

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

**Eighty-First Session
May 13, 2021**

The Committee on Government Affairs was called to order by Chair Edgar Flores at 9:13 a.m. on Thursday, May 13, 2021, Online and in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/81st2021.

COMMITTEE MEMBERS PRESENT:

Assemblyman Edgar Flores, Chair
Assemblywoman Selena Torres, Vice Chair
Assemblywoman Natha C. Anderson
Assemblywoman Annie Black
Assemblywoman Tracy Brown-May
Assemblywoman Venicia Considine
Assemblywoman Jill Dickman
Assemblywoman Bea Duran
Assemblyman John Ellison
Assemblywoman Susie Martinez
Assemblyman Andy Matthews
Assemblyman Richard McArthur
Assemblywoman Clara Thomas

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Erin Sturdivant, Committee Counsel
Judith Bishop, Committee Manager
Zachary Khan, Committee Secretary
Cheryl Williams, Committee Assistant

Minutes ID: 1061



OTHERS PRESENT:

Joanna Jacob, Government Affairs Manager, Clark County
John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County
District Attorney's Office
A.J. Delap, Government Liaison, Office of Intergovernmental Services, Las Vegas
Metropolitan Police Department
Kelly Crompton, Government Affairs Manager, City of Las Vegas
Tom Dunn, District Vice President, Professional Fire Fighters of Nevada
Christi Cabrera, Policy and Advocacy Director, Nevada Conservation League
Vinson Guthreau, Deputy Director, Nevada Association of Counties
Jamie Rodriguez, Government Affairs Manager, Washoe County
Arielle Edwards, Government Affairs Specialist, City of North Las Vegas
Susan Fisher, representing Phantom Fireworks
Lisa Kremer, Director, Real Property Management, Clark County
Randy Tarr, Assistant County Manager, Clark County
Dan Musgrove, representing Southern Nevada Building Trades
Warren Hardy, representing Associated Builders and Contractors of Nevada
Brian Reeder, representing Nevada Contractors Association
Shelly Capurro, representing Gordian
David Cherry, Government Affairs Manager, City of Henderson
Alexis Motarex, Government Affairs Manager, Nevada Chapter, Association of
General Contractors
Richard "Skip" Daly, representing Laborers Union Local 169
Rob Benner, Secretary-Treasurer, Building & Construction Trades Council of
Northern Nevada
Danny Thompson, representing Operating Engineers Local 3
Mike West, representing International Union of Painters and Allied Trades
Shannon M. Chambers, Labor Commissioner, Office of Labor Commissioner,
Department of Business and Industry
Brian Rippet, President, Nevada State Education Association
Annemarie Grant, Private Citizen, Quincy, Massachusetts

Chair Flores:

We will be taking the agenda in the order it appears, Senate Bill 4 (1st Reprint) followed by Senate Bill 67 (1st Reprint). Also, we have some folks hoping to testify either in support, opposition, or neutral. We will be allocating 20 minutes for support, 20 for neutral, and 20 for opposition. What I mean by that is, should you testify in opposition and you take up 19 minutes and there are 45 people after you, it is what it is—I am not going to stop you. So, please make sure that you are talking to the bill sponsor and to those who are in opposition or neutral or support, whatever it may be, so you can coordinate and you are not taking everybody else's time. For those of you wishing to join us for public comment, we will be doing that at the very end of today's meeting. Members, I want to remind you, please make sure you are not logged in to Zoom; if you are in the committee room, you are in the committee room; if you are on Zoom, you are on Zoom.

For those of you who are joining us today and hoping to testify, please make sure you state your name for the record. The very first time you testify, please spell your name for the record. We have some very hard-working folks behind the scenes who are not necessarily watching the meeting, but they are listening to it; you help them when you spell your name for the record. So please do that and make sure you state your name for the record after each question. With that, we will open up today's meeting on Senate Bill 4 (1st Reprint).

Senate Bill 4 (1st Reprint): Revises provisions relating to the imposition of certain penalties by ordinance for certain violations relating to fireworks. (BDR 20-402)

Joanna Jacob, Government Affairs Manager, Clark County:

Good morning, Chair Flores, Vice Chair Torres, and members of the Committee. I am very happy to be here in person with everybody. I have appeared many times before this Committee on the phone, so I am very happy to be here presenting both of the bills that are here before you on the agenda from Clark County.

Chair Flores, as you directed, Senate Bill 4 (1st Reprint), very simply stated, is to address fireworks in Clark County. I have a PowerPoint presentation [[Exhibit C](#)] which I will try to navigate while I am also presenting the bill. I have a slide here about the constituent stories that we get [page 2]. This is the impetus for bringing the bill. These are quotes that we have received from our Clark County Commission staff, the people who have to answer the phones on behalf of our Clark County Commission. As you know, many of you who have served in public office know that often, people call your legislator or your local government representative when they want you to do something. This is really the impetus for the bill. We know that we have a big problem with illegal fireworks use in Clark County.

I had other slides, but I took out some of my pictures for copyright purposes. Those of you who live in southern Nevada, I know, are very aware of the fireworks that we have on and around the Fourth of July. This is one of the costs to the county [page 3]. July 3 to July 5, 2020, we had 43 fireworks fires. Those are incident reports that were attributed to fireworks that were discharged in neighborhoods and we sent crews out to. It was an average of 6.6 firefighters who went out on each incident. This is in addition to the work that they have to do every day. I will tell you, this is just the Clark County Fire Department. Fireworks are a regional problem in Las Vegas, so we have our municipal fire departments that are also similarly impacted. If you did not know about this, for residents of Clark County, we have set up something called ISpy [page 4]. We set this up for planning purposes. This is an alternative to calling 911 on the Fourth of July so you can log complaints of fireworks, and then we use the data to be able to plan our future response. We know from our ISpy dashboard that the complaints have increased—you can see I have provided a comparison between 2019 to 2020. We have received a 36 percent increase, so we had over 22,000 reports into the ISpy system last summer.

If you are interested, we can do this for you. You can pull, for southern Nevada residents, the report that comes from within your Assembly District. We can log it through municipality, that type of thing. We took the liberty of pulling the complaints from

the members who sit on the Assembly Government Affairs Committee [page 5]. Twenty-eight percent of our 22,000 complaints came from your districts in southern Nevada. We are happy to send you this website; this is something you can track going forward, something that we will continue to do.

Here are our Metro statistics [page 6]. The Las Vegas Metropolitan Police Department (Metro) is a key partner to the county and our cities in trying to enforce our fireworks ordinances. These are the 911 calls. We have included the call codes for fireworks calls that went into 911 and also those that reported an illegal shooting, because often fireworks might sound like gunfire. We know from calculating from the same range, July 3 to July 5, and we have provided several years of data here, that it is roughly 1-in-5 calls for Metro on or around the Fourth of July period. The "CAD Events" at the bottom, I have learned from my time now at the county, I learn something new every day, is when they actually have to send an officer out. This is actually when they do send an officer out in response to the call.

On air quality [page 7], Clark County has been tracking this because we do have a climate action plan, and this is a regional service that Clark County delivers. We know this is anecdotal, really. Fireworks affect air quality in the form of particulate matter. We know we see, with fireworks, finer particulate matter. You can see, on July 4 on the table at the bottom, the air quality in Clark County does tend to impact air quality around the Fourth of July. We know the Fourth of July is usually the worst day in Clark County in July for air quality.

Here is another impact on the county [page 8]. We have animal control. I have included some information from The Animal Foundation, which is a shelter that contracts with Clark County and with the cities. We know that fireworks—many of you might be pet owners—impact pet owners. We know we have animals that run away. This is something we track also for code enforcement. We know that this is an impact we see—runaway pets on and around the Fourth of July, every time.

This is what we do [page 9]. I have a flyer on the left that is called You Light It, We Write It. This is the outreach campaign that we do for Clark County. We partner with Metro and the cities every year. The planning is starting now for the forthcoming Fourth of July. You see the enforcement team below. How enforcement works is we use a combination of Metro officers, code enforcement, and our fire prevention officials who work together to respond on the Fourth of July.

I have noted here that the bill we are presenting to you today is enabling. That means if it were to pass, we would have to make an ordinance. The ordinance process does take quite a period of time. It is highly unlikely that we will be able to have this bill be in effect and have the ordinance pass before this Fourth of July, but we do anticipate that we would have to do a very significant outreach campaign about the impacts of these bills. We have the framework in place to do this because we have partnerships with the cities and Metro and the partners that work on this.

I put this here [page 10] because this is a question—what are the codes? What are Clark County codes? You can see that in Clark County we prohibit fireworks and, generally, what we permit are things that are called safe and sane fireworks. That means it does not go up in the air. Safe and sane fireworks are labeled safe and sane; they go through a testing process that is also underway right now with the fireworks manufacturers and with our fire prevention folks; and then they are labeled. We do provide an opportunity every Fourth of July for a period of time where you might see fireworks stands. It is a big fundraiser for nonprofits and that kind of thing. This is a legally permitted activity, and Senate Bill 4 (1st Reprint) will not impact the legally permitted activities and those activities which are permitted under the code in the amendment that we did on the Senate side. That was something that we clarified in the first reprint.

This is what we did [page 11, [Exhibit C](#)]. When it came out, the original bill was very broad. In our conversations in the Senate it originally proposed a \$50,000 maximum range for penalties. That was something we looked at; it is very similar to what the State Fire Marshal has in statute in *Nevada Revised Statutes* (NRS) Chapter 477, but in conversations in the Senate there was some discomfort with that fine level. So we reduced the fine, in working on this bill, to a \$10,000 maximum range. That was chosen because it aligns with the felony fine for destruction of property. This is a maximum; this is really what we are trying to do. The intent of this bill is to have a larger range of fines to deal with people who are bringing in large volumes of fireworks into our community. We did several clarifications to make this clear. Our intent was not to go after legally permitted activity or licensed activity. And then there was language that was added.

Section 2 of the bill requires us to consider, when we do our ordinance, setting mandatory factors, which are the number of prior violations. That means setting a fine for a first violation, second violation, third violation, again going back to the State Fire Marshal's regulations. *Nevada Revised Statutes* Chapter 477 authorizes a range up to \$50,000 but says that he has to tier it and he has to set tiers. So, we modeled that after existing NRS. We also added language that you have to consider the severity of the violation. We did look at other areas. This was a question I received.

I did get the opportunity to meet with many members of the Committee, Chair Flores, before this hearing today, on both bills. So I would like to thank those who took the time to meet with me before this. One of the questions that we received was, What do other states do? Or, are there other models? So I wanted to talk to you about what the Fire Marshal's law says, but also that our neighbor to the west, California, has a state law where they have fines set similar to what we want to do, which is a maximum range that then increases according to the volume of the fireworks that you are in possession of. So, if you have more than 100 pounds, for example, California fines can range up to \$5,000. If you have more than that, it can go up to \$10,000 or even higher, depending on the volume that you have.

