

**MINUTES OF THE
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Eightieth Session
May 13, 2019**

The Senate Committee on Legislative Operations and Elections was called to order by Chair James Ohrenschall at 4:13 p.m. on Monday, May 13, 2019, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator James Ohrenschall, Chair
Senator Yvanna D. Cancela, Vice Chair
Senator Marcia Washington
Senator Heidi Seevers Gansert
Senator Keith F. Pickard

GUEST LEGISLATORS PRESENT:

Assemblywoman Lesley E. Cohen, Assembly District No. 29
Assemblywoman Brittney Miller, Assembly District No. 5
Assemblywoman Dina Neal, Assembly District No. 7
Assemblywoman Heidi Swank, Assembly District No. 16

STAFF MEMBERS PRESENT:

Michael Stewart, Committee Policy Analyst
Diane Rea, Committee Secretary

OTHERS PRESENT:

Barbara G. Brents, Ph.D., University of Nevada, Las Vegas
Danny Thompson, Tahoe-Reno Industrial Center
Isabel Youngs, Nevada Women's Lobby
Dena Duff, Front Manager/Madam, Sheri's Ranch
Kay C. Landwehr, House of the Rising Sun

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Dan Musgrove, Nevada Donor Network
Michael Dyer, Nevada Catholic Conference
William Ledford, Lutheran Engagement Advocacy in Nevada
Magala Moa
Jacqueline Rios
Kerrie Mitchell
Josephene Lee
Hongrong Zhu
XiaoHua Jiang
Kieu Nakamura
Shuhao Teng
Pichang Zeng
Ping Liu
Bo Tian
Ben So and Lisa Bao
Fei Zhao Zhu
Yang Xuemei
Weixian Wu
Judy Lin
Hua Jiang
Lirong Liu
Jaina Moan, External Affairs Director, The Nature Conservancy
Mike Brown, State of Nevada Fire Chiefs Association
Ernie Adler, International Brotherhood of Electrical Workers 1245; Pyramid Lake
Paiute Tribe
Kyle Davis, Nevada Conservation League
Doug Busselman, Nevada Farm Bureau Federation
Diane McGinnis
Kacey KC, State Forester Fire Warden, Division of Forestry, State Department of
Conservation and Natural Resources
Mark Regan, Northern Nevada Fire Chiefs Association
Alen Jenne, Administrator, Habitat Division, Department of Wildlife
Jennifer Ott, Director, State Department of Agriculture
Christine Saunders, Progressive Leadership Alliance of Nevada
Kyle Davis, Nevada Conservation League
David Cherry, City of Henderson
Greg Lovato, Administrator, Nevada Division of Environmental Protection, State
Department of Conservation and Natural Resources

Chair Ohrenschall opened the hearing on Assembly Concurrent Resolution (A.C.R.) 6.

ASSEMBLY CONCURRENT RESOLUTION 6: Directs the Legislative Commission to create an interim committee to study the working conditions at licensed brothels. (BDR R-696)

Assemblywoman Lesley E. Cohen, Assembly District No. 29, presented her testimony ([Exhibit C](#)). She added what the resolution will not do is try to outlaw brothels or, alternatively, legalize sex work throughout the State. If we are going to have legal brothels, there needs to be a modicum of legal standards for the sake of the workers who need to know their rights. They are legal workers in Nevada who deserve to be treated with respect and to have fair working conditions.

Assemblywoman Cohen said according to a report from University of Nevada, Las Vegas (UNLV), *Sex Industry and Sex Workers in Nevada* ([Exhibit D](#)), there are 36 brothel licenses across Nevada. Counties with legal prostitution earn thousands to hundreds of thousands annually from brothel work card applications, licensing and liquor license fees. Table 1 in [Exhibit D](#) provides those details.

She said the UNLV report titled "Women Working as Legal Prostitutes" shows they pay taxes, work card fees, house fees, and room and board expenses within the brothels. They typically earn between 40 and 50 percent of what they bring in by servicing customers while the remainder goes to the brothels. Workers also usually tip cleaning and food service staff.

She added the workers are considered independent contractors and do not have the benefit of seeking assistance from the Office of the Labor Commissioner.

