Nevada Equal Rights Commission to do outreach and educate employers, employees, consumers and members of the public on sexual harassment in ways—importantly—that it can be prevented before it occurs. It also speaks to tools we have in place to ensure Nevadans have an outlet to safely report instances without retribution and ways for us to work together to curb and combat this behavior. We must first look to this Body to see how we have taken great efforts in recent years to address these issues. I commend the Leadership for those efforts last Session and over the Interim. I urge your passage of S.B. 141.

KARA M. JENKINS (Director, Nevada Equal Rights Commission):

I have Chief Compliance Investigator and Outreach Specialist, Lila Vizcarra, and Chief Compliance Investigator, Michael Baltz, with me if there are detailed questions that they can answer better than myself.

The Nevada Equal Rights Commission is encouraged by this bill. Since the Me Too movement, we have seen an uptick in requests for training. We offer training at no cost to employers. To date for State fiscal year 2019, we already trained almost 1,000 employers—to the tune of 965. I am encouraged by the volume of requests for training. However, resources being what they are, we need to dedicate this outreach to a full-time position. We are neutral, as we appropriately should be, but are encouraged by it.

SENATOR KIECKHEFER:

That is a large number of training sessions. Are the training sessions conducted in person or online? It seems like a lot of work for a short amount of time in the first month and a half of the year. I am surprised you can get that many training sessions done so quickly.

Ms. JENKINS:

It is a lot of work, but for the most part, these were live in-person trainings. We do have access to video capability to conduct training. We have done several sessions through videoconferencing using the mechanism through ZOOM Technologies. The training sessions are not as consistent in northern Nevada or in the rural areas, where we would like them to be, because we are based in the Las Vegas office. We do have a small office in Reno. We would like to get to the rural communities and conduct more training in northern Nevada. This bill would allow us to have provisions to train quarterly with additional budgetary support.

The sessions are interactive, and the training format is based on how the employer wants to tailor it. If the employer is requesting us to emphasize sexual harassment, Title VII protections or State law protections to prevent sexual harassment, we will tailor the training to the request. We also let employers know that EEOC, through the federal government, offers training; however, the EEOC charges for the training. We provide the training at no cost.

SENATOR KIECKHEFER:

Does the training specifically address more employee concerns or employer concerns? Sometimes those are not always in line.

Ms. JENKINS:

It depends on what the employer is asking. We have done training tailored to employees such as the employee's rights and responsibilities and how they can

reach the Commission after they have exhausted all their attempts to contact human resources about harassment. We also tailor our training toward upper management, such as a CEO or a human resource professional, and we also sit on panels and train at legal events to give law updates as well.

SENATOR KIECKHEFER:

Do you have employee handbooks to cover sexual harassment policies, or is this something you will have to put together?

Ms. JENKINS:

It is something we individualize and customize. We give best practices and obtain a lot of that guidance from the EEOC.

SENATOR KIECKHEFER:

Is there anything in statute that provides for protection to employers if they receive training from NERC?

Ms. JENKINS:

Can you be more specific; what do you mean by protection to employers?

SENATOR KIECKHEFER:

If an employer has gone through training provided by NERC and then a complaint is filed against the employer, is the fact he or she participated in NERC training something the employer can introduce as evidence in defense of his or her position?

Ms. JENKINS:

It is not in statute, but I know individuals do. It looks favorable if they have participated in the training.

MARY BETH SEWALD (President and CEO, Las Vegas Metro Chamber of Commerce):

On behalf of Nevada's largest business association, I thank Senator Gansert for bringing this bill forward and for engaging the Las Vegas Metro Chamber of Commerce as part of her outreach efforts as she developed this important piece of legislation. The Metro Chamber is supportive of S.B. 141 because it will provide additional resources to both employers and employees regarding the role of the Nevada Equal Rights Commission, as well as laws pertaining to sexual harassment and information and resources that are available to employers. As a

representative of businesses, especially the small business community, we want to do the right thing. We need to provide additional awareness along with the right tools.

When people start small businesses, how do they know where to go for those resources? How do they know where to go for help? The Nevada Equal Rights Commission has model policies small businesses may not know about. Education is key to successfully increasing awareness among employers and employees, and providing these services will benefit both large and small employers.

The Las Vegas Metro Chamber is actively working with NERC and is looking at ways we can be a conduit to help centralize these policies and procedures, as well as provide this valuable information to our vast membership. Also, at the Las Vegas Chamber, we have regular in-house training and workshops for our employees, including sexual harassment training. We are looking at scheduling our next round of training sessions through NERC.