I will note, in talking with our fire prevention folks who do this enforcement, they know that the California Highway Patrol usually does set up on the border of Nevada and California every Fourth of July, both in the north and the south, and once people cross over to the

California side with fireworks that have been obtained in Nevada, they will fill trailers full of illegal fireworks that are also not permitted in California. California really does regulate things either safe and sane, or many of the counties in California do permit fireworks outright. Because this bill impacts all counties, because it is not specific to Clark County, when we did a survey of the other counties, many counties just outright prohibit fireworks, except for Nye County, which you may be familiar with, which permits fireworks in a broader sense, and Clark County does permit safe and sane.

The only other thing I will note here, you will see this in the first reprint, also in section 2, is we exempted the imposition of civil and criminal penalties on minors. We do not ticket minors and we have not. When we looked back at the history, there was one time. This was a specific concern from the Senate committee, so it was something that we agreed to on the Senate side. That is the modification that we made.

This is my final slide [page 12]. I wanted to show you the statistics. You probably are exhausted with PowerPoint this late in the session, but I do want to point out that the language is enabling. I wanted to tell you what we are going to do next because there were some questions about how we are going to inform our community about higher fines and how we could involve the community in that discussion. This is our general process in Clark County. To do an ordinance we usually have a discussion with our Board of County Commissioners before we do an ordinance, and they can give us direction about how they would like us to proceed, research they would like in drafting the ordinance, that type of thing. Then there is a required business impact—that is a requirement under state law. We have to give notice to impacted industry, neighborhood associations, those types of things, when we are doing an ordinance, to allow them time to comment and provide input. That business impact statement must be considered prior to the drafting of the ordinance. It is usually considered as a separate agenda item by the board, and then we begin the process of doing an ordinance.

Assemblywoman Black is very familiar with this, having served on the city council, but you usually introduce the ordinance and allow time for comment. A subsequent meeting is when the ordinance would be adopted. We do have very robust public participation in our Clark County Commission meetings, and at least for the southern Nevada legislators, you have my commitment that if you would like me to provide you information about when we would consider this ordinance, I would be very happy to do so.

It is really about informing the community, and the intent of this is—we know that the fines we have today are not deterring the conduct. I know there are concerns, from the conversations that I have had, about first offenses and whether we are going to fine someone at a \$10,000 level when we are out in the community. I will say we are considering that as part of the ordinance, but that is not the intent. The intent is not to go after the kid who is setting off a firework with his friends in the back yard, with that fine level. This is really intended to give us some tools to go after the people who are bringing in truckloads and volume with the intent to redistribute—that is the intent. I want to say that very clearly and succinctly, because that is the challenge that we have seen.

I have the Clark County District Attorney's Office here; they can provide some additional context on some of those challenges if there are Committee questions, but that is our intent. I would also like to take the liberty of drawing your attention to some of the letters that were filed on the Senate side. The reason why this bubbled up to the forefront as a priority for Clark County is because we have a number of veterans in our community who contact our commission offices, who are suffering from post-traumatic stress disorder (PTSD) and this is a serious impact to them every Fourth of July. We also have survivors in our community of the Route 91 Harvest Festival; we were fortunate to have a relationship with many of those survivors at the county and we talked to them about this bill. One of the survivors did file a letter of support; her name is Terri Davis. I want you to know that letter is there if you would like to review her story about what it is like to be in Clark County on the Fourth of July when she is suffering the trauma that is associated with that event. We also have a letter from Councilman Richard Cherchio from the City of North Las Vegas. This is a very passionate issue for him as well on its impact on veterans in his community and his district. I want to make sure that you saw that, Mr. Chair, because I did not refile those in connection with this hearing, but they are in the Nevada Electronic Legislative Information System record on the Senate side [Senate Committee on Government Affairs, March 3, 2021].

I may get questions on this, so I will tell you that most of the changes that I discussed were in section 2 of the bill. Section 1 was something that was added as a clean-up. This is a notice for members of the Government Affairs Committee. Counties, in order to get express authority to do a fine, have to ask for that authority from the Legislature, and where there is a specific fine authorized, that should be succinct. But there is a section of NRS Chapter 244 governing counties which limits the penalties to \$1,000, and that is our limit on penalties. If we do need to assess a higher penalty, it is an exception to that rule, and we wanted to make that clear in the bill. That is the change in section 1.

That concludes my presentation and overview, and I am happy to answer Committee questions.

Chair Flores:

Members, any questions? I have a few folks who messaged me; we will go in the order I got them.

Assemblywoman Martinez:

Thank you so much for bringing this bill. The only thing that bothers me about your bill is that I did not think of it first. It is very important for us to get this message out. As we noticed on the slide, there were 972 complaints in my district. It is like a war zone on that day. It is coming to a point where the Fourth of July is no longer enjoyable—at least not for me and my family. I have to sedate my dog; I think about the veterans in my neighborhood who also have those issues; I actually lost a little Chihuahua one year. It was the day after the Fourth of July because the kids continue with the big, big fireworks. I went to the dog pound to look for my dog and that is when I was informed, by your slide as well, that we lose so many pets because of the fireworks.

You did answer my question because I did want you to elaborate a little more about the veterans and what they have to deal with, with these fireworks, and what they have to go through, and how important it is that we dampen down on this to help the community as a whole.

Joanna Jacob:

Assemblywoman Martinez, thank you for your comments. Our commissioners do a lot of work with our veterans' groups. I excerpted some of the comments from commission offices. We do have our commissioner staff who work very closely with the veterans' groups, and we do get calls every Fourth of July. This is a year-round problem. You probably know this as well. We have highlighted the Fourth of July because it tends to be the busiest, but we know there are other times when this does impact our communities, from talking about the impacts with the veterans. It is the fact that it could come at any time, and you cannot escape it. We have had anecdotal stories that people leave town and feel like they have to leave their homes to go elsewhere. I know that Councilman Cherchio also highlighted this. It is one of the reasons why we brought this bill. Assemblywoman Martinez, I would be happy to work with you on awareness in your district, because the goal is always to make sure that people know what the rules are and the types of fireworks that are permitted. That is what the ultimate goal is.

Assemblywoman Martinez:

We do not want to take the holiday away from anybody. The Fourth of July is so amazing, right? We are celebrating America. But it also has to be constrained. The safe and sane, I am all for it, the schools getting the money for the fireworks. But these fireworks that are several hundred dollars, they even make my windows shake. As I said, it is starting to come to the point where it is no longer enjoyable, and that is not what it is supposed to be. Everybody is supposed to enjoy that wonderful holiday.

Assemblywoman Thomas:

Thank you for presenting this bill—I like it. I live in North Las Vegas, which is Councilman Cherchio's district, and just seeing the numbers in District No. 17, which is 926—that is a lot of complaints, and that is probably the tip of the iceberg there, those numbers.

You touched on it when you said you did not get all the numbers, because if memory serves me correctly, when the pandemic started back in March, there were fireworks from March through July. I know that the complaints have to be higher than we are showing. Again, ditto to Assemblywoman Martinez. I thank you for bringing this forward.

Joanna Jacob:

Thank you, Assemblywoman Thomas. I will note that we do keep this ISpy tool running, so of course this is a tool available to you, and we can definitely follow up and make sure you have that information. Thank you for those comments.

Assemblywoman Brown-May:

I am another ditto. Thank you for taking the time to meet with me the other day. I apologize; the question I am going to ask you today I did not ask you in my office; it did not occur to me then. First, I want to follow up on that ditto. People with autism often experience adverse reactions relative to fireworks and that sudden explosion, besides my beloved dogs who also have a problem, and we have a lot of folks with post-traumatic stress disorder. So, the environmental conditions that fireworks create can be concerning to many, many people in our community. I want to acknowledge that first and foremost.

Secondarily, as a lawmaker, as part of this legislative body, one of the things that we are always very concerned about is fairness and appropriateness in fining. I know you talked a little bit about not fining a child, but one of the things that we have been working on throughout the course of this session, in particular, is an appropriateness between a criminal citation and a civil citation. So, how do we make sure we are not criminalizing citations for fireworks, where they really should be civil citations, and that we are appropriately targeting the people who are bringing in larger quantities as opposed to the neighborhood families that could never afford to pay a fine of \$10,000? How do we get at the root of that? I am curious to know if you could talk a little about that and how the county proposes to handle that.

Joanna Jacob:

This is something that I envision we will do in our ordinance process because this is enabling language, and this is something we have worked our way through the legislative process. It is very clear from the legislative record that this is a concern and that we have been trying to establish our intent where we can. When we draft an ordinance, and we are already working on this, we look at the community factors, we look at the proportionality of the cost to the county, et cetera. That was one of the questions we got in the Senate. This is something that really drove us to add the language requiring us to look at the mandatory factors about the severity of the violation. For example, I can tell you from having looked at the State Fire Marshal's regulations, if you have a large volume of fireworks, he has a variety of tiers because that is what the law says: you shall tier your fines. For an unlicensed display of fireworks, for example, the minimum fine there is \$10,000; in conversations with him, he has told me that is an inherently dangerous activity. But if we are talking about a small group or any of these things like one discharge, that would be something we could consider in the tiers. We have looked at models which determine fines on the level of possession, like how many pounds you have in your possession. That is really our intent. So if we have a neighborhood gathering as you said—if they are bringing in three truckloads of fireworks—that would be the concern. They may fall in with the people who are bringing in a large volume into our community. But if there is a smaller volume, then that is the intent.

Our Board of County Commissioners, when we talked about this bill, the intent is to go after the larger volumes. I can tell you absolutely that when they gave me direction to pursue this bill, that was the direction from the Board. That is why we put in that language. If you have further suggestions on how to make it narrower, we would be happy to discuss that. Why I want to give flexibility is because I really believe in the ordinance process, because we can go in and we can adjust according to our community input what the appropriateness of the

fine is. The county can define—and it is under ordinance—that there are misdemeanor violations. We can charge misdemeanors depending on the conduct and that is something that the county can do, of course. We cannot define a felony—that is the Legislature's job. When we look at the proportionality of it, I really envision that going into the tiers of offenses that we will set by our ordinance. I am happy to talk to you afterwards if you have any other suggestions.

Assemblywoman Brown-May:

I appreciate the detail relative to that. It would be important to note that the concern would probably be that we are appropriately addressing a civil citation versus a criminal citation, and I appreciate the thought that has gone into this process.

Chair Flores:

Members, any additional questions?

Assemblyman Ellison:

Is this a state bill or a Clark County bill? It does not have a population cap; it just says Clark County. I do have a couple of questions. The problem is people's access to these fireworks, like the Walmarts, the Kmarts, the smoke shops—these kinds of places that are selling them in large bundles. And then they go out and fire them off. I am a major supporter of Independence Day. My wife and I and our family go out for months trying to put the Fourth of July together in Elko. But you can see the little fires caused by them, the problems, and I agree with you. But to get to the meat of this, you have to go to who is supplying the product. The smoke shops on Indian reservations are some of the worst. I do not know if you are going to try to handle it on that side. That is an issue out there.