Assemblywoman Cohen added in Nevada, brothel workers are tested for sexually transmitted diseases each and every time they return to work. Until the test results come back, the worker cannot work and is not making money for the brothel or herself. If a worker leaves the brothel, she has to be retested before she returns to work. In order to prevent the repeated cost of testing and downtime, some brothels place the workers on lockdown during the weeks they are there, and the workers cannot leave the premises. This can go on for weeks at a time because some workers are at the brothel for up to a month. In other

brothels, the lockdown policy allows the workers to leave, but they must be chaperoned by an escort from the brothel. Some other brothels do not have any lockdown policies.

She added some towns in Nevada have curfews for brothel workers that limit their ability to be in town during certain hours.

Assemblywoman Cohen said she came to understand the working conditions in brothels are not uniform. The conditions impact the health, safety and general welfare of the workers.

She said during the Interim she saw a post on social media about lockdowns and started asking questions. She learned in one brothel when a woman is on lockdown, if she wants to buy personal items, she has to buy the items from the brothel's own store where she is charged exorbitant prices because she is a captive audience. Some workers have been told that Nevada law requires the lockdown, but that is not a State law. Some brothels bring in a doctor for the State-required testing and allow the doctors to inflate the cost. Assemblywoman Cohen was also told about a no compete clause where workers are not allowed to work in brothels within 100 miles of the brothel where she is, limiting a worker the ability to change brothels if she does not feel she is being treated well at one particular brothel.

Assemblywoman Cohen said worst of all is buying out contracts. As independent contractors, the women pay for all of their supplies, lingerie and condoms, blood tests and other costs of doing business. Many women go to work in the brothels because of great financial need, and the brothels will pay for their transportation to get there. A worker is given a gift bag when she arrives, but if she decides to leave, she has to pay the brothel back for the items in the bag and is expected to pay back the brothel and buy out her contract. Many brothels refuse to allow the women to have a copy of their contract.

Assemblywoman Cohen said these are all serious issues affecting workers. She asked Legislative Council Bureau for some research and began her own research. She spoke to people who work in and around the sex industry, including sex workers and madams, academics in the field, including Professor Barbara Brents, Ph.D., from the University of Nevada, Las Vegas (UNLV), and Christina Parra, a Ph.D. candidate studying with Dr. Brents. Doctor Brents is a

professor in the sociology department at UNLV, holds a Ph.D. from the University of Minnesota, has been researching the sex industry for 25 years, has numerous peer reviewed publications and one coauthored book on the subject, and she has given many lectures worldwide.

Assemblywoman Cohen said she discovered there are many unanswered questions and huge gaps in knowledge about this industry.

As A.C.R. 6 states, "The Nevada Legislature has an inherent interest in the health, safety and general welfare of all workers in the State, including sex workers in licensed brothels, and ... A.C.R. 6 also states that the Nevada Legislature wishes to be well informed on these matters." There needs to be fairness for the workers, a modicum of uniformity and the workers need to know their rights.

Assemblywoman Cohen said A.C.R. 6 directs the Legislative Commission to create an Interim committee to study the working conditions at licensed brothels. The committee will be comprised of six members: three from the Assembly and three from the Senate, and is required to examine four topics: 1. the extent to which the rules and working conditions in licensed brothels provide for the health, safety and general welfare of sex workers; 2. the ways in which contracts between sex workers and brothel owners and operators protect the physical and mental health of the workers; 3. the adequacy of oversight and regulation by the State and local government with respect to health, safety and general welfare of the workers; and 4. employment issues, including, without limitation, the classification of sex workers as employees versus independent contractors.

The measure requires input from interested stakeholders, including local governments that license brothels, owners and operators of brothels, law enforcement agencies and workers in licensed brothels. The measure provides that any recommendation from the Interim committee must be approved by a majority of the members representing each House and submitted to the 2021 Legislature.

Barbara G. Brents, Ph.D., University of Nevada, Las Vegas, read her testimony ([Exhibit E](#)).

Senator Washington asked Assemblywoman Cohen why these employees have not gone to the Equal Rights Commission and filed complaints against the brothels.

Assemblywoman Cohen replied her understanding is they are under contracts. They are not employees, so they do not have access to all the rights and processes that actual employees have for redress when there is a problem with their employment. A lot of them do not know what the law is or their rights, and that is one of the things the study would have to address.

Dr. Brents added that many workers are quite happy with the arrangements. There are a few cases that are problematic, and as Assemblywoman Cohen said, many of them may not know their rights. They often rely on talking to each other and do not want to make waves. She said some of the problems they experience in the brothels are due to it being a highly stigmatized industry and Nevada does not have great laws protecting independent contractors.

