

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Eighty-First Session
April 21, 2021**

The Committee on Commerce and Labor was called to order by Chair Sandra Jauregui at 1:32 p.m. on Wednesday, April 21, 2021, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada and Online. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/81st2021.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Sandra Jauregui, Chair
Assemblywoman Maggie Carlton, Vice Chair
Assemblywoman Venicia Considine
Assemblywoman Jill Dickman
Assemblywoman Bea Duran
Assemblyman Edgar Flores
Assemblyman Jason Frierson
Assemblywoman Melissa Hardy
Assemblywoman Heidi Kasama
Assemblywoman Susie Martinez
Assemblywoman Elaine Marzola
Assemblyman P.K. O'Neill
Assemblywoman Jill Tolles

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Joseph (Joe) P. Hardy, Senate District No. 12
Senator Melanie Scheible, Senate District No. 9

STAFF MEMBERS PRESENT:

Marjorie Paslov-Thomas, Committee Policy Analyst
Sam Quast, Committee Counsel
Terri McBride, Committee Manager



Julie Axelson, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Jessica Adair, Chief of Staff, Office of the Attorney General
Kevin L. Ingram, Executive Director, Private Investigators Licensing Board
Dallin Hilton, Private Citizen, Henderson, Nevada
Ryan Briggs, Private Citizen, Henderson, Nevada
Weldon Havins, Private Citizen, Henderson, Nevada
Jessica Ferrato, representing American College of Emergency Physicians
Keith Lee, representing State Board of Medical Examiners
Susan Riggs, Senior Director of State Legislation, Western Region, American Society
for the Prevention of Cruelty to Animals
Andrew LePeilbet, representing Military Order of the Purple Heart; Disabled
American Veterans; and Chairman, United Veterans Legislative Council
Elizabeth Day, Executive Assistant, Heaven Can Wait Animal Society, Las Vegas,
Nevada
Rebecca Goff, Executive Director, Nevada Humane Society
Jill Vacchina Dobbs, Executive Director, SPCA of Northern Nevada
Kayleigh Dearstyne, Private Citizen, Reno, Nevada
Jeff Dixon, Nevada State Director, Humane Society of the United States
Mark Sektnan, Vice President, American Property Casualty Insurance Association

Chair Jauregui:

[Roll was called.] Today, we have three bills we will be hearing. I will now open the hearing on Senate Bill 35.

Senate Bill 35: Revises provisions relating to the Private Investigator's Licensing Board. (BDR 54-419)

Jessica Adair, Chief of Staff, Office of the Attorney General:

Thank you for allowing me to present Senate Bill 35, which is a bill to modernize the Private Investigator Licensing Board (PILB). I am joined by Kevin Ingram, the Executive Director of the PILB. In 1969, the Nevada Legislature passed Senate Bill 76 of the 55th Session, which is a bill that mandated that "The chairman of the board shall be the attorney general or a deputy attorney general designated by the attorney general to act in such capacity." This statute had previously required that the chief officer of the Nevada Highway Patrol serve as chair of the PILB. According to the Legislative Counsel Bureau (LCB) Research Division, the 1969 Senate Committee on Transportation did not keep minutes of its meetings, so the reasons for this statutory change may be lost to history. Perhaps the change was made because at the time, the Attorney General also served as the ex officio director of the Nevada Department of Highways. Perhaps it was because the position was important to

then-Attorney General, Harvey Denver Dickerson. Attorney General Dickerson's role as PILB chair was prominently featured on his campaign literature, seeking what would have been his fourth term as the attorney general.

Much has changed in Nevada over the past 52 years since the PILB was placed in the Office of the Attorney General. The population has grown to three million. The Legislature no longer typically accepts exhibits via Western Union telegram, and the Attorney General can no longer serve more than two terms. As the times change, so too must the PILB.

In 2007, the Nevada State Legislature passed Assembly Bill 531 of the 74th Session, which removed the attorney general as chair and created a separate fund in the Office of the Attorney General so the PILB could have some control over its finances. Fortunately, those minutes do exist. Assembly Bill 531 of the 74th Session was sponsored by then-Attorney General Catherine Cortez Masto. Testimony indicates that the relationship between the PILB and the Attorney General's Office was unique even 14 years ago. No other occupational licensing board was financially connected to the Attorney General's Office, nor was the attorney general a member of any other licensing board, let alone serving as its chair.

While legislative change did give the PILB some independence, the board could not fully separate from our agency without being able to open its own bank account and be removed from the state's accounting system.

The bill before you today adopts authorizing language that is customary for many other occupational licensing boards that manage their own funds in accordance with state laws and fiduciary obligations. The PILB has a professional staff fully capable of managing its own affairs, and the existing system only serves to create needless bureaucracy.

Chair Jauregui:

Was Mr. Ingram going to give remarks, or just be here for questions?

Jessica Adair:

Just for questions.

Chair Jauregui:

Are there any questions?

Assemblywoman Hardy:

Out of curiosity, how come it has taken so long to do this?

Jessica Adair:

That is a great question. I do not know. Last session, we were not able to submit our own bill draft requests (BDRs) as they were prefiled by the previous attorney general. We did work with Mr. Ingram to amend an existing bill that would have done this, but that bill ended up not moving forward. We waited until this session. I would be curious as to why they did not go ahead and make all those steps in 2007, but that was not on the record.

Assemblywoman Kasama:

This is basically making it a self-funding division or department. It looks like the funds would not revert back to the General Fund. It will just remain in this account. How much is currently allocated to this division right now?

Jessica Adair:

Currently, the PILB does not receive any General Fund. You are correct that the interest that is gained on this account does usually revert to the General Fund. This bill would not revert to the General Fund. That was the exact question that we answered in front of the Senate Finance Committee when this bill was heard on the Senate side. I believe when that was taken up in Senate Finance, it was about \$30,000 a year in interest. I am looking at Mr. Ingram, who is nodding, so I am hoping that I am correct.

Assemblywoman Kasama:

If it becomes self-funding, the money that is received is enough to handle all of the expenses with maybe about \$30,000 a year accumulating, is that correct?

Jessica Adair:

No, and I apologize if my answer was not clear. Right now, the PILB is already self-funded. I believe they have reserves of up to six months on hand, and I will let Mr. Ingram correct me on this answer. The PILB does not receive any General Fund; and it is already self-funded. The only change to the General Fund would be the interest on the account that is currently sitting in the Attorney General's Office as it is now, and that interest is about \$30,000 a year that goes to the General Fund. But, it is already a self-funded agency that is funded by fees from licenses for the folks who are applying to become licensed through the PILB. I would like Mr. Ingram to weigh in here because this is his area of expertise.

Kevin L. Ingram, Executive Director, Private Investigators Licensing Board:

[Submitted written testimony, [Exhibit C](#).] You are correct, Ms. Adair. We currently have a reserve funding of about five and one-half months on hand right now, which is \$916,000. Our annual budget is about \$2.6 million. We are required to carry the funds over from the previous year to start the funding for the next fiscal cycle that starts on July 1. Without that reserve there, by being self-funded, we would start with a \$0 balance and not be able to pay the bills. We can record any remaining balance, and traditionally it is around the \$900,000 mark. As the budget sits right now, we have about \$1.2 million, and that is the average throughout the year, and that is what accumulates the \$30,000 in interest for the State General Fund. Once removed from the General Fund and set up the same as all the other boards and commissions, we are totally self-sufficient. We covered all the bills as we do now. The change would be that we would no longer be part of the state's fiscal system and, therefore, we would have to set up our own bank account to be able to pay and receive funding.