The other thing is how many people get burned. You have not discussed that. How many people actually get hurt firing them off? Another thing is I hope you do not take away from the kids the poppers and sparklers and stuff like this, because that is important to these little guys. They are not shooting something in the air that is going to land on a roof. I am hoping you will not put that into the list.

Joanna Jacob:

Assemblyman Ellison, thank you for those concerns. I can address the four things that you asked me: Yes, it is a statewide bill. This is not population capped. This is authority that would be given to all counties. Fireworks are regulated at the local level in the NRS; it is in NRS Chapter 244, which is the general power of counties. Each county can make its own rules. This is something that we discussed on the Senate side. Fireworks stores in Nye County did originally oppose our first bill, and we worked with them and understand that it is important to have that local authority because they are the most responsive to what their community wants. So, this is a statewide bill. If another county wanted to look at this, it would have to go through the same process and go through the same ordinance process. It is authorizing and enabling for all counties.

As to your point about the Fourth of July and sparklers, anything that does not go up in the air—these sparklers and things that kids do on the Fourth of July—those are likely to be safe and sane. When we have a distinction between dangerous fireworks in our code, though, I will tell you the Fire Marshal hates that distinction because he thinks everything that lights on fire is dangerous. But when we have sparklers and those things that tend to be the poppers, things that do not go up in the air and explode, those would not be touched by this bill. Those are likely to be safe and sane. That is something that is regulated by the county. They decide whether they will permit those or not.

The point about the Native American smoke shops and things did come up on the Senate side. Unfortunately, we do not have authority and we cannot regulate them. We do try to do outreach and work with the smoke shops and things that are in Clark County to try to bring awareness. They do partner with us, and they are part of the working group around awareness of what is permitted in Clark County. They are a stakeholder.

I think I hit all of your points, but I will make a point about the Fourth of July. I also enjoy the Fourth of July. I think we all do, and we enjoy fireworks. This is not intended to get rid of fireworks or to wreck anybody's Fourth of July. We have displays of fireworks that we can all enjoy in the community that are usually discharged by people who are properly trained who have a fire plan on-site and know what to do if something happens that endangers the community. These types of fireworks shows and displays are ones we can continue to enjoy; they are licensed and permitted, and this bill will not touch that activity or hurt that activity in the community. I think that was all your questions, sir, but if you have anything further, please let me know.

Chair Flores:

Members, any additional questions? Seeing none, at this time we will go to those wishing to testify in support of Senate Bill 4 (1st Reprint). We will start off with those who are here in the committee room. Good morning and welcome.

John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County District Attorney's Office:

Thank you, Chair Flores and members of the Assembly Government Affairs Committee. It is my first time appearing in person in this Committee, and I am glad to be here this morning.

From our perspective, the goal of Senate Bill 4 (1st Reprint) is to go after the large-scale users, sellers, and distributors of illegal fireworks in Clark County. Currently, the piecemeal nature of our misdemeanor statutes with respect to fireworks and the low civil fines that we have in statute are making it difficult to go after those individuals. Right now, we have the county ordinance, and we also have a state statute that makes it a violation to store hazardous materials that are not permitted by the Fire Marshal. Those are the two big statutes we have with respect to fireworks right now, and they are just not enough for us to go after these large-scale sellers, distributors, and users. Many times, we have people who are storing

these fireworks; they are out-of-state owners, or they are owners of a company which is storing these. The misdemeanor statutes really do not provide us enough leverage to go after them with respect to this type of activity.

When we have a misdemeanor-type crime, we have a few issues with respect to proving the case beyond a reasonable doubt. One is the storage. All of our fireworks statutes require that the fireworks be destroyed. When you are looking at proving a case beyond a reasonable doubt, oftentimes you will need the firework to show to the judge that it was, in fact, an illegal firework. Now we can take pictures and the like, but again, our burden is as high as it can be with a criminal trial, beyond a reasonable doubt. So, sometimes we need more than pictures. Potentially, we could also have testing issues showing, through expert testimony or the like, that the firework was in fact illegal. Finally, even if we were to keep the firework in impound with law enforcement, there are numerous hurdles with respect to storing fireworks that cause problems with criminal prosecution.

That leaves us with another avenue, which is the civil or administrative penalty, which Senate Bill 4 (1st Reprint) allows. The lower burden of proof with administrative or civil penalties, that is preponderance of the evidence—which is more likely than not, instead of beyond a reasonable doubt—serves a dual benefit. It requires less prosecutorial resources on the county's behalf and, in the instance of Senate Bill 4 (1st Reprint), we have higher fines which will hopefully deter some of the conduct that Joanna Jacob talked about in her presentation.

I want to hit a point that Ms. Jacob talked about. Senate Bill 4 (1st Reprint) is simply enabling. Any ordinance would have to go through an intensive public comment and hearing process, by the Clark County Commission specifically, before becoming effective. Again, the law, Senate Bill 4 (1st Reprint), has in its provisions the mandate that we take into account the severity of the offense. With that, Chair Flores and members of the Committee, I am happy to answer any questions. The Clark County District Attorney's Office is here in support of Senate Bill 4 (1st Reprint).

Chair Flores:

I do not believe we have any questions for you at this time. Thank you for reaching out proactively. I know you sent out some emails, and I appreciate that. We will continue with those wishing to testify in support of Senate Bill 4 (1st Reprint). Good morning, and welcome.

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

Good morning, Chair Flores and members of the Committee. It is my first time at the mic this session, too, and it is great to be here in person; we appreciate your having us.

I want to give a perspective, more of a boots-on-the-ground application of this. We believe this is a good first step in addressing what we see to be a prolific problem occurring every summer. It really began in the last three or four years when it seemed to hit a whole other level of disturbances for our community. I am not sure what drove that, but nonetheless here we are, and that is how things go in communities.

Because of the prolific events and the inundation of calls for service coming into our dispatch center during our Independence Day holiday and leading up to it and their significant impact to their resources, the Clark County Commission as well as the Clark County Fire Department decided to form a committee to address the issue. We meet throughout the year in anticipation of another eventful Fourth of July. The committee consists of the Clark County code enforcement, Clark County Fire, Las Vegas Fire, North Las Vegas Police, Henderson Police, Henderson Fire—it goes across the board because it is just all over our valley. We have gotten together and have tried to address the issue. Some of the things that have occurred are we have put out public service announcements, which Ms. Jacob showed in her presentation. We have put out reader boards leading into our valley listing non-safe and sane fireworks are prohibited. That is done because of the question brought up by Assemblyman Ellison regarding fireworks coming from outside our community. So, we want everybody to know what is legal and what is not. Safe and sane fireworks are legal. Basically, those are fireworks that stay on the ground, from my understanding. If they leave the ground and detonate, then they are illegal. It is an easy way to work through it.

Because of the inundation of the calls for service, the impact to our dispatch center has been significant. Another aspect the committee created was enforcement teams. A couple of nights leading up to Independence Day, depending on when the Fourth of July falls, we form teams that consist of law enforcement, Clark County code enforcement, Clark County fire prevention if it is in county jurisdiction, and also law enforcement with the City of Las Vegas, and their respective enforcement entities. But they are swimming upstream. It is prolific. Essentially, what they do is they leave their location of assignment where they meet up, and they go into a community where there are significant reports of fireworks, and they never really get out of there because it is just everywhere. The circumstances are very difficult to overcome, and we feel this is a good step forward in addressing the issue that our community has. If the Clark County Commission decides to pursue it, then this will enable them to do so. That is why we are in support of this measure. I am happy to answer any questions.

Chair Flores:

Thank you for joining us this morning. Members, any questions? Seeing none, we will go to anyone testifying in support.

Kelly Crompton, Government Affairs Manager, City of Las Vegas:

We would like to echo the comments that our colleagues at the county made. We appreciate their using one of their bill draft requests to bring this bill forward. As you have heard from the other people in support, we are part of the community response process with our

Las Vegas Fire and Rescue, as well as the number of complaints that we hear day in and day out in that holiday weekend at the city council level. So, we thank you for hearing this bill, and we hope you will support it as well.

Chair Flores:

Thank you for joining us this morning. Anybody else wishing to testify in support of Senate Bill 4 (1st Reprint)? Seeing no one in the room, we will go to the phone lines.

Tom Dunn, District Vice President, Professional Fire Fighters of Nevada:

We sit here today in support of Senate Bill 4 (1st Reprint). Fireworks are a problem for the fire service across Nevada. According to the National Fire Protection Association, in 2018 fireworks started an estimated 19,500 fires to include 1,900 structure fires, 500 vehicle fires, and over 17,000 outdoor fires, which include wildland interface. These fires caused 5 civilian deaths, 46 civilian injuries, and \$105 million in direct property damage. The most visible example I can give you of a fireworks-started fire happened here in the middle of Nevada in July 2004, which is the Melody Lane fire that destroyed four homes and damaged seven others. It is important to recognize that these fireworks-caused fires are not just around July 4; they can also be, especially here in northern Nevada, a year-round issue to include around New Year's Eve, the following day, and any other major holiday. So once again, we are in support of Senate Bill 4 (1st Reprint) and are available to answer any questions you may have.

Chair Flores:

Before we go to the next caller in support, we will check if we have anybody joining us via Zoom. [There was no one.] We will continue with those wishing to testify in support of Senate Bill 4 (1st Reprint) via phone.

Christi Cabrera, Policy and Advocacy Director, Nevada Conservation League:

Around 90 percent of wildfires in the United States are human-caused, and illegal fireworks are a common culprit. Human-caused wildfires, combined with climate change, are making the West hotter and drier and are leading to larger, more intense wildfires. Last year, fire seasons set new records in terms of geographic scale, fire intensity, and rate of spread. In 2020 alone, humans caused over 540 wildfires in Nevada, burning over 222,000 acres. These wildfires have disastrous impacts on natural areas and wildlife habitat, and the pollution effect from the smoke is hazardous to our health. Senate Bill 4 (1st Reprint) will give our local governments another tool to help stop illegal wildfires. This will hopefully lead to fewer wildfires in our state. I thank the Committee for your time and urge your support on Senate Bill 4 (1st Reprint).

Chair Flores:

Thank you for joining us.

Vinson Guthreau, Deputy Director, Nevada Association of Counties:

Hello, Mr. Chair and members of the Assembly Committee on Government Affairs. We are in support of S.B. 4 (R1), which addresses and provides clarification around the issue of illegal fireworks. Counties currently have the authority to regulate fireworks. Different counties across the state address fireworks in a multitude of different ways. Some allow fireworks and others do not, and we support the clarification provided in this bill that would enable counties to increase the penalties on those that will impact the public health and safety of the public by violating fireworks ordinances.