Senator Washington said she assumed that these women are in their 20s, 18 to 21, because most full grown adult women know their rights and know that they are not to be mistreated.

Dr. Brents replied yes. Many women try out the brothels but do not stay long. There are some educated women that go there knowing their rights and stand up for themselves. Some do sex work on the streets and are tired of the hustle and come to the brothels to work. They talk themselves into situations where they can make a lot of money, more than for working at 7-Eleven, having a lousy boss, working midnight shifts and having a lot of crime to deal with.

Danny Thompson, Tahoe-Reno Industrial Center, read a letter from brothel owner Lance Gilman ([Exhibit F](#)). He added in the Assembly, the Mustang and other brothels had some of the women testify because there are a lot of stories out there. Mr. Thompson said the study will get to the bottom of some of this stuff. If one of the women checks in at the Mustang Resort, she has to undergo a blood test. The reason she is not allowed to leave on her own is if she goes home and comes back, she has to have the blood test again because the Mustang cannot ensure the woman did not contract a sexually transmitted disease. The lockdown is for a reason, and there are a lot of different counties. The Mustang welcomes the study.

Isabel Youngs, Nevada Women's Lobby, stated she is in support of A.C.R. 6. Workers from all walks of life deserve labor rights and the ability to organize themselves to advocate for better working conditions. The Interim committee would be an important space for sex workers to speak about their labor needs. Nevada Women's Lobby (NWL) wants to stress how important it is to ensure this space is one where sex workers feel comfortable and safe talking about these issues and have the opportunity to advocate without fear. Sex workers self-determination is of the utmost importance, and NWL looks forward to being a part of these conversations in the Interim.

Dena Duff, Front Manager/Madam, Sheri's Ranch, submitted testimony ([Exhibit G](#)). She added Sheri's Ranch's priority is the health and safety of the women who work in the industry as well as the guests who visit. Sheri's supports measures that review the rules and regulations and ensure Nevada's brothels serve as model businesses and excellent workplaces. This is an opportunity to give women who work in the industry a voice.

Kay C. Landwehr said she is an ordained pastor and chaplain and founder and president of House of the Rising Sun, a brothel ministry which was founded in 2006. She has been given the Mayors of Faith Initiative Compassionate City award from Mayor Carolyn Goodman in Las Vegas. Ms. Landwehr is part of Coalition to Prevent Sex Trafficking in Adolescent Children, and a retired drug and alcohol counselor. She is author of *Jesus Loves Prostitutes* and *Sound Soundings*, and *Nevada House of Prayer, Nevada Prison Ministry*. She was a first responder at the October 1 shooting in Las Vegas in 2017. She thinks this is wonderful and is in favor of the measure.

Assemblywoman Cohen said briefly she does appreciate Mr. Gilman's support of the measure but thinks one of the things he stated in his letter is incorrect. To say that this is the most regulated industry in the State is simply incorrect. It is not that we need more regulations, but we need to understand what the regulations are because there are different regulations in different municipalities, counties and Statewide. This is what is causing part of the problem and why the workers do not know their rights. She urges support of A.C.R. 6.

Chair Ohrenschall closed the hearing on A.C.R. 6 and opened the hearing on Assembly Joint Resolution (A.J.R.) 4.

ASSEMBLY JOINT RESOLUTION 4 (1st Reprint): Urges the President and the Congress of the United States to pass acts to combat illegal harvesting and trafficking of human organs. (BDR R-92)

Assemblywoman Brittney Miller, Assembly District No. 5, read her testimony ([Exhibit H](#)). She added that many states have already taken a stand with their own resolutions. She made reference to a list of Congressional Resolutions on Falun Gong ([Exhibit I](#)).

Dan Musgrove, Vice President, Nevada Donor Network (NDN), stated NDN absolutely supports the bill. The way it is done in the United States is the best way, aboveboard and legal.

Michael Dyer, Nevada Catholic Conference, said the Catholic bishops in Nevada strongly support this bill. The Catholic Church opposes all forms of human trafficking.

William Ledford, Lutheran Engagement Advocacy in Nevada, said based on social statements and biblical and universally moral commonsense, this is a heinous thing that is going on. The Lutheran church supports this bill.

Magala Moa read her testimony ([Exhibit J](#)).

Jacqueline Rios read her testimony ([Exhibit K](#)).

Kerrie Mitchell read her testimony ([Exhibit L](#)).