Sexual harassment training has several important benefits, not the least of which include: strengthening the work culture, increasing both the awareness of acceptable and unacceptable behavior by employers and employees, empowering employees with necessary knowledge and available tools, and encouraging reporting of unacceptable behavior. This bill is an effective and informative way of ensuring that everyone has access to sexual harassment training and informing employers and employees of the laws so the workplace is a positive, supportive and inclusive environment. The Las Vegas Metro Chamber of Commerce supports S.B. 141.

ANN SILVER (CEO, Reno-Sparks Chamber of Commerce):

We concur with the revisions to S.B. 141 as they strengthen opportunities to provide additional education and awareness of the prohibition against sexual harassment. Many small businesses, which make up 75 percent of our 1,600 members, do not have human resource departments and may lack personnel trained in best practices. The Reno-Sparks Chamber of Commerce offers to host seminars and workshops conducted by the Nevada Equal Rights Commission and will disseminate printed information to its members to ensure no harassment occurs in the workplace and complaints are dealt with swiftly and effectively.

Education is key to prevention, and the more information that is provided, the more our business community will be prepared to make working environments free from harassment and discrimination. We thank Senator Gansert for engaging the Reno-Sparks Chamber of Commerce in conversation regarding this proposed legislation and we encourage its passage.

RANDI THOMPSON (National Federation of Independent Business):

The National Federation of Independent Business (NFIB) only represents small businesses. Eighty percent of small businesses in Nevada have 20 or fewer employees. The average staff size of my membership is 12 employees. I applaud Senator Gansert for reaching out to the business community to offer this and would like to offer NFIB resources, such as Skype or conference calling, as ways we can reach out to our members. With dollars being tight, we would like to help the State get this message out to our small business folks who do not have the human resource support on hand. This includes those who just started a business and have a dream of creating a product, creating jobs and making some money, but they do not understand the policies and procedures they need to have. I appreciate the State offering this and making this available, but we, in turn, would like to see how we can help spread Nevada dollars and absorb some of the costs ourselves.

MARLENE LOCKARD (Nevada Women's Lobby):

We fully support S.B. 141. We think it is an important addition to tackle the multifaceted issue of sexual harassment. For those who sit on the money committees, we urge favorable consideration of NERC's budget to add more staff to help with additional investigators and training staff stationed in northern Nevada to devote to the northern and rural areas in this State.

ANDY PETERSON (Retail Association of Nevada):

There have been many eloquent points already made; it is difficult to build upon that. The only point I will make is there are 4,078 small retailers across Nevada with 5 or fewer employees. This is appreciated by those folks as well. Our members include grocery stores, restaurants and all sorts of retailers. We fully support S.B. 141.

RANDY BROWN (AT&T):

While AT&T is not a small employer, we are a large employer with sophisticated training programs. We support S.B. 141. This is an important measure, not only for small employers but larger employers alike. We want to express our

appreciation to Senator Gansert for working with us on the amendment, clarifying whether this training would be mandatory or at the will of the employer.

ELISA CAFFERATA (Planned Parenthood Votes):
I am here to say "Me Too."

CHAIR PARKS:
We will close the hearing on S.B. 141 and proceed to open S.B. 28.

SENATE BILL 28: Revises provisions governing confidentiality of information gathered by Nevada Equal Rights Commission. (BDR 18-231)

CHRISTOPHER SEWELL (Chief of Operations, Assistant to the Director, Department of Employment, Training and Rehabilitation):
We are here to present S.B. 28. This bill is a change to NRS 233 which deals with the confidentiality provisions within the Nevada Equal Rights Commission. We are adding language to section 1, subsection 2, paragraph (b) to include:

Any professional licensing board or other governmental entity that issues licenses, certificates, permits or other similar authorization to practice or conduct business in this State if the Commission finds that probable cause exists to believe that an unlawful discriminatory practice has occurred and a settlement cannot be reached in mediation or conciliation in a manner which does not include any information that may be used to identify the complainant; or

We will then be able to notify someone that is under a regulatory agency of the complaint without revealing the actual complainant. This is the change we are requesting, and Administrator Jenkins can answer any questions.

SENATOR KIECKHEFER:
I am trying to understand the process. I assume there is a gap between probable cause and finding of certainty. What would that be called in your arena?