We understand that the purpose of this bill is to increase the tools available to counties to ensure, especially during the summer and holiday seasons, that people are kept safe. On behalf of the association that represents all of Nevada's counties, we support S.B. 4 (R1) and thank Clark County for bringing this bill forward.

Chair Flores:

Thank you for joining us. Next caller in support.

Jamie Rodriguez, Government Affairs Manager, Washoe County:

Good morning, Chair and Committee. We are here in support of Senate Bill 4 (1st Reprint). We appreciate Clark County's bringing this bill forward and giving us more options to help address illegal fireworks in our community. For the members on the Committee from northern Nevada, you may remember in 2019 we had a rather sizable fire just outside of Sparks called the Pah Rah fire. That is an example of a rather large wildland fire that was started with illegal fireworks. It was large. It burned a lot of land. A lot of work was done by our firefighters because that is also a culturally sensitive area as well as a large wildlife corridor. So, we do have some large concerns with the types of wildfires that we get up here in northern Nevada and the clear connection between them and the illegal use of fireworks. We are very appreciative of the bill being brought forward, giving us more options to help address the use of illegal fireworks. We hope that the bill will be able to be moved forward.

Arielle Edwards, Government Affairs Specialist, City of North Las Vegas:

I am calling on behalf of Councilman Richard Cherchio. He extends his sincerest apologies for being unable to call in himself. However, he would like to have his remarks read aloud to the Committee members. It reads:

Dear Chair and Members of the Committee:

I would like to thank the primary bill sponsor, Clark County, for working on this important piece of legislation and extend my gratitude to Chair Flores and the Committee for holding this hearing. During my time in office, I have worked to ensure that North Las Vegas residents continue to thrive in our great state. This piece of legislation addresses an important issue in regard to illegal use of fireworks. It is my hope that the Committee takes into consideration the negative impact illegal fireworks have on residents and their pets, especially veterans who are adversely affected by the loud noises, who

oftentimes will recall traumatic event memory relapse due to PTSD, subthreshold PTSD, and TBI [traumatic brain injury]. This legislation is a step in the right direction to protect those who have protected us.

Sincerely,

Councilman Cherchio

Thank you so much, Chair Flores.

Chair Flores:

Thank you for joining us. Next caller in support of S.B. 4 (R1). [There was no one.] At this time, we will go to those wishing to testify in opposition to S.B. 4 (R1). [There were none.] At this time, we will go to those wishing to testify in the neutral position on S.B. 4 (R1). We will start off in the committee room.

Susan Fisher, representing Phantom Fireworks:

Phantom Fireworks has two stores in Pahrump, and we greatly appreciate Ms. Jacob and Clark County for working with us. Originally, we opposed Senate Bill 4 (1st Reprint) because of some of the provisions in the bill; we thought that the penalty phase was way too steep. It was higher than anyplace else in the nation, in fact. And so we appreciate their working with us, and we have now moved to neutral.

We support safe fireworks as well. We have signage in our stores. We have our customers sign a statement saying that they are not going to take them to Clark County or fire them off in populated areas within Nye County. This would have been a huge financial hit for Nye County and the town of Pahrump as well because of the revenue that is generated, sales tax revenue. But also with each firework sale in our stores in Pahrump, the purchaser has to buy a \$5 ticket that gives access to a safe space that the town has put aside for fireworks. It is cleared off of any vegetation; it has concrete pads; it has fencing around it; spectators can be outside of the fence; and you can go in to set off fireworks. It is all very controlled, and they have fire suppression there as well. Purchasers have to buy a ticket to that whether they are going to use it there or not. Again, we appreciate Ms. Jacob and Clark County working with us on this bill.

Chair Flores:

Members, any questions? Seeing none, we will now go to the phone lines to continue with neutral testimony on Senate Bill 4 (1st Reprint). [There was none.] Any closing remarks, please.

Joanna Jacob:

Chair Flores, I want to say thank you to the Committee for having this bill scheduled today and for hearing it and for your comments. I appreciate all the feedback and the comments that we had. I would also like to thank those who testified in support of this measure, and Ms. Fisher for testifying in neutral. We did work with the industry. Because I did not say

this in my preliminary remarks, I will also note that Ms. Fisher and some of the industry in Nye County, during the course of working with Clark County, do partner with us on outreach. It is very important to Nye County to have people stay in Nye County. In the situation that she discussed, it is an economic driver, and so enforcement in Clark County is something that they depend on as well. You can see why.

I remembered, Assemblyman Ellison, that you had asked me about the number of people who are being burned. I do not have state statistics on that, but I do have national statistics and I can follow up with you, sir, after the meeting.

I would like to say thank you. I know the deadline is approaching. I will follow up with anybody who has any questions or concerns; please do not hesitate to contact me. I hope that you will proceed with this bill, support it, and move it to work session. Thank you very much for your time.

Chair Flores:

Thank you for the presentation and thank you for all those who testified in support, opposition, and neutral. With that, we will close out the hearing on S.B. 4 (R1). Next, we will open the hearing on Senate Bill 67 (1st Reprint).

Senate Bill 67 (1st Reprint): Creates a pilot program to gather data on the use of job order contracts for certain public works. (BDR S-400)

Joanna Jacob, Government Affairs Manager, Clark County:

Hello again, Chair Flores and members of the Committee. My job at Clark County is one in which I must often pivot, as you do too. We shall now pivot to construction and *Nevada Revised Statutes* (NRS) Chapter 338 with the presentation on Senate Bill 67 (1st Reprint). Chair Flores and Vice Chair Torres, thank you for hearing this bill and getting it scheduled today. I will have Assistant County Manager Randy Tarr and the Director of Clark County Real Property Management on Zoom if there are technical questions about this bill. I do not have a PowerPoint; I will give you a reprieve from PowerPoints. It will just be me; I will talk to you about Senate Bill 67 (1st Reprint).

If you looked at the original bill, the original bill is quite different from the mock-up that is filed with the Nevada Electronic Legislative Information System (NELIS) today [[Exhibit D](#)]. This is something that I worked on with the Legislative Counsel Bureau (LCB), and I would like to present the mock-up and work from the mock-up today.

The original bill was quite broad and was statewide. It has been narrowed in our work with stakeholders during this process. The amended version was negotiated over a period of months with labor unions, construction industry representatives, and public agencies statewide. The amendment in the Senate deleted portions of the original bill out of concerns that were raised that would have allowed us to increase the threshold to self-performed jobs. But there were concerns from both labor and industry on those provisions and their impact on small businesses, so we deleted them.

On behalf of Clark County Board of Commissioners Chairwoman Marilyn Kirkpatrick, who chaired this Committee for many years, I will submit that Senate Bill 67 (1st Reprint) for Clark County is a jobs bill. We began conversations about this bill prior to this session, and we have been working with the stakeholders since it was first prefiled. We met with southern Nevada labor at the outset of this session and talked to them about this bill because it is important for our chair and for all of my commissioners to invest in the construction industry in southern Nevada, particularly as we are recovering from the pandemic. They are a key driver for our economy in southern Nevada, and we want that industry to remain strong. Also, because we are entering a period where local government budgets are recovering from the impacts of the pandemic, we would like to put jobs out. That is the goal and intent of this bill.

I will start going through the mock-up [[Exhibit D](#)] because I want to make the most efficient use of your time. Senate Bill 67 (1st Reprint) proposes a four-year pilot program in its amended version. I want to be very clear that this is a pilot program only in Clark County, in southern Nevada. We have deleted the other jurisdictions from this bill in response to stakeholder input asking to be deleted. That means that there was input from both labor and industry that they did not want this bill in Washoe County; in consideration of and out of respect for that input, we deleted them so we did not have impacts on the community.

Further within the pilot, we have restricted this pilot program to the large entities of Clark County, which are the Clark County Reclamation District which is our sewage plants, and the three cities in southern Nevada that have over 100,000 in population: Las Vegas, Henderson, and North Las Vegas. Under this pilot, these entities will be permitted, during the pilot period that will begin October 1, 2021, under the mock-up, and end on June 30, 2025, to use a method of project delivery that is called "job order contracting," under the parameters that we have set forth in the bill.

Job order contracting, if you want to think about it, is on-call contracting. It is used for smaller jobs: for maintenance, repair, demolition, remediation, minor construction jobs, that are the types of jobs that public agencies have to do to maintain their public buildings and public spaces.

Our intent is to hire multiple general contractors through one competitive solicitation, and then the awarded contractors would be on call for the public agency to do work that comes up during the course of the fixed project period. Just a few notes about job order contracting as we walk through the bill: price is negotiated up front in the solution, so material and labor and all the costs of the job are determined by a concept known as "unit pricing," where a specific price is set for what may be required. They bid it and that is called the adjustment factor, which you will see defined in section 2.3 in the mock-up [page 1, [Exhibit D](#)]. What that looks like is a list of a work order. Everything that issues, if you bid 100 percent of the unit price, gets multiplied by 1.00, or 1.05 if it is 105 percent of the price book. Or, if it is lower than the price book, that would be the percentage that gets applied to each unit.

Job order contracting, by way of background, has been used successfully for many years nationwide. It was first employed by the U.S. Army Corps of Engineers, and it has grown and expanded since then. For at least 35 years it has been used by public agencies, local governments, housing authorities, and university systems across the nation.

When we were drafting this bill, because it has been around so long, we were able to reach out to some other jurisdictions that use this and also do some research about best practices. We have the benefit of not re-creating the wheel in Nevada. We can look at other jurisdictions for how they do this as we begin work on the pilot project.

Those were my introductory remarks. I will go very quickly through the mock-up [[Exhibit D](#)], Mr. Chair, just because I know it got filed in the Nevada Electronic Legislative Information System. I know everybody is working very hard during this deadline week, and I received this last night, and I want to be able to walk through it with you so we can have a discussion.

You will see that we have definitions at the beginning of the mock-up [page 1] for just the adjustment factor, which I described; it is the contractor's overhead, the multiplication factor that gets applied to the unit pricing. We also have defined what is a construction task, which is the item of work. How this works is if you think of the contract as the one solicitation, we select five general contractors, then things get issued by job order to these general contractors. For example, we talked to a city in California that uses this, and they rotate it between the people who are on their bench, and then that gets put out as a job order. You will see job order defined in section 3 of the bill [page 1].

Section 5 is where we have the limit in the pilot project. This was done in collaboration with our labor stakeholders in southern Nevada. I would like to thank them for their work and for going along with us on this journey; they were willing to partner with Clark County to try this out as a pilot project, really out of consideration for the volume that Clark County has to maintain.