Josephene Lee read her testimony ([Exhibit M](#)).

Hongrong Zhu read her testimony ([Exhibit N](#)).

XiaoHua Jiang gave her testimony: I would like to thank you for giving me the opportunity and the time for my testimony. My name is XiaoHua Jiang. I came from Taiwan in 1985. I am American citizen. I start a practice of Falun Gong in 2006. Falun Gong not only maintains people's health, it also teaches people to become good. It has spread to more than 100 countries, and over 100 million people have learned the practice. Thank you for your help.

Kieu Nakamura read her testimony ([Exhibit O](#)).

Shuhao Teng read his testimony ([Exhibit P](#)).

Pichang Zeng's testimony was read by Kerrie Mitchell ([Exhibit Q](#)).

Ping Liu's testimony was read by Kerrie Mitchell ([Exhibit R](#)).

Bo Tian read his testimony ([Exhibit S](#)).

Ben So and Lisa Bao's testimony was read by Ms. Rios ([Exhibit T](#)).

Fei Zhao Zhu's testimony was read by Ms. Rios ([Exhibit U](#)).

Yang Xuemei's testimony was read by Ms. Rios ([Exhibit V](#)).

Weixian Wu's testimony was read by Ms. Moa ([Exhibit W](#)).

Judy Lin's testimony was read for her by Ms. Moa ([Exhibit X](#)).

Hua Jiang's testimony was read for her by Ms. Moa ([Exhibit Y](#)).

Lirong Liu's testimony was read for her by Ms. Moa ([Exhibit Z](#)).

Assemblywoman Miller said she would just like to acknowledge the courage it takes to be able to share stories of our brave new Americans under the protections offered in the United States and the blessing we have here in the United States. She said there are multiple countries including Israel, Canada, Spain and Taiwan who have acted on this. States introducing similar resolutions include New Jersey and Texas, and states that have actually passed resolutions include Pennsylvania, Georgia, Illinois, Missouri, Minnesota, Arkansas and Arizona.

Chair Ohrenschall closed the hearing on A.J.R. 4.

SENATOR SEEVERS GANSERT MOVED TO DO PASS A.J.R. 4.

SENATOR PICKARD SECONDED THE MOTION.

Senator Pickard said it is great we have the opportunity to pass this out in support. This is a great bill and there is no excuse for this.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Ohrenschall opened the hearing on Assembly Concurrent Resolution 4.

ASSEMBLY CONCURRENT RESOLUTION 4: Directs the Legislative Commission to conduct an interim study concerning wildfires. (BDR R-509)

Assemblywoman Heidi Swank, Assembly District No. 16, read her testimony ([Exhibit AA](#)). She included a proposed conceptual amendment ([Exhibit AB](#)).

Jaina Moan, External Affairs Director, The Nature Conservancy, read her statement in support of the resolution ([Exhibit AC](#)).

Mike Brown, State of Nevada Fire Chiefs Association, thanked everyone who participated in the working group, stating they allowed the State of Nevada Fire Chiefs Association (SNFCA) the opportunity to come forward and express some of its concerns within the State, and the SNFCA is glad to see those concerns are echoed throughout. The entire SNFCA is in full Statewide support of this A.C.R. 4.

Ernie Adler, International Brotherhood of Electrical Workers 1245, said the electrical workers have a very keen interest in this resolution and would like to thank the sponsors. International Brotherhood of Electrical Workers 1245 also represents the electrical workers for PG&E in northern California. The summers are getting dryer and wet winters are going to cause an increase in wildfires.

Kyle Davis, Nevada Conservation League, said Nevada Conservation League supports this resolution. The environmental damage that is caused by large wildfires has been covered by Assemblywoman Swank and Ms. Moan, so the League would just concur with their comments and urge support.

Doug Busselman, Nevada Farm Bureau Federation, said Nevada Farm Bureau Federation also supports A.C.R. 4. Nevada Farm Bureau Federation looks forward to having the opportunity to participate, having input and concerns voiced during the study process, and to interact in the process as Nevada takes a much stronger role in representing the needs of Nevada's citizens in the process of protecting our resources from wildfire.

Diane McGinnis, nurse practitioner and volunteer fire fighter, stated when she saw this she wanted to give support as a volunteer fire fighter in a small town with sometimes less than 6 fire fighters in the department for 24/7 coverage.