Chair Jauregui:

Are there any other questions? [There were none.] We will move to testimony in support. Is there anyone wishing to testify in support? [There was no one.] We will move to testimony in opposition. Is there anyone wishing to testify in opposition to S.B. 35? [There was no one.] We will move to neutral testimony. Is there anyone wishing to provide neutral testimony? [There was no one.] Ms. Adair, would you like to give any closing remarks?

Jessica Adair:

No, Chair, but thank you so much for hearing this bill and allowing me to present a little Nevada history.

Chair Jauregui:

I will now close the hearing on S.B. 35. The next item on our agenda is Senate Bill 90. I see we have Senator Hardy with us. I will open the hearing on Senate Bill 90.

Senate Bill 90: Revises provisions relating to the regulation of providers of health care. (BDR 54-188)

Senator Joseph (Joe) P. Hardy, Senate District No. 12:

Speaking of Senate Bill 90, complaints about doctors can be very serious, and sometimes they are not; sometimes they are anonymous; sometimes they are shown to not be worthy of taking any adverse action against the physician. It is not unusual for any professional board to deal with complaints without merit. In the case of a physician being investigated for even a complaint without merit, the physician will have to admit to having been "investigated" for every license, application, or credentialing form for an insurance network. This must be justified and verified, which slows down the process to be allowed to treat patients. We need more good physicians providing quality care for Nevada's citizens.

We placed in statute Assembly Bill 474 of the 79th Session as a different way to approach complaints when we use the words "review and evaluate" when dealing with controlled substances. This proposed bill looks to use those same words, and if the "review and evaluation" shows a problem, it officially becomes an investigation. This would not do away with the process to determine if there has been wrongdoing or malpractice. We also put into statute a traffic violation where a traffic violation is not considered a misdemeanor for purposes of reporting for education applications. A student may be able to apply for progressive education opportunities and positions without being marred by an inconsequential traffic violation.

When we look at changing to "review and evaluation," that would hopefully shorten the time to resolve complaints by concentrating on those which are serious. Justice delayed is justice denied for those who are eventually cleared of wrongdoing.

Two medical students, Ryan Briggs and Dallin Hilton, worked on suggestions that would perhaps help the safety climate of medical practice while assuring the quality of that care. If you look at the exhibits, you have a long document submitted by Mr. Briggs [[Exhibit D](#)].

This bill deals with the last paragraph under "discussion" and the last sentence under "conclusions." The last sentence is what we are concentrating on in S.B. 90. The two medical students are here to testify, as is an attorney, Dr. Weldon Havins, who happens to be on the Board of Medical Examiners. I would be happy if they could have their opportunity to testify.

Dallin Hilton, Private Citizen, Henderson, Nevada:

[Read from written testimony, [Exhibit E](#).] I am a Nevadan and a second-year medical student at Touro University Nevada. I intend to do my residency here in Nevada after medical school, and I also intend to practice here. My concern is that if anyone contacts the Board with a complaint, we then have a stigma of being investigated for the entirety of our careers regardless of whether the complaint was meritorious. These investigations will have to be disclosed when applying for new employment, new training opportunities, or for future credentials. The review and evaluation process already exists in the Nevada law for controlled substance complaints. Those complaints are not considered investigations, so if the complaint is without merit, it is not carried forever by the physician. The physician will not carry the stigma of having been investigated for the rest of his or her career. The boards will still look into complaints and take actions on the ones that merit such, just as they do now. This is just a change in the wording to benefit physicians and to prevent unintentional or unmerited stigma. Thank you for allowing me to advocate for S.B. 90. I believe this will benefit physicians and future physicians throughout Nevada.

Ryan Briggs, Private Citizen, Henderson, Nevada:

[Read from written testimony, [Exhibit F](#).] I am a second-year medical student at Touro University Nevada. I conducted research relating to this topic last summer, and you will find my poster in the exhibits [\[Exhibit D\]](#). I am a Nevadan, and I hope to match into a Nevada residency to stay in practice in southern Nevada. I have two daughters who will be entering into the Clark County education system. The oldest has expressed her desire to be a doctor too.

As a future practicing physician in Nevada, I am in support of S.B. 90. I am concerned that if anyone contacts the Board with a complaint within the Board's jurisdiction, I will be stigmatized with an "investigation" even though the Board closes the complaint with no action. We found that the majority of complaints are closed without action. This means that physicians will have to answer to the affirmative when asked by potential employers or hospital systems with which they are applying if they have been investigated even though no wrongdoing was discovered. This could affect physician retention in an area where there is already a physician shortage.

As my colleagues mentioned, there is already precedent for S.B. 90. In 2017, A.B. 474 of the 79th Session created a review and evaluation of complaints relating to controlled substance prescriptions. Under that law, a physician does not have to claim an investigation was opened if the executive director of a health care governing board determines that a licensee has not "issued a fraudulent, illegal, unauthorized, or otherwise inappropriate prescription for a controlled substance." Senate Bill 90 will standardize that all complaints be treated equally

under the law. In our research, we also found that most Nevada state boards treat controlled substance prescription complaints and all other complaints very similarly. Some boards do not make a distinction. I hope you will consider voting yes on S.B. 90.

Chair Jauregui:

Are there any questions?

Assemblyman Frierson:

I am not sure who would be best suited to answer my question. With respect to the investigations, I do not know how it works. If there is an investigation, is the conclusion that the claim was without merit, or is the conclusion that they were without sufficient information to decide one way or another? There is a difference. If there are several similar complaints, and it is one person's word against another, that does not mean it was without merit. That just means they were unable to prove or verify the claim. Maybe someone could tell me how it is reported out. If it is not confirmed, what is the alternative, or is it a combination of both?

Senator Hardy:

Could I have Dr. Weldon Havins answer that or give his testimony at the same time?

Chair Jauregui:

I am so sorry, Senator Hardy. Did we jump to questions before your presentation was over? Yes, let us go to Mr. Havins since he is part of the presentation.

Weldon Havins, Private Citizen, Henderson, Nevada:

I am a physician and attorney here in Nevada. I have been licensed to practice medicine since 1974. I passed the Bar exam in 1998. I am a professor emeritus of medical jurisprudence and ophthalmology at Touro University Nevada. I am a member of the Board of Medical Examiners, although I am speaking as an individual and not for the Board. I have been a member of the Board for four years, although I have not attended Board meetings since September 1999.

When a complaint is received, there is a judgment made of whether or not it is within the jurisdiction of the Board. The complaint is then investigated, or if it involves a controlled substance, by law it goes to the executive director or the executive director's designee. Then, further information is obtained. If the Board determines that there is insufficient information to proceed with the complaint, then the claim is closed. If there is sufficient information, or with additional expert testimony there is sufficient information to proceed, then a formal complaint is filed against the licensee. That is how the process works. It either goes forward or it is closed. By going forward, a formal complaint is filed.

I am in favor of S.B. 90. It would remove the stigma of complaints that do not have sufficient information to go forward and are closed from labeling the licensee as having been investigated rather than a review and evaluation conducted. If this bill passes, this will apply to *Nevada Revised Statutes* (NRS) Chapter 629. It would apply to all of the Title 54 boards

and occupations as far as I understand. It is of particular interest for physicians because of being labeled having been investigated. That does create issues whenever applying for a license or other credentials with health care organizations and hospitals. I am an advocate for S.B. 90. I am happy to answer any questions.

Assemblyman Frierson:

I do not think you answered my question, although that was insightful. My question is, as it relates to the comment in the introduction of claims that were without merit—as an attorney, I certainly recognize concepts of due process—is there a distinction between a claim that is without merit and a claim that is without sufficient information? Does S.B. 90 propose to treat both the same?

Weldon Havins:

There is no distinguishing between a claim that is without merit or one that has insufficient evidence to proceed to a formal complaint. They are treated the same. That is, they are closed.