MR. SEWELL:

Ms. Jenkins can describe the investigation, where probable cause is met and where she would step in for mediation and conciliation. I will refer to Ms. Jenkins.

MS. JENKINS:

Probable cause is the legal standard of "more likely than not." When we have found, based on probable cause, that an employer has allowed discrimination to happen—whether it be sexual harassment, racial, gender, age or disability discrimination—we have conducted a full investigation with support of the Attorney General's Office and found more likely than not those violations of law occurred.

At that point, we invite the employer and the human resource representative to meet with myself and our Attorney General's Office for what is called a conciliation, a fancy word for mediation. We invite them to sit down and meet to settle the matter at the State level.

We found many employers in this State are more than happy to meet with the Equal Rights Commission to settle the case at the State level without having to get a right to sue and take it down the federal path with litigation. There are rare instances where there is no good faith—the employer could care less—and we are left with a strong probable cause finding with legal support, and no one is coming to the table in good faith.

An example is a casino employer named Fat Tuesday, operating under Bar Two, LLC. There were strong and egregious acts of sexual harassment. We had a probable cause finding that harassment occurred, including video footage of one of the co-owners sexually assaulting one of the staff. There was no incentive for that employer to sit down and settle. We went through the effort of putting together a public hearing, and one day before the hearing date, the employer decided to settle. We are happy it settled, but it was a lot of work for us and the Attorney General's Office. I remember thinking, "I wish we could tell our friends over at the Gaming Control Board. If the employer does not care about sexual harassment, I bet they will care about their liquor license."

We came up with the idea submitted in this bill to give more incentive or encouragement to employers once a probable cause finding of discrimination has been issued with legal support to come to the table and sit down to discuss

settling. This is not punitive in any way, shape or form. It is giving us an enforcement tool in order to get these employers to comply with what is in our State mandate, which is to foster equal opportunity and equal employment within the State. Because we are a smaller organization or agency, sometimes that enforcement gets lost. Probable cause is a finding of an investigation, not just a whim.

SENATOR KIECKHEFER:

When NERC makes a finding of probable cause, what is the requirement upon the employer statutorily and regulatory? Are employers required by statute and regulation to come in and mediate or conciliate?

MS. JENKINS:

No, mediation is voluntary. However, we look at a standard of good faith. Once we have certain facts, based on our investigation, that we present to the employer, we become more aggressive and want to settle. Our investigation begins neutral, but once we find cause, it is no longer neutral. At that point, it is strongly encouraged to mediate because the other option for the charging party, with the party's permission, is for us to have a public hearing. That is statutory. Another option the complainant has is a right to sue from the EEOC and take it to litigation. One thing about litigation is often our constituents do not have the resources to take this type of complaint—a Title VII or State law discrimination complaint—all the way through federal court. There are attorney fees and court costs, and the parties are carrying around a lot of emotional ties to the discrimination. Settlement is a strong, positive way of resolving it. We need everybody to get in on that. There is no statutory requirement for an employer to mediate with NERC, but it is a statutory requirement for us to make sure we foster equal employment and enjoyment in the State.

SENATOR KIECKHEFER:

The employer has a right to maintain innocence, not mediate and allow it to proceed, but this bill gives NERC the authority to then turn it over to the regulatory agency, whichever it may be, and threaten the employer with his or her license to operate. Is that correct?

MS. JENKINS:

Not necessarily. It states we can report to a regulatory agency, some other agency primarily within the Executive Branch, that a particular employer, who is a licensee of that department, did not act in good faith with the Commission

when attempting to resolve a discrimination complaint. Nothing in this statute has us condemning an employer. That is not NERC's goal. It is to get parties to cooperate so we can resolve a complaint at the State level. The confidentiality statute limits us in what we can say or share.

This is a measure that would encourage and incentivize those reluctant employers to settle complaints at the State level. It is not punitive, and it would be a last-resort measure in rare examples or instances when we do not have anyone wanting to come to the table to entertain a settlement in a discrimination complaint within the State. We hope you will consider this. It will give NERC more enforcement teeth so we can do our jobs. It is never personal.

Ms. LOCKARD:

We support S.B. 28. The additional tools given to NERC is part of the multifaceted approach to adjudicate some of these issues. We do have an instance in the State—I will be speaking to you about it in the form of another bill—regarding a law enforcement official found guilty of charges and no way to remove that individual from an important position. This bill would not directly affect that individual, but there are instances where individuals and employers can escape accountability for their actions. We appreciate your support.