Kacey KC, State Forester Fire Warden, Division of Forestry, State Department of Conservation and Natural Resources, said she was in support of A.C.R. 4. It is a very important topic for the Division of Forestry as the agency for the State tasked with the protection, enhancement and conservation of Nevada's natural resources which includes wildland fire management. Nevada more than doubled the acres burned in the last 19 years over the previous 20 years, and the trajectory is expected to continue to grow. It is critically important that not only State, federal and local jurisdictions are involved in this but private land owners and industry as well.

Mark Regan, Northern Nevada Fire Chiefs Association, was in support of A.C.R. 4 and thanked the sponsors for the last 6 weeks of letting the Association bring concerns forward and for working with the group.

Alen Jenne, Administrator, Habitat Division, Department of Wildlife, said the Department of Wildlife is in support of this bill. It is only fitting after last year's Martin Fire, the largest fire in the State's history, Nevada is seeing significant impacts to Nevada's wildlife and resources. In the last 3 years, the State of Nevada had over 2.5 million acres of sagebrush and sage grouse habitat burned.

Jennifer Ott, Director, State Department of Agriculture, said to add one piece of information to Assemblywoman Swank's numbers, out of the 1 million acres burned in 2018, approximately 740,000 were grazing lands, including infrastructure for farmers and ranchers to run their businesses. This is the type of impact these fires have on the agriculture industry, and she is looking forward to working with the group and using it as a point of collaboration.

Assemblywoman Swank said she would like to thank everyone who participated in the working group. It was an hour and a half a week for six weeks in the middle of a busy Legislative Session, but they were able to identify the issues. It is not just fighting the fire and the rehabilitation. She urged the Committee to vote for this measure.

Chair Ohrenschall closed the hearing of A.C.R. 4.

Chair Ohrenschall opened the hearing on Assembly Joint Resolution 1.

ASSEMBLY JOINT RESOLUTION 1: Expresses objection to the transfer of radioactive plutonium to this State. (BDR R-977)

Assemblywoman Swank read her testimony ([Exhibit AD](#)).

Senator Washington asked who accepted the plutonium.

Assemblywoman Swank responded it actually went to a federal repository, so they did not have to talk to Nevada. It just went from federal to federal.

Senator Washington said when somebody ships something, you have a check list, know what it is, do not accept it unless you check and see what it is. They just accepted it and did not know what it was?

Chair Ohrenschall said he is not sure he understands all the mechanics either.

Ernie Adler, Pyramid Lake Paiute Tribe, stated this is familiar to him because in 1989 he sponsored one of the first resolutions denying access to the Yucca Mountain site for the storage of nuclear waste. He said for 30 years Nevada has been saying "do not put this stuff in our backyard," and it continues to happen. The Pyramid Lake Paiute Tribe strongly opposes these shipments and is trying to preserve the natural beauty and safety of the State of Nevada.

Christine Saunders, Progressive Leadership Alliance of Nevada, said she supports of A.J.R. 1. This past weekend staff and members joined the Western Shoshone National Council member, Johnnie Bobb, for the twentieth annual Walk on Sacred Land Ceremony. The walk brings attention to the desecration of sacred land and the storage of radioactive materials at Yucca Mountain, which is on the treaty territorial land of the Western Shoshone. The transfer of plutonium to the State has severe impacts on the environment, health and welfare of Nevadans. Progressive Leadership Alliance of Nevada believes Nevada should not be the Nation's dumping ground and urges passage of A.J.R. 1.

Kyle Davis, Nevada Conservation League, said the League wants to be on record in support of this resolution.

David Cherry, City of Henderson, said the Henderson City Council passed a unanimous resolution on March 19 which condemned in the strongest possible terms transferring plutonium or any other radioactive waste to Yucca Mountain without the State's consent. The Council goes on the record in support of this resolution and feels Nevada has not been given a fair treatment in this incident.

Greg Lovato, Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources, read his neutral statement ([Exhibit AE](#)).

Chair Ohrenschall closed the hearing on A.J.R. 1.

Chair Ohrenschall opened the hearing of Assembly Bill (A.B.) 274.

ASSEMBLY BILL 274 (1st Reprint): Revises provisions relating to governmental administration. (BDR 18-86)

Assemblywoman Dina Neal, Assembly District No. 7, reviewed the points of the amendment to Assembly Bill 274 ([Exhibit AF](#)).