Now is a good time for me to say there has been some discussion on this bill as to why we need this. On Zoom, you see on the right, Clark County Real Property Management Department Director Lisa Kremer. She has a very big job; Real Property Management conducts the planning, design, construction, and maintenance for all of Clark County's assets. That includes over 500 buildings; that is over 6 million square feet; 120 parks totaling about 5,200 acres; and, as of August 2020 when we were prefiling this bill, she had approximately 309 projects in her portfolio that totaled over \$501 million in construction costs. I make a note to tell you that—when we were talking to labor, in looking at this delivery method over the nation and looking at models—job order contracting works best when it is limited. That is, it is not meant for new construction; it is not meant for shovel up, we are going to build a new building; it is meant for these small recurring jobs that the public agencies need to do. You can see the job that Ms. Kremer has. She has \$501 million in her portfolio. We are carving out \$25 million as an annual threshold and limit. We are saying we can use this pilot program for up to \$25 million in construction costs

on an annual basis; it is a small subset. I will say this clearly, for the record: the intent is to limit this use. It is not meant to be a panacea for local government; it is not meant to be a substitution for the other delivery methods that we do. It is meant to be a tool we can use to take some of these jobs we would like to get done in our community and deliver them under this method. We will continue to deliver the rest of the work through all the other project delivery methods.

Now is also a good time to note that on NELIS I have a sample list of job order contracts from Clark County [[Exhibit E](#)]. That might be something good to look at because you can look at the types of jobs and the dollar amounts that we could deliver under our \$25 million annual threshold. When we looked at Ms. Kremer's book of business and we looked at the things that need to be done, you will see on that list restroom repair—some of the things we need to do at our parks. These are things that impact our commissioner districts. They are things like a restroom is not working. It impacts the public; it is not available for public use. These are the types of jobs that we are targeting for job order contract delivery method. You will note that most of them are over \$250,000 in construction value.

It was very clear from the Clark County Board of Commissioners when we were doing this, too, that the intent is for these to be prevailing wage jobs because of the dollar value of the work, and we know that we are aiming for volume and we are aiming for putting as many people to work as we can. Section 6 in the mock-up [[Exhibit D](#)], at the bottom of page 1, talks about prevailing wage. This is intended to say that there are certain things—because this is a new subsection of NRS Chapter 338—that are intended to apply. This was important in our stakeholder conversations; we are writing this into NRS Chapter 338, so it is the state law that we have an apprenticeship requirement for public works. We want it clearly stated in this bill that we will comply with the apprentice law; also, the electronic filing of copies of records that you see in NRS 338.070. Those are certified payroll reports that a contractor and a subcontractor must file of anybody who works on the job. That was important for our purchasing division because we invest quite a bit in public works compliance measures. We want to make sure it is very clear that electronic filing of those records is there.

Section 7 is where we get into the limits on the bill. This is where you see the \$25 million threshold. We call that a threshold; it means the limit on the annual amount that we can use. Because it may take us time to implement, you will see there is a section that will allow us to wrap around the dollar amount into the next calendar year. I want to say effectively here, this is not intended to mean that we are going to hold everything to the end of the contract period and put one big job out. Again, that is not the intent of job order contracting; the intent is to get multiple and many jobs out under this delivery method.

Section 8 [page 2] is actually present in other sections of NRS Chapter 338. It says, To qualify to enter into a job order contract with a public body, a contractor must not have been found liable for breach of contract with respect to a previous project, other than a breach of legitimate cause, during the 5 years immediately preceding the date of the advertisement for

proposals pursuant to section 9 of this act; and not have been disqualified from being awarded a contract pursuant to NRS 338.017, NRS 338.13845, NRS 338.13895, NRS 338.1475, or NRS 408.333; and be licensed as a contractor pursuant to Chapter 624 of NRS.

Section 9 [page 2] is what we are going to build into the solicitation. We put in some very specific factors for the solicitation. We have to put enough detail into the solicitation for the contractor so they know what to bid on. They need to know the types of work that would go out. For example, the City of Austin, in their job order contract program when they define the scope of work, it is anything that could be delivered by the City of Austin, and then they list it. It could include elevators, electric, paving projects, park resurfacing, heating, ventilating and air conditioning work. We have to have enough specificity so that the contractors are able to know how to bid and how to price the job.

Section 11 [page 3, [Exhibit D](#)] of this bill is how we are going to select the contractor. This has elements of qualifications-based selection because you need to select a general contractor who is able to take on the risk for the entire year, not knowing what is going to come up. That means we do not pick our subcontractors right at the beginning like we would in a traditional public works bid because you do not know what the first job order is going to be coming out of the gate. It could be a job at Wetlands Park, it could be a job at the Clark County Detention Center. Each job is going to have different requirements. Each job will be different, so we need to have general contractors who can be on the bench and will have the level of insurance and the performance and payment bonding that can carry them through the entire contract period. We know there is going to be an element of prequalifying and experience in this type of public work that will be able to be considered in this selection. We did write in new language in section 11, which you will not see in the reprint, that when we go out with our solicitation, we will have a panel that will decide this.

Now is a good time for me to say we had some opposition. Though I wrote out northern Nevada from the bill, we did have opposition from northern Nevada labor because they wanted to make a record. This is an addition that is meant to address one of the points in opposition. Sometimes in law, if we do not specify that a panel must include people who know what they are evaluating—if you are evaluating a construction job it is important to have people who have that construction experience and can properly evaluate the pricing and the proposals. This is something that has been put into the law in other qualifications-based selections in NRS Chapter 338 for the construction manager at risk (CMAR). There is a requirement that the people on the panel have construction experience. That is certainly how we deliver projects at Clark County, but this is something that is not going to apply just to Clark County, so we have added the specific requirement that there must be construction experience.

Section 12 [page 3] gets into subcontracting. How it works, to a layperson, is when a job order—meaning this is the job we want to send you out on—comes up, the general contractor will walk the job with the agency and they determine the scope and the timing. That is what makes job order contracting so efficient. Otherwise we would be putting out these small jobs

one by one. You see I have 39 jobs on that list of contracts [[Exhibit E](#)]. It takes time to put these out through procurement. By putting them out through the job order that is the alternative, the general contractors walk the job and then they determine the subcontractors that they need. If it is an elevator job, they will say, I need this type of subcontractor. It is properly put here; we put the responsibility on the general contractors to know what they need and they will go out and get it. We do have language in here, and this was important, back to my point about this being a jobs bill. We have a requirement in here that 50 percent of the work must be subcontracted out. That is because if we are going to select multiple general contractors, we want to make sure they in turn are going to hire subcontractors so we are supporting the entire construction industry. We also have language in here about a contractor who enters into a job contract who does not perform specialty contracting. Assemblyman Ellison is probably familiar with this. If you do this type of work: plumbing, electrical, refrigeration, air conditioning, these are specialty licenses in the subcontractor community. You have to have a very specific specialty license. We wanted to make sure that the general contractor is not self-performing that work unless they have that license themselves. This is also to ensure that type of work is more likely going to be subcontracted out.

Section 13 [page 3] continues with subcontracting. I point out that section 13, subsection 2, paragraph (b) is where we have added additional strengthening language, also based on the opposition in the Senate, about subcontracting. Because we are going to walk the job—now we are walking the job and we are deciding who the subcontractors are that we are going to use—once we list them and name them on the job order to the public agency, we want that to be protected, meaning there should not be, I am going to use Contractor A and then I am going to go to Contractor B to try to get a lower price, and then I am going to substitute them out. There are protections in NRS 338.141, subsection 5, that we have written in here that are already in place. It is a policy of the state that we shall not have subcontractor substitution unless certain factors are met. You have to tell the agency, and then you have to show them why. It is usually if they file for bankruptcy, if they do not have the license, or they have become insolvent. Once they are named, it is strong; it is a promise to have the work. That is important for our subcontracting community.

Section 14 [page 3] is our reporting. This was another key thing that we negotiated with our stakeholders also because this is a pilot. It is a pilot because we are going to try it out and we might not get it right the first time. When you are in a pilot, it is important to collect data so you know whether it works or does not. It was important for our labor partners on this bill that this process be transparent because it is new. We want to see how it is working once it gets off the ground. We have written in here that we are going to do quarterly reports. Any public agency that uses this will do quarterly reports of certain data to their governing board. That includes a list of every job order that we issue so we know what kind of work is going out under this delivery method. We are going to list the cost of each job order that issues, meaning the list that is on NELIS [[Exhibit E](#)]. It will probably tell you what the cost is of the overall job order. We are going to list each subcontractor that is hired on the job so we know

who is getting the work. That is going to go quarterly to our local governing board. Of course, that is something that is publicly available that can be pulled by the public and we can have that on our agenda.

We have also added in here new language in response to some feedback we received from the meetings—thank you to everybody who met with me before this hearing—a request to track the diversity of the contractors who are getting this work. The Legislative Counsel Bureau (LCB) helped me with that. Whether they are a small business enterprise or disadvantaged business, this is something that is in NRS today, the criteria that is used. There are several examples of this in the NRS. You will see "disadvantaged business" is defined on the last page of the mock-up [page 4, [Exhibit D](#)], section 14, subsection 3. That was as recommended to me by LCB. Really, the intent behind this is we want to know who is getting these jobs, if they are small businesses, if they are a disadvantaged business. That is an important factor also to track.

We have also put in catchall language. If the City Council of Las Vegas wants to track something else, if our Clark County Board of Commissioners wants to track something else, we want to give them the authority to tell us what they want us to track. You can see any other information that the governing body wants [section 14, subsection 1, paragraph (e)]. Copies of those quarterly reports will then be sent to the Legislature, so you will get this information on an annual basis. To you and the next legislative session and then every year after that. Again, it is a four-year pilot. That is because we have a contract period of two years with the optional one-year extension. That is why we chose four years.

I know that is a lot of information. I wanted to walk through that with you. In closing, I want to see if Assistant County Manager Randy Tarr or Director Lisa Kremer has anything else they would like to add. I would like to thank the stakeholder group of over 30 parties whom we have worked with in southern Nevada. I would also like to especially thank the construction industry in southern Nevada, Associated Builders and Contractors, the Nevada Contractors Association, the Sheet Metal and Air Conditioning Contractors National Association, and all of our southern Nevada labor partners who took the time to provide input in this and to volunteer to work with Clark County. We want to put this work out. We want to put jobs out. These are important jobs for our commissioners and for our districts and probably for you and your constituents, too, because these are our public resources. It seems very long ago, in late January, the Governor had asked local governments to try and think of ways to try to get work out. We had already had this bill prefiled because Chair Kirkpatrick had directed us to try to work on this and get jobs out. This will help Clark County and the agencies identified in the pilot to do just that, to try to get work out and off our shelf.

With that, I want to hand it over to Director Kremer or Assistant County Manager Randy Tarr, if they have any other comments. They have worked on this with me, and I am working on Director Kremer's behalf on this bill. They know it very well, and they are here for questions.

Chair Flores:

Thank you for joining us, walking us through that, and working so hard on this bill. We will open it up for questions.

Assemblywoman Considine:

Thank you for bringing this bill. That was a lot of information. My first question tries to encapsulate this and clarify it for me. Is it the idea that there are two levels, the first level being to pick general contractors? If so, what is that process and who makes those decisions? Is the second level after those are picked, as the jobs go out—is it the contract and the price? Because if so, I have a question on that as well.