Ms. CAFFERATA:

I am seeking clarification, not necessarily opposition. We at Planned Parenthood Votes support additional educational resources for reporting harassment and discrimination and have supported that over the years. Our concern of S.B. 28 is nothing we have experienced in Nevada, and we have no concerns with the Equal Rights Commission here. However, in other states we have seen state offices use this kind of authority to attack our health centers and staff. I will be seeking clarification about the inability to reach a settlement in the case of a complaint. In other states, attorney general offices use their investigatory powers to subpoena information from our health centers, which is not based on well-documented violations. I understand this is not the intent here, but this is my concern of what might begin to happen. We will have conversations with NERC about how to clarify this so it cannot be used to punish our staff.

CHAIR PARKS:

I will close the hearing on S.B. 28 and open the hearing for S.B. 25.

SENATE BILL 25: Revises provisions governing the administration of the surcharge imposed on telephone users. (BDR 20-442)

DYLAN SHAVER (City of Reno):

We present S.B. 25. Senate Bill No. 176 of the 79th Session did two things: one, it required law enforcement agencies—such as our City of Reno Police Department—to outfit its officers with body cameras and two, it established a funding source for body cameras in terms of an optional surcharge up to \$1 on the 911 fees in a particular county. This was great news for the City of Reno Police Department. It was on the agenda for quite some time, but in a city that was hit hard with the Recession, finding the funding to do that was difficult. The bill enabled us to outfit our officers as we had planned, and we were able to meet the deadline along with other agencies in the region—specifically, the Sparks Police Department and Washoe County Sheriff's Department.

When the bill was passed, we understood the language—that eventually became NRS 244A—stated the 911 fees could go toward paying costs associated with the acquisition, maintenance, storage of data and the upgrade and replacement of the equipment and software. We assumed that the cost involved included personnel to train our officers in use of the camera and to maintain and distribute the footage, as required by Nevada Law.

We came to that assumption based on then-Senator Ford's testimony in the hearing where he says, and I quote: "This money can be used for hardware—like the camera itself—software—like backup data—and personnel associated with instituting this into policy." That was a cut-and-dry scenario until the bill went into effect and we realized the amount of time and energy required to distribute this footage due to the multiple steps involved. The time to respond to the requester requires two full-time civilian staff members and one lieutenant who supervises the entire affair. When seeking funding for that operation, we were told the language in the law was not specific enough for those uses. We made the assumption based on the language in the bill and testimony, but nevertheless, we are unable to get the funds.

You may ask why we are at the Legislature for a clarification involving only two civilians and one lieutenant staff. Why are we using one of our two bill drafts on this? The mantra for local governments across the land, whether it is us, Washoe County, Las Vegas or the Las Vegas Metropolitan Police Department, is to do more with less. That is what our citizens and the Legislature expect from

us, and it is important to the City that we use our resources as wisely as possible and stretch dollars as thin as we can.

Unfortunately, in Reno we are coming to a tipping point in that regard. In Reno, we average 1.3 peace officers per 1,000 residents. That is more than half an officer below the national average for police officers for cities of our size, which is 1.87 peace officers per 1,000 residents. We have done more with less. Reno is not a particularly dangerous or frightening place to live, but when we look at allocating resources and we have two civilians dedicated from our police funds to review this footage, those are two civilians that could be police officers, or that money could go toward protecting people on the streets.

We appreciate S.B. No. 176 of the 79th Session, and believe this bill is in line with your original intent. We require clarification in the law to free up funds for not just our department, but every law enforcement agency and jurisdiction that have enacted this fee.

Here with me today is Deputy Chief of Police, Mac Venzon, who is a 21-year veteran of our police force, to give you information about what this means on the ground and what kind of requests we are getting for this footage.

MAC VENZON (Deputy Chief, Police Department, City of Reno):

Since the Recession, there has been a stretch in personnel, and we are doing as much as we can with less. The population in the City of Reno is growing exponentially, and we are in a never-ending fight to add more police officers to the staff to allow us to get closer to the national average of 1.87 officers per 1,000 residents for a city of our size.

In the last budgetary session for the City of Reno, we asked for additional police officers and had to scale back that request because we needed to fund approximately \$178,000 for two personnel dedicated to the body-camera program instituted at the City of Reno. We thank everybody involved in bringing the funding mechanism forward for body cameras. It was on our radar long before, but it was something we were going to have to balance between hiring officers and instituting body cameras. The funding mechanism allowed the body cameras to occur.