Assemblywoman Neal stated A.B. 274 is an expansion of what is considered retaliatory action and does two things. Section 1 offers provisions relating to the Nevada Equal Rights Commission (NERC) and the separation between the Department of Employment, Training and Rehabilitation (DETR) and NERC and prevents the disclosure of information. What NERC does is send the complaint to the federal Equal Employment Opportunity Commission (EEOC).

Assemblywoman Neal said she had an incident over the Interim that involved Nevada Department of Transportation (NDOT). She contacted NERC because the incident was about 22 years of discrimination. An email came back and said to let the Governor's staff know. That opens doors to political decisions that may involve an employee. She said she wants to put a wall between the two agencies to keep it confidential if it involves a State employee. A whistleblower came forward after the meeting who stated there was some criminal activity along with other things that happened. Assemblywoman Neal had her contact the police and give them the information. She said section 1 builds a wall.

Section 2 adds to the list of what can be considered reprisal or a retaliatory action if someone knowingly places false information or a false complaint in the personnel file of an employee. There is no action set in place to deal with a supervisor or a person in control of the workplace environment who does this or has the agent of the supervisor place something in an employee's file if it was not legitimate information and they were doing it to retaliate against an employee creating a negative review in his or her file.

Assemblywoman Neal said in section 2.5 is a continuation of existing authority. A state officer or employee of a local government shall use his or her official authority or influence as an office or employee to remedy any reprisal or retaliatory action when the officer or employee becomes aware. This provision is if you become aware it is happening and you know that it is wrong, you should do something about it.

She added in section 2.5 subsection 1, paragraph (b), it says "shall not directly or indirectly use or attempt to use the official authority ... " and then "without limitation, by intimidating, threatening, coercing, commanding, influencing ... " This bill fixes it by turning "may" to "shall" and then addresses the conduct where a person in control of the environment is using his or her position to threaten or make an employee feel like he or she does not even want to come to work anymore because of what is being done or the environment. A supervisor can create an environment by threatening an employee or make the person believe the supervisor is getting ready to threaten the employee's job, take away overtime and duties, or demote the employee without reason. The employee did not feel like he or she had the ability to fight back, creating a toxic environment.

Assemblywoman Neal also said section 2.5 is a continuation. If an officer or employee fails to use his or her official authority or influence to remedy any reprisal, then this is a continuing piece where Assemblywoman Neal wants to take action with the individual who is watching this happen and refuses to try to stop the behavior. It could come from the supervisor or the assistant supervisor who directs an employee or who has control over the other employee to do something. Sometimes the retaliatory schemes can be super elaborate.

She went to section 3, saying this is where the bill tells the local government, by ordinance, they are to enact procedures providing the same as what is at the State level. Local governments can provide greater protection if they choose to,

but it has to be at the same minimum level as what the State provision speaks to.

Section 4 says if any alleged violation, reprisal or retaliatory action is taken against a State officer or employee who discloses information concerning improper governmental action within 2 years after a disclosure, the State officer or employee may file a written appeal with a hearing officer from the Personnel Commission citing the violations that took place or the action related to the reprisal or retaliatory action. This section sets out the written appeal process, statement of the facts and circumstances, and then the provision of what the hearing officer can do if he or she finds the violation occurred. Section 4, subsection 2, paragraph (a) provides that the hearing officer will order the supervisory person to desist or refrain; and subsection 2, paragraph (b) terminates the person who is actually engaged in this activity.

Assemblywoman Neal said section 5 is a continuation of what the local government shall do if there is an alleged violation and determines whether or not there is a violation.

Section 6 is where we must educate individuals on what the law means. If the bill becomes law, a video and some kind of written confirmation should be presented so people in human resources or employees upon hire can learn the consequences and the behaviors they need to refrain from doing.

Assemblywoman Neal added the act is effective upon passage.

Senator Pickard said section 1, subsection 5 states "After the filing of complaint with the Commission, access to information related to the complaint must be limited only to such staff ... " for purposes of carrying out the Commission's duties. Are cases proven to be unsubstantiated? If actions are brought forward, is it the intent to keep this information contained so the press or the Legislature could not have access? If that is the case, the language is missing that this would be privileged or confidential.

Assemblywoman Neal replied, no, it is not supposed to be inclusive to the Legislature. It also says unless the disclosure "is necessary to carry out the duties of the Commission." In the NDOT scenario, there had been a sexual assault on site, and the woman filed a complaint with her female supervisor. The female supervisor tried to intervene, and while in the process she was

actually being mobbed. The middle management were the guys being accused who started to throw dirt on her to keep her from going further with the information. She also alleged that there had been drug trafficking with some of the vehicles. Assemblywoman Neal asked her to talk to the police, and Assemblywoman Neal contacted the Governor's office and the past director of DETR.