Assemblyman Frierson:

This is a practical question about how it happens in real life. If a physician ultimately has an investigation that is sustained or results in a filing of a formal complaint, would they then be able to go back and look at any of the previous complaints that were closed to see if it was involving similar conduct? Even if they do not have to acknowledge it because it was not sustained, if there was ultimately one that was, would they be able to see that history?

Weldon Havins:

I am on an investigative committee for the Board. Again, I am not speaking for the Board. The answer is yes. We receive these complaints and the results of the inquiry into the complaint. When we make a judgment, we do have prior complaints that are listed that were closed.

Chair Jauregui:

I am going to follow up on Assemblyman Frierson's line of questions. If the complaint is found to be without merit, the investigation is closed, and it is not public, would the information and review and evaluation be public or private?

Weldon Havins:

If there was no action taken, then it is closed, and it is not available to the public currently. In S.B. 90, it would be the same.

Chair Jauregui:

It would remain status quo if it was an investigation or a review and evaluation. It would remain closed to the public.

Weldon Havins:

That is correct. It is not available to the public.

Chair Jauregui:

Is it available to investigators?

Weldon Havins:

Yes.

Assemblywoman Carlton:

In reading the bill, I had a lot of the same questions that Assemblyman Frierson had. I am going to go to the portion of the bill where this does not just affect doctors. There are a lot of different citations in here for a lot of different boards. Senator Hardy, have the other boards weighed in on this? This is not specifically for the board Mr. Havins is a member of. Was this circulated to the other boards, and what were their thought processes on this? We know what these turf battles can be like with these boards. You are actually taking an issue you believe you have and fixing a problem that may not necessarily exist in the other boards.

Senator Hardy:

I have a list of the boards it alludes to. We did not keep this hidden, and that is why you have an exhibit that talks about a fiscal note that is \$0. That means, the way I look at it, they had a chance to look at it and said it would not increase their costs.

Assemblywoman Carlton:

A fiscal note does not necessarily indicate support, opposition, or concerns from other boards. You are actually changing how other boards will be handling these complaints. It is not just for doctors or osteopaths, but you are changing it for a lot of other folks. I am wondering if they had weighed in on it on the Senate side.

Senator Hardy:

You are absolutely correct. I have not had "testimony" by the other boards, as much as a tacit admission that they saw it because they developed a no fiscal note.

Assemblywoman Carlton:

Fiscal notes relate to state funding, and all boards are self-funded, so naturally there would not be a fiscal note. My concern is we are making a decision that will impact a number of different boards across the spectrum that may not have this particular problem.

Assemblyman O'Neill:

I think I know the answer, but I want to clarify. How would this affect a doctor who goes out of state and applies for credentialing or privileges? How would they report their reviews or investigations?

Senator Hardy:

The way I look at this, if you are a physician, and you go anywhere and apply for anything, there are little boxes you check on the application, and one of those boxes asks if you have

ever been investigated. If they are reviewed and evaluated and have not had a problem and did not go above review and evaluation, they would be able to say, "No, I have not been investigated."

Assemblywoman Duran:

Assemblyman O'Neill asked my question.

Assemblywoman Tolles:

That was my question also.

Chair Jauregui:

Are there any other questions? [There were none.] We will move to testimony in support. Is there anyone wishing to testify in support of S.B. 90?

Jessica Ferrato, representing American College of Emergency Physicians:

I want to express my support of the bill and thank the Senator for bringing it forward.

Chair Jauregui:

Is there anyone else wishing to testify in support? [There was no one.] Is there anyone wishing to testify in opposition? [There was no one.] Is there anyone wishing to testify in neutral?

Keith Lee, representing State Board of Medical Examiners:

We are the licensing and regulatory authority over the allopathic physicians under *Nevada Revised Statutes* (NRS) Chapter 630. We take no position on the policy issue you are addressing here. At least my understanding of where we went in the testimony, questions, and answers today is there might be some confusion with respect to what complaints there are and how they are handled.

There are essentially two types of complaints. The first is a complaint we call a consumer complaint that is authorized by NRS 630.307. If you are a patient and you feel there was some mistreatment of you, you may file a complaint with the State Board of Medical Examiners. Upon receipt of that complaint, a file is opened. It does not matter what the complaint is, but it is opened. The first question that is looked at is, "Does this complaint address an issue that the Board of Medical Examiners has jurisdiction over?" A complaint that commonly comes in for which we have no jurisdiction under NRS Chapter 630 is a billing issue. We immediately close that because we have no jurisdiction. If we determine we do have jurisdiction under the Medical Practices Act, then we open an informal investigation, and it is referred to internal investigators. At that point in time, after the investigation, information is gathered, and witnesses are talked to. If it is determined that there is no basis to go forward—which means it is without merit or without sufficient evidence to proceed—in either situation, the case is closed. Under NRS 630.336, subsection 4, by receiving the complaint, the information gathered pursuant to that complaint, and the decision to not proceed further is confidential. The practitioner or licensee is not required to report that.

The second type of complaint is where, after the initial investigation, it is determined that there is a potential Medical Practices Act violation. I believe the statute reads, a reasonable basis for it. That complaint is opened, it is investigated, and it either goes to hearing, or nonpunitive action, or is dismissed. Once that formal complaint is filed, that complaint, all the information gathered pursuant to that complaint, and the ultimate disposition is a matter of public record. That is what any physician or any licensee has to report. I hope that did not muddy the water but clarified it. With that, I will try to answer any questions.

Assemblywoman Carlton:

You are speaking from the MD [doctor of medicine] side of the equation. That is the board you are with. Are you aware if this same provision is within the State Board of Osteopathic Medicine? You heard my concerns earlier that we are making a change that I believe they are seeing in one board but may not necessarily hold true in other boards. To your knowledge, is this same provision in the State Board of Osteopathic Medicine?

Keith Lee:

I do not know the answer to that question. I do know, and you know as well as any of us, that we have tried over the years to match NRS Chapters 630 and 633 so if it applies to an MD, it would apply to the DO [doctor of osteopathic medicine] as well. I cannot really speak to that, and I have not looked at that. Maybe Senator Hardy can. I know the goal has always been to match the two. If in fact it has been matched, I would suspect that what I have related to you in how we handle complaints and what becomes confidential and public would be the same. That is a presumption on my part.

Assemblywoman Carlton:

I know over the years we have tried to align those two boards as much as possible. Every session there is usually some type of tweak that needs to be done. I think that is probably one of the answers to a number of these questions that we need to address moving forward. As I said earlier, my big concern is that there are a lot more boards impacted than just the State Board of Osteopathic Medicine.

Chair Jauregui:

I have a question for you. You mentioned that when a complaint comes to the Board, if it is a consumer complaint, the first thing you have to do is determine whether you have jurisdiction over that complaint. What type of complaints do you have jurisdiction over? You mentioned that you do not have jurisdiction over a billing complaint. What would be some of those complaints you do have jurisdiction over?

Keith Lee:

I do not think I can detail them now without looking. They are provided in the Medical Practices Act in NRS Chapter 630. It is generally with respect to the quality of care, whether there has been a potential malpractice. Sometimes it has to do with records themselves. As many of you are aware, we have a substantial health record-keeping policy, both in the state and under the federal HIPAA [Health Insurance Portability and Accountability Act]. There are oftentimes violations with respect to that. My presumption is

that probably most of the complaints have to do with the quality of care. What I will do is send the Committee the provisions of NRS Chapter 630 that would account to a violation of the Medical Practices Act [[Exhibit G](#)].