Joanna Jacob:

Let us start at the first level. Yes, I think of it as the umbrella contract. The first step is the general contractor; we pick the general contractors. There was no mechanism for us to do this model in NRS Chapter 338, which is why we had to bring this bill. To pick a general contractor and still write in the protections of NRS Chapter 338 is why we did it. The selection of the general contractor; who picks them? That would be through a normal request for proposal (RFP), the same way that we select contractors to do public works. It is going to be through a solicitation document. We would say, We want the people who are going to bid on this to submit proposals that will include the things that are in section 7 [page 1, [Exhibit D](#)]. They will submit a proposal, we will convene the panel that I talked about, and the people who sit on the panel are usually people with the knowledge of the job that they are going to be selecting. Assistant County Manager Randy Tarr or Director Kremer can probably give you more information. We have the construction experience. We usually have experts who will then rank the proposals. We have talked to other agencies about how they do it. We have in the bill that we will set forth the criteria for how we will select. We will put that in our RFPs so the contractor will know how we are going to pick them. It might be a combination of price and experience. We will select and rank, is what I would say. Other agencies might pick the five that come in lowest or any that meet all the criteria that come in, because we want to select multiple contractors. I will stop there if that answered your question about the first level.

Assemblywoman Considine:

I appreciate your stopping at that. On this first level, if there are proposals with costs and prices in it, my question would be, seeing over the last year how different prices for materials have shot up, are they locked in to what those are? Or is there room for these general contractors—if they do a proposal and then later on they get one of these specific jobs but the prices have significantly changed, what is the process for that?

Joanna Jacob:

In section 7 we have given some parameters for the proposal, but we have given us some flexibility to address something like that situation. You are very correct; pricing has been volatile. The unit price book which we have described is supposed to be the price book for materials and for labor and be reflective of the local market. We know that there are things

that might be outside of the book. It could be things on which price fluctuates. Particularly, the price of steel has fluctuated quite a bit, and when we have talked to other agencies, we have asked them how they address that.

I will tell you how the City of Long Beach does it; they say go out and get three quotes for that material that is market priced outside of the book and we will take the lowest. It is a way that we can still keep an eye on the price, but we would have to specify that. We did try to specify the way that pricing will be determined on the job. That would be the intent of that section; for us to be able to define how we would handle the situation that you stated so we could give certainty to the contractors who are bidding.

Assemblywoman Considine:

You have picked the general contractors; there is everything you have just said about volatility and being able to deal with it. Later down the line the jobs come. Is there a different panel? Who picks for each of those jobs? How is the selection made of which contractor gets which of these jobs? Who makes that decision?

Joanna Jacob:

I will start, but I am going to ask Director Kremer or Assistant County Manager Randy Tarr to weigh in as to how we pick the jobs or how we are going to plan to distribute, because we have talked about this a lot. We talked about it, and we envisioned how we are going to do this program.

You asked me about once we select the general contractor and then the jobs come, how does that work? There are different ways that can happen. As I said in my opening remarks, in talking to another jurisdiction, they rotate. They may say, Contractor A, you get this job. They could say, Contractor B will get the next one. We have put into the solicitation also a requirement that we would have to tell the contractors the minimum amount of work that they would get on the job, because it is also important for the contractors to know whether it is worth it to them. They need to know that they will be guaranteed a certain volume. As to how we will select the jobs, I will see if Director Kremer or Assistant County Manager Randy Tarr has any further comments on that.

Lisa Kremer, Director, Real Property Management, Clark County:

As Ms. Jacob stated, we intend to create a list of, say, five contractors, and we plan to do it on a rotation basis. We would just continue to rotate through that list as the jobs become available. What she stated is correct. That is our intended method.

Assemblywoman Considine:

Thank you for that answer. It clarifies a lot for me. Going back to when general contractors are picked, you said there would be a panel who know these areas. Are those people county staff or city staff? Who are those people, and how are they selected?

Joanna Jacob:

I will defer that one to Director Kremer. That is the bread and butter of what she does. We convene panels all the time, and she can tell you who frequently sits on those selection panels.

Lisa Kremer:

We intend to create a panel of at least three to four individuals. There will be a member from Real Property Management who is actively involved in the construction industry. We will probably pull in some management-level individuals from Public Works or from Water Reclamation, which are different divisions within Clark County. We usually solicit the participation of individuals from adjacent jurisdictions, whether it is the City of Las Vegas, the City of Henderson, or the City of North Las Vegas. On this one, specifically, we would like to pull in someone from the private sector as well, to at least have enough diversity across the panel so it is fair and consistent. That list is created, whether it be the five or six general contractors. As the projects become available, it will be Real Estate Management's responsibility, whether it is my decision or that of the manager of design and construction, who will then award the jobs to those contractors as the jobs become available and are ready to be put out on the street. Hopefully, that answers your question.

Assemblywoman Considine:

It does, thank you.

Assemblywoman Martinez:

On speaking with many of my constituents—many of them are in the construction business; many are losing their homes, their cars, are not able to put food on the table. This bill will create many of those jobs that these people are losing. Is that correct?

Joanna Jacob:

That is our intent; that is absolutely correct. You can see the list [[Exhibit E](#)]. We have \$25 million. We looked at our list. We said, What are the jobs we can put out under this? If we have multiple general contractors, we could get those jobs out quicker. That is the goal and intent of the requirement to then, in turn, have 50 percent of the work subcontracted out—the vision is we will have work happening. I will also let you know that Clark County is just one entity. The other people in the pilot project are the cities and the water reclamation district. The intent of this, at the direction of Chair Kirkpatrick, was yes, we want to create jobs. The direction to Director Kremer and to me when we were doing this bill was, Create lots of jobs. When we looked at what we could do and we found job order contracting, it fits the mold because they are small jobs. They are intended to turn over quickly, so then we can move on to the next one and the next one. The goal would then be continuous work. As you know, Assemblywoman Martinez, if you have a lot of people in the construction sector in your district, if you have a big job that then ends, it can be very difficult as you wait for the next one. Our goal and our vision are that we will have a continual stream of work. It is a four-year pilot, and since we have the \$25 million annual

threshold, we can take that 39 and then—this work, as Director Kremer might be able to tell you—it never ends. These are things that recur and recur again, so we definitely have the need. Our goal is to put people to work, as you stated.

Assemblywoman Martinez:

To clarify—we have talked about this many times—this is just a pilot program, correct?

Joanna Jacob:

Yes. It is a pilot project. Because it is new, it is very difficult, as you know, members of the Assembly Committee on Government Affairs—local governments are all different, and the state is different. Statewide bills can be difficult. We chose to pilot in southern Nevada because we have the support from labor and industry and the agencies. This kind of delivery method requires that support and participation. It is a pilot in southern Nevada because we had the willingness in southern Nevada amongst all those stakeholders to work with us and to do it and to all go in together to see if it works.

Assemblywoman Martinez:

It will only affect Clark County, and it will not be a state mandate, correct?

Joanna Jacob:

Yes, it is only in Clark County. I will point out section 1, subsection 2, where it establishes the pilot program [page 1, [Exhibit D](#)]. Section 5 [page 1] defines a public body for the purposes of the bill, and that is our limit: Clark County, City of Henderson, City of Las Vegas, City of North Las Vegas, Clark County Water Reclamation District. That is the intent only of those agencies, only for four years, and then it sunsets unless further action is taken.

Assemblywoman Martinez:

Thank you very much.

Assemblywoman Anderson:

I have a few questions. I will try to make them as quick as possible. I realize that this is a pilot program. However, sometimes with pilot programs the training is not always necessary. I am going to be referring to one of the documents that was put into NELIS as an example. It is the audit report from the Long Beach city auditor from May 25, 2016 [[Exhibit F](#)]. In one of your answers you referred to Long Beach, so I thought that was perfect.

On page 25 of this report [page 27] they spoke of the project managers and how many of these as-needed contracts have actually become consultant services, consultants, et cetera. What is the training that you are envisioning at this time for the project managers to make sure that the cost is both what has been promised at the beginning, then also the oversight for those items? I will possibly have a few more questions, Mr. Chair.

Joanna Jacob:

I appreciate that question. I did not see that was filed in NELIS; however, I am very familiar with that audit report. I will tell you a great amount of research has gone into this bill. A lot of what we modeled, the language that we put in, how we decided to approach this bill, was modeled after Long Beach's municipal code after that audit because they put very specific sections into place; for example, the percent that needed to be subcontracted out; and it needs to be limited. Those are things that were audit findings. After finding that report [[Exhibit F](#)] we called the City of Long Beach and talked to them about their experience.

I may defer your question about project management to Director Kremer. Perhaps, Director Kremer, you could talk about what we already do in using third-party estimators to keep an eye on costs and the work that you already do to ensure the level of oversight that we already have within Clark County.

Lisa Kremer:

Ms. Jacob is correct. Currently we have a staff of design and construction administrators and construction project coordinators who manage projects that are currently in our queue. How we foresee this program working, since we anticipate having five general contractors to receive up to \$5 million each annually, is we will most likely put a team together of various design and construction administrators as well as construction project coordinators who will directly oversee these projects. We are prepared to put the reporting in place so that at a management level and at my level, we will be overseeing these projects to ensure that we are conforming with requirements that are set forth.

As far as costs are concerned, we do have various consultants currently whom we consult with as third-party estimators. We have an estimator in house who helps us create estimates, but we send a lot of that work out to a third-party estimator as well, just to confirm what our assumptions are. We have that consultant base intact right now as well as construction schedulers. We do feel that we have great support around us in order to execute this. I am sure we will modify processes as we go through it since it will be a pilot program. With the reporting measures in place that Ms. Jacob has outlined in her bill, we will be providing those updates and looking at this program very heavily to make sure that we are doing what is necessary and we are adjusting where we have to. Hopefully, that answers the question.

Assemblywoman Anderson:

It did. Thank you both. Again, on the same report [[Exhibit F](#)] but also looking through a few other documents, the feeling had to do with the pricing seeming to go up afterwards, that it was not always what the price was. That was very concerning to me. It is on page 1 of this document [page 3] and it felt like, in other analyses also of this sort of thing: "Too much emphasis is placed on completing projects quickly instead of ensuring projects are properly defined and competitively priced." It is a concern of the timing. Then later, on page 9 of the same report [page 11]; more importantly, from the Clark County list of projects [[Exhibit E](#)], is there a priority list that is going to be created? Is there a timeline for having all these things done and making sure that they are of the highest quality as opposed to getting it done?