I thank the Washoe County District Attorney's Office for researching and providing an opinion on whether personnel costs to manage the body-camera

program would be appropriate requests. I have two full-time personnel dedicated solely to body-camera work, redactions, viewing video and answering public records requests. Those two personnel were chosen during the budgetary session in lieu of additional officers. My request is to spell out in the bill, altering what was passed last Session, to fund those personnel as well.

SENATOR KIECKHEFER:

Do you have a lieutenant dedicated to the process as well?

MR. VENZON:

We have a lieutenant dedicated to the management and overarching project, not as much operationally. The lieutenant handles the duty as a collateral function to his regular duties.

SENATOR KIECKHEFER:

Are one lieutenant and two people dedicated exclusively to this?

MR. VENZON:

No. The lieutenant has collateral functions as well.

SENATOR KIECKHEFER:

If you thought the language was clear when the bill was passed, why are we here? Has your City Attorney weighed in with a different opinion?

MR. SHAVER:

Our City Attorney guided our original opinion, but the money is distributed at the County level. The Washoe County District Attorney is ultimately the presiding opinion that matters, and District Attorney Christopher J. Hicks is a talented and qualified attorney. He gave us a seven-page, well-reasoned argument. He did not say he did not want us to have these funds, but from his perspective as the attorney guiding the County, it is not an eligible use.

SENATOR KIECKHEFER:

Do you know if there are other counties that are using it for this purpose? Clark County is not using this fee, correct?

MR. SHAVER:

Elko County instituted the fee but only uses it for dispatch purposes. Clark County has not instituted the fee. I think we are the only county who uses it for the body cameras.

CHAIR PARKS:

Do you have someone speaking on the availability of the funds and how they are being allocated?

MR. VENZON:

The fund's assessment is channeled through the County to the 911 Surcharge Fund. Every telephone line in the State is required to pay this 911 fee. Washoe County opted to raise the fee to 85 cents per line. It was previously 25 cents per line. Through the Five Year Master Plan Update that was designed and mandated by law, this was the amount the 911 Emergency Response Advisory Committee (ERAC) felt would cover the costs. A request for funds from the 911 Surcharge Fund is considered by ERAC first, which then sends the request over to the County Commission and the County Commission opts to either allocate the funds for the request or not. Those funds have been accounted for and the budget has been set. Similar to any other government entity, the City will take that budget, tweak it a little bit and reallocate it to cover the cost of personnel, if the bill passes.

CHAIR PARKS:

The fee is set at 85 cents per line. Is there a cap as to how much that fee may be?

MR. VENZON:

Yes, the cap is \$1 per line.

SENATOR RATTI:

My reflection of this bill last Session is the cities came and spoke to me personally, and I believe the Senate Government Affairs Committee was concerned about setting up this funding source in a way that went directly to each of the entities, as opposed to having it flow through a county. Due to the nature of the 911 fees, that was not possible. The cities' concern, placed on the record last Session, was down the road there would be differing opinions on how this money should be distributed among the different agencies. Unfortunately, we are in the position that was predicted by the cities concerning

different opinions on how this money should be distributed. What is important for us to do is not weigh in on how they divide the money, but make sure the intent of the law is clear. The record is relatively clear. I am not a district attorney, so I do not know what is missing. I spoke to the sponsor of the bill and the intent was to include personnel, so that is our role, unless there is compelling testimony for the other side. That is my recollection of this bill from last Session.

MR. SHAVER:

This is an issue we brought forward, but other cities are facing the same challenges and will continue to do so. The Las Vegas Metropolitan Police Department had to manage 1,200 hours of footage for the October 1, 2017, incident alone. These issues will continue to compound. This is important to our City, and we bring it forward for that reason.

In response to Senator Ratti's remarks, we could not get to the part where we disagreed on how the funds should be spent, we got caught up in how they could be spent. We communicated with now-Attorney General, Aaron Ford, to seek his blessing on this measure. It is pretty clear.

That said, we brought to the Senate Government Affairs Committee a proposed amendment to this bill ([Exhibit D](#)). I bring this up only to withdraw it. We proposed the amendment to address a concern from Washoe County regarding the way the funds are administered. If funds are given out inappropriately, it is the county's responsibility to make the fund whole. Washoe County asked for an amendment to make sure it is the requesting agency that is responsible for making sure what it submits to ERAC and the County is accurate. The requesting agency is responsible for making that whole, not the county. We agree with that in premise; however, the language we submitted did not get there. We have invited Washoe County to submit its own amendment. I do not intend to speak to what we submitted previously, but we are still working on it.