Chair Jauregui:

That would be great, Mr. Lee, if you can send it to our committee manager so she can distribute it to the Committee members. I do have a couple more questions. You also mentioned that when a consumer complaint comes in, you have jurisdiction over it, and you assign an internal investigator, but if there is no basis to go forward, it is not considered an investigation, and they do not have to report that. They would never have to check that box that says they have been under an investigation because there was no merit for an investigation. That alleviates that part. If there is enough merit to open an investigation, that means there was something there, and that is when they would go to a hearing. If the hearing outcome was that there was no merit or no sufficient evidence, then it would remain closed, but they would have to check that box that they were investigated but not found guilty. If S.B. 90 passes, when a consumer complaint comes in, if there is insufficient merit, the complaint is closed, but if there is merit, it goes to the investigation. If they are not found guilty, it would become a review and evaluation, is that correct?

Keith Lee:

That is my understanding. You are correct in how we handle it under current law. As I read S.B. 90, I think the way you stated it is accurate. I have looked at and read S.B. 90, and I believe that I am correct in that if a complaint comes in pursuant to NRS 630.307, it proceeds to a formal complaint. I think under S.B. 90, the practitioner would still have to check the box that he or she has been investigated.

Chair Jauregui:

Are there any other questions? [There were none.] Is there anyone else wishing to testify in neutral? [There was no one.] Senator Hardy, would you like to give any closing remarks?

Senator Hardy:

No, thank you.

Chair Jauregui:

I will now close the hearing on S.B. 90. Senate Bill 103 (1st Reprint) is our last bill on today's agenda. I will now open the hearing on Senate Bill 103 (1st Reprint). Thank you for being here, Senator Scheible. Do you have a presentation?

Senate Bill 103 (1st Reprint): Prohibits certain insurers from discriminating based on the breed of dog at a property. (BDR 57-826)

Senator Melanie Scheible, Senate District No. 9:

I do not have anything to project on the screen. I am reading from notes. Today, I am here to present Senate Bill 103 (1st Reprint) for your consideration, which prohibits property insurers from discriminating based on the breed of a dog at a property.

Unfortunately, some dogs are unfairly deemed dangerous or vicious solely because of their breed. However, animal experts will tell you that dogs are not born inherently vicious. Rather, they are trained to behave in a dangerous manner. In 2013, the Nevada Legislature recognized this to be true and acted by banning dog breed discrimination in *Nevada Revised Statutes* (NRS) 202.500.

Currently, 21 states, like Nevada, prohibit local authorities from adopting or enforcing an ordinance or regulation that deems a dog dangerous because of its breed alone. In 2019, we again enacted pet-friendly legislation to ensure that no family ever must choose between their home and keeping an animal family member. Assembly Bill 161 of the 80th Session made it clear that a homeowners' association cannot prohibit a unit owner from keeping at least one pet within his or her residence, subject to reasonable restrictions on pet ownership. Senate Bill 367 of the 80th Session authorizes a tenant of housing acquired, constructed, or rehabilitated with any money from the Account for Affordable Housing Trust Fund to keep one or more pets within his or her residence.

Although Nevada has made strides to become a pet-friendly state, residents are still finding themselves in a position where insurance companies are making them choose between being able to obtain, afford, or maintain property insurance or give up their dogs to animal shelters. Many insurance companies consider a dog's breed when deciding whether to offer an individual homeowners' insurance or the rate they will charge even when research has demonstrated that there is no reliable data supporting making a distinction between breeds, nor is there evidence that insurance claims for these breeds are financially significant for insurers.

In a list of factors utilized in underwriting homeowner policies provided to me by the American Property Casualty Insurance Association (APCIA), breed of dog is nearly unique in its targeted application based on a homeowner's lifestyle decisions unrelated to the condition of their home or property. The factors provided included:

- The cost to rebuild your home, which is not the same as the purchase price, but the cost of replacement using information about your home and its contents.
- Whether your home is made of brick or wood. The premium is usually lower for homes that are primarily brick.
- The distance from your home to a water source or fire department and the quality of your community's fire protection services.
- The age and condition of the home.
- The claims history of your home and homes in your area.
- Your insurance score.
- Having protection devices in your home, such as smoke detectors, a burglar alarm, a sprinkler system, and deadbolts on doors or security devices for windows. Many insurers offer a discount if you have these.
- Having a wood furnace or wood stove.
- Having a swimming pool.

- Operating a business in your home.
- The type of pets you own.

Apparently, insurance underwriters are concerned about whether homeowners have mutts adopted from the local shelter, but do not consider whether homeowners keep loaded guns in the accessible areas of their homes when determining the amount of insurance they will charge.

The "15 Year U.S. Dog Bite Fatality Chart" [[Exhibit H](#)] provided to you by APCIA is devoid of a citation, making it impossible for you or me to determine where the data came from to create the pie chart and the soundness of that analysis. The chart and the opposing testimony also do not provide any connection between the cost of dog bite claims and the alleged breed of the dog involved. A rise in the volume or cost of dog bite claims on the whole does not indicate that certain breeds are more dangerous than others.

In addition, the written testimony provided to the Senate by the National Association of Mutual Insurance Companies (NAMIC) has absolutely no citations to any scientific, academic, or other authorities to support its claim that certain breeds of dogs are more dangerous than others. To the contrary, NAMIC reminds us that pets are like children; yet children are not a recognized factor in underwriting formulas.

Senate Bill 103 (1st Reprint) would prohibit breed discrimination by insurance companies and instead require them to look at whether the dog has a vicious history. Currently, Michigan, through underwriting rules, and Pennsylvania statute prohibits insurers from denying coverage to homeowners based on the breed of their dog, nor can they exclude a dog from liability coverage.

Senate Bill 103 (1st Reprint) prohibits an insurer from refusing to issue, cancelling, renewing, or increasing the premium or rate for a policy of property insurance based solely on the specific breed or mixture of breeds of a dog that is located on the property, unless that particular dog is known or declared to be dangerous or vicious in accordance with NRS 202.500. Section 1, subsection 3, also prohibits an insurer from asking or inquiring about the specific breed or mixture of breeds of a dog located on insured property or proposed to be insured. However, an insurer may ask if the dog is known to be, or has been declared to be, dangerous or vicious in accordance with NRS 202.500.

In closing, I thank you for the opportunity to present this bill, and I urge your support. I am also joined by Susan Riggs of the American Society for the Prevention of Cruelty to Animals (ASPCA). If you will allow her to provide some comments that will elucidate the importance of the bill and the structure of the policy.

Chair Jauregui:

Since we are having issues with Ms. Riggs' audio, is Mr. Dixon part of your presentation?

Senator Scheible:

Mr. Dixon is here to answer questions.

Susan Riggs, Senior Director of State Legislation, Western Region, American Society for the Prevention of Cruelty to Animals:

[Read from written testimony, [Exhibit I](#).] Thank you, Senator Scheible, for your comments. As mentioned, in 2013, this esteemed body passed Assembly Bill 110 of the 77th Session, sponsored by the Honorable James Ohrenschall. The bill prohibited government regulations of dogs based upon breed throughout the state in favor of a paradigm that addressed the nature of an individual dog based upon its behavior. At that time, then-Assemblyman Ohrenschall was quoted as saying, "It has always been bad public policy to enact ordinances that target a certain breed of dog without considering that individual dog's actions."

This statement captures the growing consensus among both the public and private sector that breed-specific laws have failed. At the time of the passage of A.B. 110 of the 77th Session, there were 14 states that explicitly prohibited breed-specific regulation of dogs. This number has now grown to 21 states and many jurisdictions throughout the country. These states add to a long list of organizations that have looked at fact and science and rejected breed-based regulation of dogs: the Centers for Disease Control and Prevention, the American Bar Association, the American Veterinary Medical Association, to name just a few.