Joanna Jacob:

Thank you for that question. I will point out a few things in the bill that are intended to get at the problem and the challenge that you found in that audit report [\[Exhibit F\]](#). Again, I will tell you, I have personally spoken to Long Beach and the team that implemented that after the audit. One of the things that we put in was the requirement that a job order must clearly state the construction task. We also have defined the adjustment factor, which means we have clearly stated in the bill and to the contractors that their overhead must be stated in the adjustment factor. What I have learned in talking to the Long Beach team is that in the unit price book, often there might be values that include some kind of element of risk. Something they recommended to us was that we make sure it is very clear in the RFP: the adjustment factor is what it is and it cannot be double-dipped, in that case, which can lead to a price overrun.

I will also tell you we talked to them about the structure that Director Kremer has in place with third-party estimates. That was also very important in the response to the audit. We wanted to make sure that there is adequate oversight. That is another piece Director Kremer talked about, the reporting. With this number of stakeholders and the frequency of the reports that I put in, there will be a lot of eyes on this, and we are going to subject ourselves to scrutiny, purposefully and intentionally, because we know that there have been experiences in the past on this.

I will also tell you that Long Beach is still using this process. After that audit [\[Exhibit F\]](#), they did a rewrite of their municipal code. I have it sitting on my desk in Clark County. Because I looked at it and did my homework when we were doing this bill, we have modeled it after theirs and we have created a relationship with them that we hope to continue going forward. They know that we are pursuing this bill and they were very forthcoming with suggestions for us, should this bill pass, on how to put our program together to avoid some of the things that they had in the past. I know that document is out there [\[Exhibit F\]](#). We reviewed it, and when I talked about best practices in my introductory remarks, this was exactly my point. This is not a new model. This is not something that we need to re-create. We can learn from other agency experiences and we can refine and retune and make sure it is a good fit for Clark County.

Assemblywoman Anderson:

Thank you. If you could send us that code, that would be great to have so we can do a comparison of the two documents.

My last questions are prompted by what you just brought up; they have to do with the section with the amended language about the reporting. I really appreciate the fact that there will be that evaluation. Will that evaluation at some point be an external audit or will it continue to be an internal audit of the reporting? Although it is a pilot program, there was a mention or a reference to possibly extending that. I am trying to figure out how that internal versus external audit would be evaluated in some fashion.

Joanna Jacob:

I have only worked for Clark County for a little over a year now, so I do not know everything about Clark County. I am going to defer to Manager Tarr or perhaps Director Kremer on our audit procedures. We do have a division of internal audit in Clark County. Perhaps they can give you an idea about what we would do on this, or our existing practices.

Randy Tarr, Assistant County Manager, Clark County:

We have available to us Audit Services. It is a division within Clark County of auditors who report to the county manager and we audit through our departments continuously. In this, we can do either. We could do it as an internal audit with a document or we could go to a third party to audit the end of the pilot program and report on findings. Either works for us. I hope that answers your question.

Assemblywoman Anderson:

Thank you, it does. I realize there are a lot of moving parts, and although I do have other questions, I am more than happy to bring those up offline with you at some point because I know there are other questions from the Committee.

Assemblywoman Thomas:

In reading section 1, what jumps out at me is section 1, subsection 1, paragraph (a) [page 1, [Exhibit D](#)]: "It is in the best interest of the State to ensure that contracting and bidding procedures for public works in this State are efficient and cost effective." And then we jump to section 1, subsection 1, paragraph (b) where the mock-up bill is indicating that "...existing law may create barriers to the efficient and cost-effective awarding of contracts . . ." and then we go to paragraph (c), "Reducing any such barriers will benefit the public" But just like you were saying, it has been a lot of hard work creating this and putting this bill forward. Would you not agree that it took existing law to create safeguards for the public and the public tax dollars also? So right now, are we not weakening that protection and that transparency?

Joanna Jacob:

Thank you for that question. Section 1 is a legislative declaration that came out of the reprint. That was actually something that came from LCB, I think, because we are doing a pilot project. Section 1, subsection 1, paragraph (a) is consistent with what I have said. When I said that this is a pilot project and we have intentionally limited it to \$25 million, which is a subset of what we do, that means the majority of what we also do will go out through these other methods to which you have referred.

To address your question whether I am weakening the protections in NRS Chapter 338 or being less transparent than what is there right now, I would submit to you that I do not believe we are weakening the protections of NRS Chapter 338. By design we wrote this process into NRS Chapter 338 for a reason, because we wanted to make sure that we were in the public works laws and that we complied with other sections of the public works laws

such as the apprenticeship program in the sections of NRS Chapter 338, such as the requirement to pay prevailing wage and the requirement to do the reporting for payroll; that is in every single public work project.

As to the point about transparency, I would argue we will be more transparent because of the frequency of the reporting. The reporting that you have in this section, with the frequency that I have suggested, is not something that is done on all public works bills. The frequency and listing every single job we are putting out on a quarterly basis is going to give you—as a member of the public, as the labor industry, as the contracting industry, as key stakeholders, everybody who wants to see—who is getting this work, what we are putting out, and the dollar amount we are spending. That will be publicly available information that is filed with our Clark County Commission, and you will be able to pull that report and, as Director Kremer said, we will be able to adjust real-time so we can know whether we are making efficient use of the public resources.

I would also submit that when we talk about public resources, and perhaps this is just my feeling from working for Clark County and knowing the volume of buildings that we have to maintain: when we have a public resource like a tennis court that is broken, where lights are out or the bathroom is shuttered and cannot be used by the public and we are not able to get jobs out as quickly as the public would like, that, I do not think, is a good use of the public resource. What we are trying to do with this bill is to get those small, recurring maintenance projects done that we have to do to make sure our buildings are safe and are working, and the parks are in good condition for the public to enjoy. That is really the goal of this bill.

Director Kremer can speak to this, but with the volume that we do, we will put out lots of other work under other existing methods of NRS Chapter 338, so it is not Clark County's intent to weaken the protections of NRS Chapter 338. In fact, our intent was to write us into NRS Chapter 338 so that we would be in that chapter. It is not my intent to be less transparent; in fact, that is established by our voluntarily submitting to the frequency of the reports that we have written into the bill. I am happy to discuss this further with you or with anybody who may have those concerns.

Chair Flores:

Members, we are running a little bit short on time. Please do ask your follow-up question, Assemblywoman Thomas. I just want to let everybody know that in the queue, we have next Assemblywoman Brown-May, followed by Assemblywoman Duran, Assemblyman Matthews, Assemblywoman Dickman, and Assemblyman Ellison; and then we will close it out.

Assemblywoman Thomas:

My follow-up is, why remove the existing safeguards, the "barriers"? You are saying that we can get jobs done faster, quicker. But having safeguards in there will ensure these projects are protected, the public interest is protected. I appreciate your explanation, but I would like to see those protections in place.

Joanna Jacob:

I am happy to follow up with you about what protections you feel are missing. I can certainly do that after the meeting. Again, the legislative declaration is not something that we submitted in our draft in the Senate. If you are uncomfortable with that language, that is something I would maybe defer to LCB, as to whether that can be deleted. The barriers that we talked about with our labor stakeholders were just a matter of the volume that we have to maintain. Director Kremer and staff are only human; they have a volume that must be done, so we are saying we are not going to use this process for everything that we must do, but for a very small subset. It does not mean that we are going to abandon any other way that we do work with the protections that you discussed. Also, I have written in key protections that are in NRS Chapter 338 into this bill to make sure that we are subject to those as well. Of course, I am happy to follow up with you after the hearing if you want to talk about any additional protections.

Assemblywoman Brown-May:

First, it is important that I get on the record and openly disclose that my private employer contracts with Clark County; however, for services. So, I want to be really clear relative to this bill, in particular that this is about construction, one-time only jobs. Is that correct?

Joanna Jacob:

Yes, that is correct. It is not for services. This is for the job orders that we have described in the bill, for construction work that is really intended to be under our Real Property Management division for our buildings and our parks.

Assemblywoman Brown-May:

I appreciate the follow-up and the clarification to ensure there is no conflict relative to this bill. I just have one very important question. I notice there is a conflict identified in one of the pieces that is on NELIS relative to the authority of the Labor Commissioner to be able to ensure fairness as we talk about labor [[Exhibit G](#)]. Have you seen that and are you able to respond to the Labor Commissioner's comments?

Joanna Jacob:

Unfortunately, I have not seen that. I apologize. I had two bills to prepare for today, so I did not see that uploaded to NELIS. I am happy to review it after this hearing. I will also tell you that the concerns about the Labor Commissioner's authority have not been brought to me by any stakeholders, so this is a surprise. Of course, I will review that document and follow up with whoever filed that after the meeting. Thank you for directing that to my attention.

Assemblywoman Duran:

Ms. Jacob, it seems you have put a lot of hard work into getting this bill going. How much of the backlog can be attributed to the pandemic, and what will be considered minor construction? How will that be determined?

Joanna Jacob:

Thank you for that question. The backlog existed pre-pandemic. I do not know if Director Kremer will nod her head. I do not know what percentage may be attributed to the pandemic or whether she would attribute any of the backlog to the pandemic. These are duties that Clark County has and had during the pandemic and will continue to have, to maintain our public buildings and our parks and grounds.

We included the term "minor construction" because it is included in other job order contracting. The intent behind "minor construction" is to draw distinction between minor and new. New means we are going to put shovels in the ground, and we are going to build foundation up; we are going to build a new building; we are going to do our groundbreaking; those kinds of things. Minor construction means we may have to take down a wall, for example. That is construction. But when we are doing repair of a public bathroom or something like that, we may have elements of construction, but they are minor, meaning that they are lower in dollar construction value. That is the intent behind the use of that term. I will defer to Director Kremer if she has anything to add.

Lisa Kremer:

I do not have anything else to add at this time. If you have any further questions for me, I am happy to answer them.

Assemblyman Matthews:

Has Clark County fully utilized all the other available contracting methods without success? Would you say that is the reason this is needed?

Joanna Jacob:

We do use all other contracting methods. I would not say it is without success. I would say with success. We use all other contracting methods that are available to us. Really the intent behind this bill is to take jobs that are on the shelf because of the volume that we have to maintain, and take them off the shelf, and put them out under this pilot project. I will say again, for the record, that this is not intended to supplant other methods. We use all available methods. Perhaps Director Kremer can give you any additional details if that is not answering your question.

Lisa Kremer:

Ms. Jacob is correct. We utilize all the other delivery methods, most of which is the design-bid-build. With the volume of work that is going through our department, just over the last few months we have put up to 50 projects out to bid. That is why a lot of the work is getting stacked up, because of the staffing volumes to be able to process the work. We feel that this bill gives us another delivery tool to get the work out on the street quicker instead of the work backing up for it to go through the standard processes. We really do have a backlog of work at this point. We have probably 100 projects that we are working on right now. With capital allocations coming up for more maintenance-related work, just with our sheer volume, our sheer asset inventory. Not that the county has the money to fund it, but we really should be putting \$90 million of work back into our facilities just to maintain them.

So, we are always behind just trying to keep the facilities open. This delivery method gives us another tool to utilize to get the work out on the street and get it completed so we can move on to additional work.