CHAIR PARKS:

Regarding the wording in the proposed amendment, it seems that sort of language would be covered elsewhere in statute. I will let others determine if it is needed.

STEVE WALKER (Douglas County; Carson City; Lyon County; Storey County):
Douglas County, Carson City, Lyon County and Storey County are in favor of S.B. 25. Anticipating there might be a question on how they use the funds right now, I do not know the answer but will provide the information to you.

JAVIER TRUJILLO (City of Henderson):
We support S.B. 25 and what the City of Reno is trying to clarify. The City of Henderson worked closely with former Senator Ford on this bill. We were one of the lead agencies that worked with him to get that funding mechanism in place. That was the intent of the bill. The many conversations we had with the former Senator were that the funds could be used to pay for the personnel needed to maintain and operate the system. This bill will provide additional clarity, which we support. In Clark County, the surcharge has not been implemented, but we do come in support so, in the event it is implemented, it is crystal clear.

KATHY CLEWETT (City of Sparks):
We support S.B. 25. We agree with the City of Reno that the intent of the bill from last Session was to take care of personnel costs, as well as the actual hardware, to implement the bill. In speaking with the Sparks City Attorney's Office, it said on Friday—three days ago—two people in the office spent the entire day going through video. Only one of them has been significantly trained, but both of them had to do it. Not only does the police department have to do something with the recordings, but the City Attorney's Office does too. They scrub the video according to Marsy's Law for Nevada before giving the video to the defense attorneys.

There are quite a few people involved in this process to make sure it gets done correctly and goes to the right people. We support this bill and the amendment, if that is what the County needs to make this clear.

STEVEN CONGER (Nevada League of Cities and Municipalities):
We support S.B. 25.

MATT GROGAN (Nevada Chapter, Association of Public-Safety Communications Officials):
I am going to read a written statement on behalf of Nevada Chapter of Association of Public-Safety Communications (APCO) in opposition to S.B. 25 ([Exhibit E](#)).

RANDY ROBISON (CenturyLink):

I do not think I could have said it any better than the gentleman from APCO, from the telecommunications-industry side of things. To be clear, we are not in opposition to body cameras or the personnel necessary to redact the footage, provide training or any of the associated costs. Our concern is with the policy question of fee diversion, as the previous speaker outlined so well. That is what brings us to the table today.

As we move forward with Next Generation 911 (NG911), which is necessary, the technology will improve 911 services and literally save lives. However, there will be tremendous costs to implement the technology. As we continue to divert funds from its original purpose, it frustrates those efforts going forward. I raise a warning voice as we look to the future. The Legislature is tasked with the responsibility of authorizing the various uses of those funds. It is in your purview to manage how those fees are allocated and to what purposes. We caution you against fee diversion. If there are other necessary and purposeful uses, there are other funding sources that ought to be considered beyond the 911 Surcharge.

JAMIE RODRIGUEZ (Washoe County):

I am here in the neutral position for S.B. 25. As Mr. Shaver mentioned, we are working on an amendment to get us in a position of support. I understand this bill was brought forward because of our County. I want to clarify a couple of comments regarding how Washoe County implemented the 911 Surcharge and the expansion from S.B. No. 176 of the 79th Session. We hired an independent consultant who met with the entities to discuss what the resource needs were for both dispatch and body cameras. During that review process, the conversation of personnel came up. Our District Attorney did not see explicitly stated in the bill that personnel related to body cameras was an allowable use, and, therefore, brought it to the attention of the Board of County Commissioners. The Board issued a policy statement indicating that based on the District Attorney's opinion, personnel for body cameras was not an allowable use. The Board gave that information to ERAC to make the Committee aware of what was included in the Master Plan and what the requested services would be with the understanding that if it included personnel, the Board of County Commissioners would not approve it because it would be in violation of the law.

The Board approved the Five Year Master Plan and used it to set the fee. The Board does not approve the actual expenses going out. That is left to ERAC. The 911 Emergency Response Advisory Committee is a regional board equally represented among Reno, Sparks and Washoe County. The Committee receives and reviews all requests, with the help of the District Attorney who sits on that Committee, to determine allowable uses. If allowable, the fund will reimburse those costs. I wanted to clarify that piece and how we got to where we are today.