Today, I will focus my testimony on the facts and science on which this consensus is built, facts and science that lead to a strong conclusion that regulation by breed is ineffective and highly punitive to both innocent dogs and their responsible dog owners. This, as mentioned by Senator Scheible, is in contrast to the testimony of the associations representing opposition that have been unable to cite any facts or scientific evidence.

First, the identification of breed by appearance is a wholly imperfect endeavor, even by experts. The National Canine Research Council has written extensively about the weakness of visual identification of dog breeds, citing numerous expert studies. The overwhelming conclusion is that it is highly flawed. If you are at all in doubt, I challenge each of you to do a web search for breed identification quizzes, like the one included in our letter to you in support of S.B. 103 (R1) [[Exhibit J](#)], and try your hand at it. Even as an animal welfare professional, I am regularly unable to identify the breeds featured in the quizzes. That said, property insurance companies regularly rely upon visual identification of dog breeds. So, as the saying goes, garbage in, garbage out. The reliance on breed in determining insurance coverage results in inaccurate and inequitable outcomes that should be corrected.

Second, even if the breed of a dog is clear, for example, in the case of a dog from a breeder with papers, breed is not an accurate indicator of whether a dog will be aggressive or pose a risk to health and safety. According to the American Veterinary Medical Association, it is the dog's individual history, behavior, general size, number of dogs involved, and the vulnerability of the person bitten that determines the likelihood of biting and whether a dog will cause a serious bite injury. Furthermore, scientific studies have determined that the most

common causes of fatal dog attacks are preventable factors related to irresponsible dog ownership, abuse and neglect, failure to neuter dogs, and failure to properly supervise dogs around infants and children.

Given the variety of factors that have been shown through science to be determinative, it is of no surprise that local governments that regulate solely by breed continue to see high bite statistics. The approach has been shown, time and time again, to be a shortsighted, knee-jerk reaction to regulation that does more to degrade public safety than improve it. Nevada has already acknowledged fact and science in its existing dangerous dog law, and yet, the law is not as effective as it could be as long as households with restricted breeds are denied insurance coverage.

It is important to note that this bill would not hinder insurance companies' underwriting of particular risks. To the contrary, it allows insurers latitude in evaluating insurance for such risks. Consistent with existing state law, S.B. 103 (R1) simply states that each dog must be judged independently, based upon its own temperament and behavior in making underwriting decisions. Furthermore, the legislation specifically reserves insurers' latitude to cancel, refuse to issue or renew, or to increase premiums for the household in which a resident dog of any breed has been found to be dangerous pursuant to NRS 202.500.

In direct response to a request by industry groups, we amended the bill in the Assembly to broaden the standard under which an insurance company can underwrite potential risks associated with dogs. This amendment goes straight to the heart of statements made in the opposition letter [[Exhibit H](#)] that an insurer would have to wait for a personal injury to occur in order to understand risk. In applying the standards set forth in the amended text, an insurer can easily determine whether a dog poses a risk without inquiring about its breed.

Senate Bill 103 (1st Reprint) specifically reserves to the insurance companies the use of sound underwriting and actuarial principles reasonably related to actual losses or loss experience with a particular dog. As such, it strikes a reasonable balance between insurers' underwriting autonomy and the various ill effects of insurance companies treating all dogs of certain breeds as "bad dogs" and punishing the people who live with them. Wisely, Nevada state law has for years required government entities to create more effective policies for regulating dangerous dogs. We ask you for your "aye" vote on S.B. 103 (R1) to ask companies providing property insurance in your state to be held to the same standard.

Chair Jauregui:

At this point, we will go to questions. Are there any questions?

Assemblyman Frierson:

I think this is sound policy. I noticed in one of the exhibits [[Exhibit H](#)], there is a listing of breeds, and it included Akita. I have to say, I had an Akita for 14 years that was the sweetest dog I have ever had. I also have a Lab right now that is a terror. Would this prohibit a decision based, not specifically on the breed for breed's sake, but size? I think if you are in a community, for example with small children, there are some limitations because a big dog

may not be aggressive but might be more prone, by virtue of its size, to result in an injury to a child. If I move into an apartment and I have a dog that is 12 pounds, but it is a puppy, and it is a Great Dane that will get bigger over time, I am wondering if there is a use for inquiry into a breed for the purpose of assessing it—not because of the danger of the breed but because it might be big, and they might have an issue with not wanting large dogs in the apartment.

Senator Scheible:

I think the answer can be found in NRS 202.500, which is the dangerous and vicious dogs statute in Nevada. A short answer to your question would be that they can still inquire about the size of the dog. That is still a valid consideration. The dispositive question is whether or not the dog is dangerous or vicious, so size could certainly play into danger, but NRS 202.500 gives both parties—which in this case would be a person who owns a pet and an underwriter company or insurance underwriter—opportunities to go through a series of factors that weigh the animal's dangerousness. For example, a very large, very young, and very active dog might also be different from a very large, very old and feeble dog that is not capable of inflicting the same kind of harm. I hope that answers your question. Size could be included, but the purpose of the bill is to direct people to NRS 202.500, which outlines the specific behaviors, qualities, and indicators of aggression and dangerousness or viciousness of dogs.

Susan Riggs:

Can I add a little bit of context? Existing Nevada law actually does prohibit insurance companies from utilizing underwriting standards that are arbitrary and capricious. There is no prohibition in S.B. 103 (R1) from asking about that, but they would need to establish that there is a relationship between the size of the dog and the propensity to bite. That is exactly at the heart of why we brought S.B. 103 (R1) forward.

Some of you may have received emails from folks asserting certain dangers associated with certain breeds of dogs. What often happens, as I alluded to in my remarks, is a lot of times there is unsupervised interactions with children who end up putting their faces in proximity to a dog's mouth, and the dog feels uncomfortable and threatened, and there is a dog bite in the face. That is regardless of whether it is a Chihuahua or a Great Dane. The damage is very similar because it is a bite to a child's face that they have to live with for their lifetime.

To the extent that there can be justification and data that substantiates the need to underwrite based upon size, they can do that, but there is that prohibition under existing Nevada law.

Assemblywoman Duran:

What are some of the circumstances where an insurer would be allowed to cancel your policy? Is it just the dog portion, or it is your entire policy?

Senator Scheible:

If I am understanding your question correctly, it is what the current practice is that we are trying to stop. I am not sure this is what you meant to do, but you bring up another

interesting point, where individuals who are not disclosing animals or are not giving accurate information to insurance companies about the types of dogs that are on their property are able to renew their insurance policies, which are generally homeowners insurance policies or renters policies that cover your basic property and casualty insurance. That is what most of us walk around carrying. And then people who honestly tell their insurers, "Well, I got an Akita this year," will suddenly see that their policy has been cancelled. That insurer will refuse to renew the policy, or they will refuse to renew that particular policy and say, "You have to buy this more expensive policy if you are going to have an Akita in this house that we previously insured at this other rate."

Assemblywoman Duran:

Would they tell you, or would they just cancel your policy and say you have to purchase a higher rate if you have an Akita?

Senator Scheible:

It would generally happen during the renewal phase that the policy would be cancelled. That would be a different provision of NRS, which I am also learning about as a new member of the Commerce and Labor Committee on the Senate side, and what information the insurance companies are required to share with you. It would generally be during the renewal portion or when you first go to buy the policy that they would get information about an animal on the property and make a decision based solely on the breed.

Assemblywoman Kasama:

I have had dogs my whole life, and when I was younger, I had a Labrador that must have been a cousin to Assemblyman Frierson's Lab because it wanted to kill every dog it ever saw, which is unusual for Labs. I am looking at the chart presented by the insurance company. It talks about the "15 Year U.S. Dog Bite Fatality Chart - 2005 to 2019." I understand what the testimony has been about, that perhaps there is no scientific evidence as to why one dog is more vicious than another, but it shows here in the fatality chart that there is an overwhelming percentage for certain breeds. How does that all work? Insurance companies use risk analysis for their pricing. It seems to me like that is just a fact of what they are dealing with. How do you work with the insurance company when they are trying to—insurance is risk-based pricing. How does this fit into This seems to me that this is factual.