Assemblywoman Neal said something so big that you have to let everybody know, that is what lines 40 and 41 on page 3 of the bill allow. It is a wall but not so much of a wall that the Legislature cannot get it.

Senator Pickard replied we are always trying to keep things private that should remain private and allow public access to information because we are working for them. We might want to look at some language that clarifies that a little bit.

Senator Pickard continued with the next point on the top of page 6. In section 2.5, subsection 1, paragraph (b), subparagraph (2) regarding compelling officers or employees to remedy a dispute, his concern is there is no disclosure unless there is immediate risk of harm. This case is talking about any employee to remedy the situation, some who may not be in a position to remedy. The scenario that comes to mind is someone may not want to get involved because they may have some legitimate negative things in their file that would be used against them. You are talking about management, and under current law they are required to take steps.

Assemblywoman Neal replied yes. A portion of section 2.5, subsection 1, paragraph (b), subparagraph (1), is existing. She added portions and she said her intent and thought process is there are individuals who may not want to speak up but have knowledge and are watching a person be threatened. They are participating because they are being threatened. They are feeling if I do not go along with this scenario, it will affect my own position. That is creating a toxic environment. This environment with multiple people involved does not happen unless it is a continuation. There has to be a point when a person actually has to stick up for somebody they know is being unfairly targeted.

Senator Pickard stated he cannot think of any examples where we compel speech or intervention on someone when they may have a legitimate reason not to. It just strikes a different balance, and he does not know why people would

choose not to get involved in something if they are not in the direct line of the chain of command.

Assemblywoman Neal stated the phrasing "official authority" creates who we are referring to. You have to actually be in a position of authority or an influence position over the officer and employee. You have to have authority, which means that you are in a supervisory role or are in control of that work environment.

Chair Ohrenschall said that is the way he was reading it too. He said this would apply to someone in a supervisory role, not to every employee in the department. If this is being misread, the Committee needs to reach out to the Committee Counsel.

Senator Pickard said if you are in a position of authority or supervision, but this gives the potential for ambiguity, Mr. Powers might feel it is good enough.

Senator Ohrenschall pointed to the top of page 6, lines 4 through 8, which is an existing statute at NRS 281.635. The definition of "official authority" says:

For the purposes of this section, use of official authority or influence' includes taking, directing others to take, recommending, processing or approving any personnel action such as an appointment, promotion, transfer, assignment, reassignment, reinstatement, restoration, reemployment, evaluation or other disciplinary action.

It sounds like this is limited to someone in a supervisory position, not an employee in a department or division.

Assemblywoman Neal said she will look into it because the main thing is you can be an influencer or in a position of authority. Someone can also be acting as an agent of a supervisor, and Assemblywoman Neal wants to make sure if a person is acting as an agent of a supervisor, he or she is a continuation of the cohesion or threat. Or it could be one of the individuals who was directed to place the false information in the file, and knew it was false or the supervisor told the individual the intent of what was being planned, the individual is on the hook.

Senator Gansert said she had a question about the scope of the measure because the NERC is really about harassment, like sexual harassment. She said she does not know what happens with a hostile work environment, which is not different than discrimination.

Assemblywoman Neal replied NERC actually does cover hostile work environments, but the provision under section 1 is dealing with NERC with regard to complaints. That is why discrimination and hostile work environment are two of the claims actually filed with and have remedies under NERC. This bill offers the hearing officer a piece that exists within the State and if there is a hearing officer format at the local government level, who would deal with the retaliatory piece.

Senator Gansert said her other question is in section 1, subsection 5. Her understanding was complaints filed with NERC are confidential and NERC officials are not supposed to tell anybody about a case until they finish their investigation.

Assemblywoman Neal replied it is confidential. This is just trying to place a wall because the director of DETR is under the Governor's Office. When there is another State agency involved, it reaches out to the director of DETR about the agency in question, which happened to be NDOT. She said she questioned why the two would talk and why the director needed to be aware of this complaint or potential issue of an employee of NDOT before there was a conclusion.

Senator Gansert asked if the statute actually does the reverse of this. She said she does not think it would be legal for them to share the information unless it is needed to carry out the duties of the Commission related to the complaint. She said she did not think they were ever supposed to talk to each other. They are prohibited from reaching out.