Washoe County feels that it is important to only reimburse allowable costs. We understand the intent of the bill and why the City of Reno brought it forward. I understand the original intent of the legislation, but if my District Attorney says it is not an allowable use, then it is hard for us to say it is an allowable use.

We plan to bring forward an amendment. The concern of Washoe County is the way it is set up as a county fund. If we reimburse a use that is not allowable, the County is liable for misuse of those funds. The amendment will clarify that the entities are responsible for reimbursing the fund if inaccuracies are found in the refund requests. For example, it would be hard for me to go into the Sheriff's Office and say "show me your timecards, or show me what you did to show this person works on body camera footage." We do not think that is an appropriate time or use for the County.

We will work with the bill sponsor and bring forward an amendment that addresses our concerns. We understand the intent of the bill, and we are not opposing the funds being used for personnel as we understand the costs involved. This impacts all entities within our region and is not the issue we have.

The training language is vague. I do not anticipate there is any appetite to clean that up, but we think it is vague and broad and would like for it to be made clearer. I do not expect that will be in the amendment, in speaking with the sponsor. That would not be something the sponsor supports. If we get the initial issue addressed, we would be able to come here and support the bill.

COREY SOLFERINO (Washoe County Sheriff's Office):

We come to the table today in neutral position of S.B. 25. I do not want my neutral testimony to be confused for unwavering support once this amendment is reached. We believe the initial legislative intent was to cover the cost of

personnel, and to some degree, training on the body-worn cameras. This is a huge undertaking for the Sheriff's Office, both personally and professionally. In the non-Legislative Sessions, I oversee the Research and Development Unit in the Washoe County Sheriff's Office, which has been quasi-tagged as the official guardian of the body-worn cameras and in-car videos for our fleet that we will roll out at the end of April. The videos will be integrated with the body-worn cameras. There are several departments involved in this project, including Research and Development, Records Section, Operations and Special Operations Divisions.

We are seeing an increase in requests for body-camera footage. One emergency call can have up to four officers or more responding, critical incidents even more. It takes about 20 minutes to redact about 2 minutes of video for each officer. It is labor-intensive to make sure all legislative mandates are met when the video footage is released to the public. We support the concept of this bill and want to clean up the amendment to ensure the funds are going to the appropriate entities.

MIKE EIFERT (Nevada Telecommunications Association):

We appear before you today in the neutral position because we do not oppose training for body cameras. We do strongly oppose the diversion of funds from the 911 Surcharge. I appeared on behalf of the Nevada Telecommunications Association in opposition to S.B. No. 176 of the 79th Session, not because we oppose body cameras—we understand the social significance—but the 911 Surcharge was not meant for body-camera implementation. We are diverting money from the 911 funds. We warned of dire implications then, and this Session, those implications are coming to roost.

Last week, we had S.B. 12 before the Senate Government Affairs Committee asking for 911 funds for audits.

SENATE BILL 12: Revises provisions governing telephone systems used for reporting emergencies. (BDR 20-475)

Today, we are asking for 911 funds for training. I am sure there are many reasons that I cannot possibly think of for 911 funds diversion. It is bad policy. Mr. Grogan brings up why it is bad policy and it all deals with what we are not funding. The 911 Surcharge was meant for 1 thing—telecommunications safety

networks. We are not funding it. Mr. Grogan indicated there are areas that still do not have enhanced 911. What we do not have is Next Generation 911.

In 2000, the United States and Canada entered into mutual discussions on developing a state-of-the-art safety system. It took over a decade, but in 2013, some of the provinces in Canada started rolling out NG911. In 2016, some of our states started doing the same thing.

What is important about Next Generation 911? I am not technically competent to stand before you and tell you about the transition from analog to digital and its implications, but I am capable of talking about the things I do know. When we call 911, we talk to an operator. With NG911 we can also send texts, video and data. That sounds good technically, but what is the benefit? I am on the Nevada Commission for Persons who are Deaf, Hard of Hearing or Speech Impaired. One scenario discussed in the Commission is to imagine the following emergency:

An Amazon drone just crash-landed in your driveway, and you need to get ahold of 911. You need some dispatch to take care of the drone because it is leaking fluid all over your driveway. Now imagine, for a second, that you are deaf. When you call 911, you cannot hear anything coming through the phone line.

Without NG911, there is an entire community that is cut off from the safety protocols that Mr. Grogan has pointed out.