Senator Scheible:

I wish I could make a determination as to whether or not it was factual. What I asked APCIA for was the data they utilized to input to their actuarial calculations. As you said, insurance is a risk-based cost assessment. You have to be using some kind of number. I asked them, Do you utilize this number? They said no. That is from Dogbites.org. I do not know where this number comes from.

If you hear frustration in my voice it is because I am frustrated. I am willing to engage in a robust conversation with the insurance industry about the data they are utilizing. I am open to learning new facts and adjusting the bill and even adjusting my position. What we have

not been presented with are, "Okay, here are statistics from a reputable source. We utilize this statistic to calculate this risk." They can do that with other things. They can provide us with information for car insurance. We can look at the Nevada Transportation Authority, Department of Business and Industry's numbers on accidents of certain types of features or without certain features. We can look at the number of homeowners claims that come from a roof made of a certain material. We can talk to the fire department about roofs that tend to catch on fire or do not catch on fire. In this case, we are missing that data from an objective source that says that any one breed of dog is more vicious, more likely to bite, or more likely to cause a serious fight. I agree, I am looking at the chart too. The numbers are there, but the citation is not.

Susan Riggs:

Can I add some context? Again, the citation is missing, so we really do not know where the data is coming from, but I can tell you that, based upon experience, the data that has been utilized in private correspondence has not utilized any scientific methodology for identifying what the actual breed is. It is based upon a visual identification. I would encourage any of you to go to the letter I submitted [[Exhibit J](#)], or Google dog breed identification quizzes. You will find that visual identification of dog breeds is a joke. To the extent that this data is being derived—which generally it has been in my experience—by visual identification, calling a dog a pit bull is not necessarily at all a pit bull. You will find that is the case time and time again. There have been many scientific studies that support the fact that visual identification is a very inaccurate way to proceed in making policy. That is why so many states and jurisdictions now preclude that and just rely upon the behavior of the particular individual dog.

Chair Jauregui:

I need to keep the record clear. I am looking at one of the exhibits provided with the chart that shows the number of bites per breed [[Exhibit H](#)], and it does have a citation on it. You said there was not a citation.

Senator Scheible:

Is this the exhibit dated Wednesday, April 21, 2021 [[Exhibit H](#)]? This is new. I do see what you are referring to. Can I clarify?

Chair Jauregui:

Yes, Senator Scheible.

Senator Scheible:

I am looking at a letter dated today, Wednesday, April 21, 2021 [[Exhibit H](#)] from APCIA, and indeed, they have cited to a study from the mid-1990s from the CDC [Centers for Disease Control and Prevention]. They provided a link to that. I see that the chart they put in their letter is also available at that link. This is the first time I have seen the link. Perhaps it does indeed come from the CDC, which is a better source than Dogbites.org. I will certainly be digging into this after the hearing.

Chair Jauregui:

Thank you, Senator Scheible. I believe we do have a couple more questions for you.

Assemblywoman Considine:

The bill itself does not prohibit an insurance company from asking an owner of an animal their history—if they have been repeatedly sued for dog bites to determine whether or not that owner needs a higher level of insurance. As a lifelong dog and animal owner and rescue owner, I know the reflection is more about the owner than it is the dog. I want to make sure an insurance company has the ability to ask questions about the owner's responsibilities.

Senator Scheible:

Except as otherwise prohibited by law—including other forms of discrimination that are not allowed in insurance underwriting—yes, they can absolutely ask the animal owner or the person seeking the insurance policy about their own history of claims or other allowable questions that would point towards whether or not it is some quality of the owner that causes the concern and increases the risk.

Assemblywoman Tolles:

As I summarize what this bill is doing, we are essentially moving from blanket prohibitions against a breed to behavior. I appreciate your referencing NRS 202.500 because I do read here that you actually have it written in under section 1, subsection 2, that the insurance company can ask about the basis of a particular dog. That is the piece of asking about past behavior according to NRS 202.500. I am looking at NRS 202.500 and cross-referencing it with the bill in section 1, subsection 3, which says, "An insurer may not ask or inquire" Back to section 1, subsection 2, they can ask based on whether or not the dog is known to be dangerous or vicious. That puts it on the owner to answer honestly. We cannot ask, "How many dogs do you have, and what breeds are there?" But we can ask if they meet that criteria in statute of being considered vicious and dangerous.

Is there any kind of penalty for that owner not being honest in disclosing if they do not meet that definition? Is it meant to be understood that they would explain, knowing that your average owner may not know NRS 202.500, that it would be a specific question such as, Have they been involved in an incident on two separate occasions over the last 18 months, et cetera?

Senator Scheible:

I think this is another issue that would fall under more general insurance provisions regarding answering questions truthfully with your insurance provider. This bill in particular does not create a special sanction or special penalty for answering a question about a dog owned or harbored on the property inaccurately or untruthfully. Just like any other question, if there is intentional fraud or deceit, that could have criminal liability and could certainly have civil liability with the insurance company.

Something else I think is important to point out is that NRS 202.500 could, and would, be utilized by the person who owns the dog, but it also gives the opportunity for an insurance company or another third party to utilize the same criteria in developing their own position. A way we might see that play out is if there is a particular animal with a particular problem, and the insurance company wants to raise somebody's rates, that insurance company could conduct an investigation. That sounds very formal, but if they pull the information from the two court cases or the one police report that shows the dog meets these requirements, then that is sufficient, and you do not need a "certificate of viciousness." You just need to meet the elements set forth in NRS 202.500. I hope that answers your question.

Assemblywoman Tolles:

You answered my question that at least in this legislation, we do not have any kind of penalty attached for the owner not being honest, but that might be found somewhere else. I can follow up with the insurance industry on that. Reading this—and particularly the words "cancelling or refusing to renew" stood out to me—there is nothing in this legislation that says if there were a couple of incidents where we found that a particular dog was found to be vicious or dangerous, it would prevent the insurance company from cancelling.

Senator Scheible:

Absolutely. There is nothing that precludes them from cancelling or refusing to renew in the case that the particular dog is shown or known to be vicious or dangerous.

Chair Jauregui:

I know the insurance companies can ask those qualifying questions. They cannot ask about breed, but they can ask, "Does your dog have a record? Has your dog previously bitten anyone before? Does the county have any records of your dog acting dangerously?" If the owner or renter says no, and that person knows that, indeed, their dog has had a past record of vicious behavior and an act takes place on their property, what would happen if somebody filed an insurance claim and used their liability insurance? At that point, if the homeowner falsely indicated to his or her insurance company that there was no past behavior that would indicate the dog was vicious, but we now know there was, where is the protection for the insurance company?

Senator Scheible:

I think that is the kind of case where an insurance company would be able to deny the claim, and it would go through the normal legal process that any insurance provider and insured person goes through whenever a claim is denied based on inaccurate, false, or fraudulent information. I will just compare it to car insurance again. If I get car insurance by stating that I have never been involved in an accident, and then I am involved in an accident, and I try to get my insurance to cover it, that might provoke them to do more research than when they first provided my insurance. If they discover that I was involved in a car accident six years ago and there was a judgment against me, but I did not report it to them when I first got my car insurance, I think they very likely would refuse to cover the accident I am asking them to cover at this time. They would likely win in court because I did not disclose the

earlier accident, even though they asked me about it. It is not a perfect comparison, but I think those structures of the law are already in place to protect insurance companies from that kind of fraud.