Assemblywoman Neal replied it is her understanding if it is necessary for their duties and something is related to the complaint, then they can, but it is confidential. If they feel it is going to be a conflict of interest, they send it to the EEOC. That is the current process. But if NERC gets the complaint and there are witnesses that may be associated, some provisions may be shared.

Senator Gansert said looking at section 1, subsection 4, it says you "may not disclose to the complainant or the party against whom the unlawful

discriminatory practice is alleged.” That is between the two parties, so we should have Legal Counsel check that because she does not think they are supposed to share any information.

Chair Ohrenschall said he would check with Legal Counsel and added one thing he likes in the bill is the education component in section 6.

Chair Ohrenschall closed the hearing on A.B. 274.

Chair Ohrenschall reminded members of the public on A.C.R. 4 there is a proposed conceptual amendment, Exhibit AB, proposed by Assemblywoman Swank, which makes some changes to the membership of the proposed Interim committee and the study.

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Having no further business, Chair Ohrenschall adjourned the Committee meeting at 6:39 p.m.

RESPECTFULLY SUBMITTED:

Diane Rea,
Committee Secretary

APPROVED BY:

Senator James Ohrenschall, Chair

DATE: _____

| EXHIBIT SUMMARY | | | | |
|------------------------|---------------------------------|----|-------------------------------|---|
| Bill | Exhibit / # of pages | | Witness / Entity | Description |
| | A | 2 | | Agenda |
| | B | 7 | | Attendance Roster |
| A.C.R. 6 | C | 4 | Assemblywoman Lesley E. Cohen | Written Testimony |
| A.C.R. 6 | D | 27 | Assemblywoman Lesley E. Cohen | University of Nevada, Las Vegas Report |
| A.C.R. 6 | E | 2 | Barbara G. Brents | Written Testimony |
| A.C.R. 6 | F | 2 | Mustang Ranch | Written Testimony from Lance Gilman |
| A.C.R. 6 | G | 2 | Dena Duff / Sheri's Ranch | Written Testimony |
| A.J.R. 4 | H | 3 | Assemblywoman Brittney Miller | Written Testimony |
| A.J.R. 4 | I | 1 | Assemblywoman Brittney Miller | Congressional Resolutions on Falun Gong |
| A.J.R. 4 | J | 3 | Magala Moa | Support Testimony |
| A.J.R. 4 | K | 2 | Jacqueline Rios | Support Testimony |
| A.J.R. 4 | L | 1 | Kerrie Mitchell | Support Testimony |
| A.J.R. 4 | M | 1 | Josephene Lee | Support Testimony |
| A.J.R. 4 | N | 1 | Hongrong Zhu | Support Testimony |
| A.J.R. 4 | O | 2 | Kieu Nakamura | Support Testimony |
| A.J.R. 4 | P | 1 | Shuhao Teng | Support Testimony |
| A.J.R. 4 | Q | 1 | Pichang Zeng | Support Testimony |
| A.J.R. 4 | R | 2 | Ping Liu | Support Testimony |
| A.J.R. 4 | S | 1 | Bo Tian | Support Testimony |
| A.J.R. 4 | T | 1 | Lisa Bao and Ben So | Support Testimony |
| A.J.R. 4 | U | 2 | Fei Zhao Zhu | Support Testimony |
| A.J.R. 4 | V | 2 | Yang Xuemei | Support Testimony |
| A.J.R. 4 | W | 1 | Weixian Wu | Support Testimony |

| | | | | |
|----------|----|---|--|-------------------------------|
| A.J.R. 4 | X | 2 | Judy Lin | Support Testimony |
| A.J.R. 4 | Y | 2 | Hua Jiang | Support Testimony |
| A.J.R. 4 | Z | 1 | Lirong Liu | Support Testimony |
| A.C.R. 4 | AA | 5 | Assemblywoman Heidi Swank | Written Testimony |
| A.C.R. 4 | AB | 1 | Assemblywoman Heidi Swank | Proposed Conceptual Amendment |
| A.C.R. 4 | AC | 1 | Jaina Moan | Written Testimony |
| A.J.R. 1 | AD | 4 | Assemblywoman Heidi Swank | Written Testimony |
| A.J.R. 1 | AE | 2 | Greg Lovato / Division of Environmental Protection | Written Testimony |
| A.B. 274 | AF | 9 | Assemblywoman Dina Neal | Amendment |