I have one clarification. Mr. Grogan spoke to grant money that we may have to give back to the Federal Communications Commission (FCC). In a prior meeting, I heard someone testify that we do not have to worry about the FCC because we do not have a State coordinator to get grant money. Personally, I would fire that person. If I knew there was money in the federal government for Nevada residents, and my answer was "We just do not have a coordinator"—well, get one. That is what is necessary to help Nevadans. If that makes us safer—do it.

I appreciate Mr. Grogan's comments, and the statistics on the amount of diversion funds were spot on. To give more emphasis, last Friday, the FCC had discussions with Congress. In those discussions, they talked about the 6 states and 1 territory that are diverting money from the 911 fund. In 2017 alone, those 6 states and 1 territory diverted \$285 million from our safety fund. In

2017, we invested a mere \$199 million through the 911 fund in converting to NG911. Somehow, this is wrong and does not take into consideration what our citizens' safety needs are.

Body cameras are necessary—no argument—but it is being funded through the wrong source.

SENATOR GOICOECHEA:

You said Washoe County is imposing 85 cents per line?

Ms. RODRIGUEZ:

Yes, that is correct. Our fee is 85 cents per month per line.

SENATOR GOICOECHEA:

What is the amount that is generating?

Ms. RODRIGUEZ:

We implemented the increase to 85 cents in May 2018. Some of the providers came back and stated their interpretation of the bill was the fee could not be increased above 25 cents until July 1, 2018. Therefore, there are a couple of telecommunication companies that did not increase the fee until July 1, 2018. There is a month or two of nonpayment of fees from those companies which we did not feel was worth fighting for. From May 2018 until January 2019, we received approximately \$3.3 million.

MR. BROWN:

On behalf of AT&T, I am here to echo the comments of Mr. Eifert and the Nevada Telecommunications Association, similar to our earlier position on the bill requiring diversion of funds for an audit. One significant thing we heard today in testimony is this request is largely related to Freedom of Information Act (FOIA) requests, which seems unreasonable to assess to the 911 Surcharge. This is a function of all entities of government—not just law enforcement. To use the funds largely for what I heard are FOIA requests does not seem reasonable. We often complain about Nevada being on the bad list versus the good list, or being low on the good list and high on the bad list. We are one of six states listed by the FCC that is diverting funds. That is not a very positive place to be.

SHELLY CAPURRO (Charter Communications):

We are here to say "us too." While we support public safety, we do not support the diversion of 911 Surcharge fees.

HELEN FOLEY (T-Mobile):

We believe in good government. One major issue T-Mobile has is the delay of Next Generation 911. The technology enables a firefighter with his cell phone during an emergency to turn off the gas in a building. The technology will be record-setting. That is one example of the things that will occur through smart communities and NG911. It will take a couple of years to get there. If money continues to be siphoned off the 911 Surcharge fund, there will not be money left. Rural and northern Nevada seem to have the biggest problems with this issue, and they are the ones asking to take money away from the fund because it is an easy target. We will not be able to do what we should be able to do with NG911 if the funds are not available. We request if there are things, such as audits or hiring employees, that agencies need to fund, they should use their general fund to do so and not the 911 funds.

MR. SHAVER:

As part of our Five Year Master Plan for the emergency 911 funding, incorporation of Next Generation 911 services is part of that plan. The fees are already in place that allowed for that. The increase of up to \$1 surcharge added last Session was something put into place specifically with respect to body cameras and to enhance existing infrastructure or create new infrastructure. To say we were pillaging these funds for that reason is inaccurate.

Regarding Senator Goicoechea's question about the funds coming in and uses thereof, it is important to keep in mind that the County Board goes through a budgetary process, just as the Legislature does. There will be competing interests. Decisions will be made as to what funds are available and what the highest needs for the community are. Our position is that we respect the County in doing so and allow them full capacity and faith in executing what they are supposed to be doing in the first place.

We look forward to working with the County to get amendatory language and bring it back as soon as possible for consideration.

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CHAIR PARKS:

We will close the hearing on S.B. 25. Seeing there is no other business, the meeting is adjourned at 2:36 p.m.

RESPECTFULLY SUBMITTED:

Becky Archer,
Committee Secretary

APPROVED BY:

Senator David R. Parks, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	7		Attendance Roster
S.B. 141	C	1	Senator Heidi Seevers Gansert	Proposed Amendment
S.B. 25	D	1	Dylan Shaver / City of Reno	Proposed Amendment
S.B. 25	E	2	Matt Grogan / Nevada Chapter, Association of Public-Safety Communications Officials	Testimony in Opposition