Chair Jauregui:

Are there any other questions? [There were none.] I will move to testimony in support. I know I have Ms. Riggs on Zoom, but is Mr. Dixon on Zoom for testimony in support?

Senator Scheible:

Yes.

Chair Jauregui:

Mr. Dixon, are you there? [There was no response.] I will go to others in support, and then we will come back to Mr. Dixon. Is there anyone else wishing to testify in support of S.B. 103 (R1)?

Andrew LePeilbet, representing Military Order of the Purple Heart; Disabled American Veterans; and Chairman, United Veterans Legislative Council:

You are probably wondering why we are interested in this bill. Many of our veterans, both young and old, have service dogs and some service dogs in training. They encompass all breeds, including some of those highlighted in the reports today [[Exhibit H](#)]. All dogs can be friendly, safe, and good to be around. I agree with a lot of the testimony that sometimes it is the owners who make the dogs the way they are. We are in support of S.B. 103 (R1). All of the veterans in our state need this bill to pass.

Elizabeth Day, Executive Assistant, Heaven Can Wait Animal Society, Las Vegas, Nevada:

I am providing testimony in support of S.B. 103 (R1). For the past 20 years, Heaven Can Wait has worked towards ending euthanasia in our community through providing life-saving spay and neuter services, as well as high-impact adoption and foster programming, focusing on animals that may be considered higher risk in the euthanasia and typical shelter environment. Unfortunately, we have found that dogs viewed to be those breeds that are more likely to be found in the shelter environments are more likely to come through our adoption program. Our top priority when facilitating adoptions is to make sure that dogs who graduate from our program find families who are the right fit for them. Although these dogs may have special needs or medical requirements, this does not mean that they are any less deserving of a loving home.

We also believe that prospective adopters' rights to animal companionship and their ability to look out for and care for the pets and should not be viewed as dependent on the housing situation. There is nothing more discouraging in our line of work than to find a loving and caring home for a dog only to find the home is unsuitable because of outdated and unfounded beliefs about the behaviors of certain breeds. In our larger effort to provide equitable access to resources, we believe that banning insurance breed restrictions will allow us to better serve

our community and keep the aforementioned animals out of shelters. We can continue the work serving those who need it most without barriers that disproportionately affect the disenfranchised communities that we serve.

Rebecca Goff, Executive Director, Nevada Humane Society:

I am speaking in support of S.B. 103 (R1) on behalf of the Nevada Humane Society, which is our state's only open-admission, no-kill shelter. Breed discrimination issues often put people in the impossible position of having to choose between housing and keeping their pet, and result in the likelihood that these dogs will be surrendered to a shelter like ours. Once in the shelter, those same dogs are harder to adopt out for the same reason: breed discrimination issues. Breeds are a guess at best, and there is simply no scientific data to support that any breed is inherently more dangerous than another. We support this bill because we believe that by removing this barrier to property insurance acceptability, it will help keep families and pets together. We thank the sponsor of this bill for bringing this important issue to light, and we strongly urge you to support S.B. 103 (R1).

Jill Vacchina Dobbs, Executive Director, SPCA of Northern Nevada:

[Read from written testimony, [Exhibit K](#).] As you have just heard from others, determining a dog's proclivity to bite based on a dog's breed type or appearance alone does not keep people safe, nor does it lower an insurance company's exposure. Dangerous dog statutes and leash laws, which we already have, do. But breed discrimination does tear loving families apart, resulting in good dogs being surrendered into our sheltering system. It clearly harms dogs and Nevadans who love them. These good dogs then sit in kennels for longer periods of time because breed discrimination reduces the availability of loving homes. There is nothing sadder and more frustrating than finding a loving home for a dog who already has a loving home. It is a depressing waste of time, energy, and very limited resources in animal welfare.

Here is a real-life example from dozens of examples that happen in our adoption center each and every year. A broken man comes in with his two young daughters. He is shut down and defeated, and his daughters are sobbing, soaking the fur of their beloved rescue, mixed-breed dog, who is licking their tears away, which only makes their crying worse. This dog has been by the man's side as his life has taken a turn for the worse. He has lost his job, his wife died two years earlier, and the dog who comforted him and his young daughters through life's tragedies now also has to leave them because the only affordable apartment he can find does not allow pit bulls. His well-trained, sweet, friendly dog has a blocky head, and the landlord said they cannot allow him because their insurance will not cover pit bulls. Is it a pit bull? Maybe, maybe not. Regardless, this dog is not a safety risk. He is a loving family member.

However, it does not matter because this man is now forced to surrender him, and he feels like a failure and the worst dad in the world. Please pass this bill and help keep Nevada's families together.

Additionally, breed discrimination also reeks of housing discrimination based on race and socioeconomic factors.

Chair Jauregui:

Thank you, Ms. Dobbs. We appreciate your testimony [[Exhibit K](#)], but we do have to move on to the next caller. If you do have your testimony in writing, I would appreciate it if you could send it to our committee manager so she can include it in the meeting record.

Kayleigh Dearstyne, Private Citizen, Reno, Nevada:

I am calling in support of S.B. 103 (R1). Breed-specific or weight discrimination can affect responsible owners who are simply looking to home some of the many misunderstood dog breeds. Such discrimination can lead to a difficult decision such as giving up the dog or potentially going homeless. The dogs that are affected are simply wonderful family dogs who score higher on temperament than many other favorite breeds. Additionally, government organizations such as the CDC and nonprofit organizations such as ASPCA have conducted studies that conclude that specific breed discrimination is ineffective. Furthermore, it also does not address the real underlying issue of irresponsible pet ownership. The key components of preventing dog bites or aggressive behavior are appropriate socialization and training with other dogs and people, neutering, and proper education for pet owners and other community members. As somebody who teaches and works with kids frequently at our camps, when people walk past with dogs, many kids want to go pet the dogs, but we make sure to tell our campers that it is important to always ask the owners first and do not overcrowd the dog. This is not always common knowledge or frequently taught. [Unintelligible] I urge you to pass this bill for the sake of those responsible owners and dogs everywhere.

[[Exhibit L](#) is a letter in support that was submitted but not discussed and will become part of the record.]

Chair Jauregui:

Is there anyone else in support? [There was no one.] I would now like to come back to testimony in support from Mr. Dixon.

Jeff Dixon, Nevada State Director, Humane Society of the United States:

We are in support of S.B. 103 (R1). Breed discrimination in housing is one of the obstacles of keeping pets with their people and people who want a pet. It creates more surrenders. By reducing the available homes for shelter animals, it keeps them in the shelter system for longer, which in turn uses space and resources that could otherwise be used for other animals and needs, including from our state's rural areas.

The path to breed-neutral housing in Nevada starts with S.B. 103 (R1). It is not easy for consumers to choose their insurance firm. We have a high share of people who do not own their homes and a high share of homeowners who live in HOAs [homeowners' associations]. Landlords and HOAs have their own insurance policies, leaving individuals and families to the dictates of the insurance policies they did not choose.

We support breed neutrality because there is no reliable evidence, as others have pointed out, showing a predictive relationship between genetics and bite propensity. Given that lack of evidence, what explains breed discriminatory policies? For one, it is obvious that most of these dogs listed tend to be relatively large or powerful, and they can be effective for certain activities that require aggression when they are conditioned and trained from a very young age. These include military and police dogs, guard dogs, and sadly, fighting dogs, but they have been conditioned and trained for those activities.

Nightly news does its part. We know it is a medium that is great at exaggerating or manufacturing the illusion of a threat associated with certain activities, places, animals, or classes of people. They know reliable ratings can be obtained from a dog bite story involving a stigmatized breed such as a pit bull-type dog, a breed which, in turn, is associated with stigmatized people. Most dog bites are not even reported on, but they contribute to the public's perception, but they do not add them to the data, which is part of why researchers in institutions such as the CDC say they cannot find a relationship between breed and risk. All these point to the impact that breed discrimination has on people.

There is an exhibit I submitted [to the Senate] that talks about breed discrimination questionnaire responses where I asked Nevadans to share their experiences with breed discrimination housing. You will find arbitrary details in there. Further, breed neutrality reduces housing insecurity for people and pets by not imposing the cruel choice of people between their pet and the best housing choice they have, and it affirms our support for the human/animal bond, which many of us here already enjoy.

Insurance firms have the opportunity to show their work and convince the Division of Insurance within the Department of Business and Industry, that there is a relationship between bite propensity and breed, but absent that evidence, we need to be a state that opposes breed discrimination and honors the lives of animals and the strong bonds we created with them.

Chair Jauregui:

At this time, we will move to testimony in opposition. Is there anyone wishing to testify in opposition to S.B. 103 (R1)?

Mark Sektnan, Vice President, American Property Casualty Insurance Association:

[Submitted a letter in opposition, [Exhibit H](#).] The APCIA [American Property Casualty Insurance Association] opposes all legislative restrictions on underwriting tools that help insurers determine risk. The APCIA also opposes legislative or regulatory efforts that would require insurers to wait for potentially devastating personal injury loss before being able to decide whether to provide, or continue to provide, coverage. The APCIA understands the concerns of those who advocate for restrictions on underwriting based on dog ownership. Some people believe that insurers should avoid the assumption that a dog may be vicious merely because of breed, and they want to ensure coverage is available for those who may pay for this fairly significant liability claim. There is no evidence that dog owners are consistently unable to obtain homeowners insurance. The problem is that now there are

companies that will cover these types of dogs. Consumers should always shop around for the policy that best meets their needs. Maybe a better solution is to have the Division of Insurance put together a list of companies that cover these types of dogs and post it on the Division's website. We offered these suggestions in the Senate, but they did not accept them.

In the 1990s, the CDC conducted the only neutral study of the relationship between the breed of dog and fatalities. The study found conclusive evidence that a small number of breeds are involved in the majority of the cases. Data collected by the insurance industry, which has been shared with the sponsor previously, also highlights the impact of dog bites. According to the Insurance Information Institute, insurance companies paid more than \$850 million for dog bite injury claims in 2020. The data also showed the average amount paid on these claims was over \$50,000. Dog bite cases make up 25 percent of the cost of claims paid under the liability portion of a homeowner's policy. Insurance companies must be able to properly underwrite and rate risk. A choice to have a dog is a voluntary one. If an insurer is forced to insure those homeowners with an increased chance of loss, whether it is a poorly maintained woodburning stove, a leaky roof, pool slide, or an aggressive dog, everyone, including policyholders who maintain their property or do not have specific dog breeds, will have to pay more to accommodate those with controllable exposure. Nevada has a competitive marketplace with rates regulated by the Division of Insurance, and we recommend people shop around for the policy that best meets their needs. I will answer any questions you may have.

Chair Jauregui:

Are there any questions for Mr. Sektnan?

Assemblywoman Tolles:

I am sure you heard my question earlier to the sponsor. Perhaps you are the right one to ask this. If this law were to be put in place and you were to ask the owner of the pet if they had those incidents of violence that would cause that pet to be declared vicious or dangerous under our current statute, is there a penalty if they did not disclose or were dishonest in answering that question?

Mark Sektnan:

I am not an attorney that practices coverage law in Nevada, but I would assume that the omission could be treated under the fraud statutes, which exist in every state including Nevada. However, fraud can be very difficult to prove and be very time-consuming and costly.

Chair Jauregui:

Assemblywoman Tolles, maybe we could have our committee counsel look into that. I will go to Mr. Quast. It looks like he has an answer for us now.

Sam Quast, Committee Counsel:

In NRS 686A.290, it prohibits an applicant or other person from "knowingly or willfully make[ing] any false or fraudulent statement or representation in or with reference to any application for insurance." The penalty for that is a category D felony.

Assemblywoman Tolles:

You cited some statistics of the cost, and I am certainly sensitive to that for the insurers, but do you have any evidence that you can speak to that shows if, for example the 25 percent liability portion of homeowners policies that you said have to deal with dog bites—do you have any further evidence to show us whether or not those dogs were involved with prior incidents, and if that might have helped be a determinate as to whether or not you should have accepted or rejected that particular insured individual?

Mark Sektnan:

I am not sure the data has been broken down in that manner, but I can certainly check with folks who collected it to see if that is in fact the way it has been done.

Chair Jauregui:

Is there anyone else in opposition? [There was no one.] Is there anyone wishing to testify in neutral? [There was no one.] Senator Scheible, would you like to give any closing remarks?

Senator Scheible:

I appreciate everybody's taking a close look at this bill. I want to let you know that I am always available to discuss the bill in further detail or answer any further questions. I would also like to note that there is an exhibit available on the Nevada Electronic Legislative Information System that was uploaded in the Senate Commerce and Labor Committee on Monday, March 8, 2021, from the National Canine Research Council Action Fund that kind of goes through the opposition's concerns one by one and addresses them. I encourage you to look at that. As always, I remain available to you to discuss the bill in further detail.

Chair Jauregui:

I will now close the hearing on S.B. 103 (R1). Public comment is our last item on the agenda. Is there anyone wishing to give public comment? [There was no one.] We will have an agenda on Friday. Be on the lookout for the meeting time, as it will not be at our regularly scheduled 1:30 p.m. time.

We are adjourned [at 3:17 p.m.].

RESPECTFULLY SUBMITTED:

Julie Axelson
Committee Secretary

APPROVED BY:

Assemblywoman Sandra Jauregui, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is written testimony submitted by Kevin L. Ingram, Executive Director, Private Investigators Licensing Board, regarding Senate Bill 35.

[Exhibit D](#) is a document titled "The 'Strawman' in the Process of Review and Evaluation of Controlled Substance Complaints," submitted by Ryan Briggs, Private Citizen, Henderson, Nevada, regarding Senate Bill 90.

[Exhibit E](#) is written testimony submitted and presented by Dallin Hilton, Private Citizen, Henderson, Nevada, in support of Senate Bill 90.

[Exhibit F](#) is written testimony submitted and presented by Ryan Briggs, Private Citizen, Henderson, Nevada, in support of Senate Bill 90.

[Exhibit G](#) is a document dated April 21, 2021, titled "Grounds for Initiating Disciplinary Action or Denying Licensure to Allopathic Physicians (M.D.s)," submitted by Keith Lee, representing State Board of Medical Examiners, regarding Senate Bill 90.

[Exhibit H](#) is a letter dated April 21, 2021, submitted by Mark Sektnan, Vice President, American Property Casualty Insurance Association, in opposition to Senate Bill 103 (1st Reprint).

[Exhibit I](#) is written testimony dated April 21, 2021, submitted and presented by Susan Riggs, Senior Director of State Legislation, Western Region, American Society for the Prevention of Cruelty to Animals, regarding Senate Bill 103 (1st Reprint).

[Exhibit J](#) is a letter dated April 13, 2021, submitted by Susan Riggs, Senior Director of State Legislation, Western Region, American Society for the Prevention of Cruelty to Animals, in support of Senate Bill 103 (1st Reprint).

[Exhibit K](#) is written testimony dated April 21, 2021, submitted and presented by Jill Vacchina Dobbs, Executive Director, SPCA of Northern Nevada, in support of Senate Bill 103 (1st Reprint).

[Exhibit L](#) is a letter dated April 20, 2021, submitted by Francesca Ortiz, Private Citizen, Houston, Texas, in support of Senate Bill 103 (1st Reprint).