Assemblyman Matthews:

Does the monetary limit mean that you could award one project at \$25 million or, alternatively, several projects at smaller amounts? Am I understanding that correctly?

Joanna Jacob:

The dollar limit is intended to be a dollar limit. Anybody who does job order contracting knows it is not supposed to be for one \$25 million job. If we had a \$25 million job, we would probably put it out through a different delivery method. The goal is we would put out multiple job orders up to \$25 million. That is what I tried to demonstrate by putting the list out on NELIS; it is saying how can we add up to \$25 million. That is the goal. When you look at how it has been used in other states, how it was originally designed by the U. S. Army Corps of Engineers, it was meant for smaller jobs that you are turning over frequently, not for new construction in a \$25 million amount.

Assemblyman Matthews:

I get that is the intent; it just seemed like the language may have left that a little loosely defined or a little bit vague. I appreciate that.

Assemblywoman Dickman:

I appreciate the fact that you clarified this would just be in Clark County, at least until we find out whether it is successful. I have a question that you might not know the answer to; you might have to do some research. In other areas where this has been done, do you know what percent of contracts have gone to local contractors? I mean do contractors move in to pursue this? Have you ever seen that?

Joanna Jacob:

Yes, that was something that we specifically asked Long Beach. When we were doing our stakeholder meetings there was some concern in northern Nevada that this was a delivery method that tended towards out-of-state firms that came in and took work away from local contractors. I specifically asked the City of Long Beach if that is what they had found to be true. The truth of the matter, they said, is these tend to be local jobs. I will also point out—I will try to find it in the bill—local work is the goal. Local jobs are where our Chairwoman wanted us to go, so I added in that the local bidder's preference will apply. This is another protection, as Assemblywoman Thomas alluded to, on public works. The local bidder's preference is a public works provision and we have put this in as another NRS Chapter 338 protection to ensure that if a local contractor can qualify for the bidder's preference, they can use it in the selection. If you got into a situation where an out-of-state person was bidding against a local contractor, the latter would get a 5 percent preference in that selection process, which can operate to help local businesses.

Assemblywoman Dickman:

Good. Thank you so much for putting that on the record.

Assemblyman Ellison:

Some of my colleagues talked about using the flat rate suggested by Long Beach. Is that going to be on a percentage or contract-based? How are they going to pay for this? Are they going to give you an estimate and then come back in and do these projects? How are you going to do this and how are you going to handle this money? That is my number one question and then I will have a follow-up afterwards. Also, will this involve union and nonunion shops?

Joanna Jacob:

Assemblyman Ellison, I appreciate that question, especially knowing that you have a background in contracting. I think what you are asking me, sir, is how we are going to determine how the work is priced once they walk the job and they submit the job order. How this works is if Director Kremer says I need you to go look at this Clark County Detention Center, we have to replace something, they would go out and scope it and then they would come back to the agency and submit their estimate, just like they would in contracting. Then that is usually reviewed by a third-party estimator. The pricing then is agreed to, but it is determined by the unit price book. It is saying we have a unit price for the material and the labor that is determined by this that we have agreed to at the beginning. We multiply our adjustment factor, which is the contractor's coefficient, and then the unit price times the coefficient is the price on the job that we have to sign off on, and that is where we name the subcontractors; that gets signed off on before work begins. I think that is what you are asking me—how pricing would be determined.

As to your point about union versus nonunion, we do not make that distinction in Clark County. There is a requirement that if it is above a certain dollar amount you must pay prevailing wage, but, of course, that is something that all contractors can agree to. Director Kremer can correct me if I stated that inaccurately.

Assemblyman Ellison:

So, it is the administration of Clark County that will actually accept the bids, or is there an outside source that is going to accept the bids?

Joanna Jacob:

What Director Kremer said is we have a third-party estimator. When we talked to the city that does this program, their project manager works with the contractor. It is very relationship-based. That is something they work out together internally. I do not know if everything would go to the third-party estimator. I am checking with Director Kremer.

Assemblyman Ellison:

That could weigh a lot on this thing. Here you have somebody who is going to be working with these contractors, number one. I am really worried. I have seen a lot of bid houses before that become really close to different contractors—those are the ones that always get

the projects. I know you are going through a bidding process, but my fear is out there when these happen. And then if you have a third-party administrator handling these projects, that even makes it worse. If you could get those answers and get back to me offline, because I know we are running out of time and there are a lot of questions out there; I would really like to know that. I would appreciate it.

Joanna Jacob:

Absolutely, I can certainly follow up offline with Assemblyman Ellison. Chair Flores, I would like to say something about the Labor Commissioner. I know we are short on time, but I do not want to leave this unanswered. Clark County purchasing works very closely with the Labor Commissioner, and we talked about this. That is why we have written in the certified electronic reporting so there is Labor Commissioner oversight of who is working on this job and how these people are being paid. I do not know what that concern is and I certainly will review it, but we work very closely with the Labor Commissioner and certainly intend to do so as we administer this program. It is not intended to subvert the authority of the Labor Commissioner at all. I wanted to make that very clear for the record.

Chair Flores:

Members, because we are short on time and I recognize that many of you still have various questions, we will send emails out to Ms. Jacob; the responses and the questions will then be shared with the whole Committee so that all of you can participate in that dialogue that will continue offline.

Ms. Jacob, at this time I would like to move to those wishing to testify in support of Senate Bill 67 (1st Reprint). We will start with those who are here in the room. I implore you to please keep your remarks as short as possible in the interest of time.

Dan Musgrove, representing Southern Nevada Building Trades:

Much of the testimony covered all the issues that we had about this new program. The very reason it is a pilot program and it is limited to very complex governments that can handle this kind of thing is exactly the reason why we want it to be that way. This is a very sophisticated process and we want to make sure it works right, but the important thing is to get those jobs out and get our folks working. Because of that we are supportive, and we will work with all of you to make sure that it is taken care of and handled correctly to make sure that it is done appropriately. Thank you to Clark County for all their work. Joanna Jacob spent hours and hours to make sure that she heard our concerns, and they have been addressed in the bill and the mock-up.

Kelly Crompton, Government Affairs Manager, City of Las Vegas:

I would echo the comments of support and say that we appreciate Clark County for bringing this bill forward and for the millions of emails that I have received as one of the stakeholders in the different iterations of this bill. I think Ms. Jacob has done a really great job of listening to the opponents and the other stakeholders to get this bill right.

Chair Flores:

Is there anybody else in the room wishing to testify in support of S.B. 67 (R1)? Seeing none, we will go to the phone lines.

Warren Hardy, representing Associated Builders and Contractors of Nevada:

I am speaking today in support of this pilot program. I would echo the comments of those who have expressed appreciation of Ms. Jacob for her tireless efforts on this. I would tell you, Mr. Chair, that in my career I have been involved with the implementation of pretty much every alternative delivery method that we have utilized in Nevada, from construction manager at risk (CMAR) to design-build. I would tell you that in my mind, we took a run at this job order contracting idea in the early 2000s or the late 1990s, as I recall. This probably is a better fit for public procurement, an alternative method of public procurement, than any of the other delivery methods we experimented with. I am representing the Associated Builders and Contractors of Nevada who represent the nonunion sector of the industry. We are in support of this pilot program to put a tool in the toolbox of our local governments that will put us on the cutting edge of this type of alternative delivery system.

Chair Flores:

Mr. Hardy, as always, thank you for calling in. We will go to the next caller in support of Senate Bill 67 (1st Reprint).

Arielle Edwards, Government Affairs Specialist, City of North Las Vegas:

We are in support of Senate Bill 67 (1st Reprint) and would like to thank the bill's sponsor, Clark County, and Government Affairs Manager Joanna Jacob for working with us.

Brian Reeder, representing Nevada Contractors Association:

We represent general and subcontract businesses affiliated with commercial construction throughout southern Nevada. We want to urge your support. A lot of good work has gone into this bill to get to the point where it is today. We want to thank Clark County, Chair Kirkpatrick, and everyone involved. Again, we urge your support.

Shelly Capurro, representing Gordian:

We support Senate Bill 67 (1st Reprint), and we want to thank Clark County and Ms. Jacob for all their work on this bill.

David Cherry, Government Affairs Manager, City of Henderson:

Good morning, Chair Flores, Vice Chair Torres, and members of the Committee. For the sake of brevity, I, too, will echo the support of my colleagues from Clark County and the other local governments for this bill's mechanism to allow the use of job order contracting within the specifications set forth under S.B. 67 (R1). I agree with the benefits that this bill will produce if enacted.

[[Exhibit H](#) and [Exhibit I](#) are letters submitted in support of Senate Bill 67 (1st Reprint).]

Chair Flores:

Thank you. I will take the next caller in support of S.B. 67 (R1). [There was no one.] At this time, we will go to those wishing to testify in opposition to S.B. 67 (R1). We will start off with those in the Committee room.

Alexis Motarex, Government Affairs Manager, Nevada Chapter, Association of General Contractors:

I am here representing the commercial construction industry in northern Nevada. The Association of General Contractors is opposed to S.B. 67 (R1). We testified in neutral on the Senate side as it was limited to Clark County. But at that hearing, one of the committee members expressed an eagerness for the program to be rolled out across the state. This is a proverbial camel's nose under the tent. While we truly appreciate Ms. Jacob's willingness to work with us and limiting the scope to southern Nevada, we feel it is necessary to oppose at this point as we believe this procurement method simply to be bad policy.

The Association of General Contractors has opposed efforts to include job order contracting as a delivery method in the past. As they have seen in cities that have adopted this procurement method, it is rife for fraud and is costing the taxpayer more. An audit conducted in Long Beach, California, [[Exhibit F](#)] over a 17-month period found that it cost the taxpayers an estimated \$1.9 million more due to change orders, vague project requirements, and poor management. An audit of New York City's Department of Education [[Exhibit J](#)] found that due to lack of oversight, the department overpaid their third-party administrator, the Gordian Group, by over \$63,000 in construction management fees. In the case of Long Beach, this audit was conducted 13 years after the job order contracting had been added as a procurement method. It is obvious that it takes years for this process to mature.

Additionally, the Long Beach audit recommended no project of over \$500,000 be considered for award under this system. More than half of the projects listed by Clark County on NELIS [[Exhibit E](#)] as potential projects for job order contracting exceed this recommendation.

Additionally, this bill does not identify what is considered either maintenance or minor construction. In fact, in the documents presented in support of S.B. 67 (R1) in NELIS in the Senate hearing, North Las Vegas identified the remodel of Old City Hall at the cost of \$9 million and the expansion of the Justice Court Facility for over \$7 million as good candidates. We would hardly consider these projects minor construction or maintenance.

As drafted and as presented today, this bill does not guard against any of the issues found in Long Beach and New York City. In order for the agencies eligible under S.B. 67 (R1) to use job order contracting, to adequately protect their resources, and use this method responsibly, they would need to go through a lengthy process to develop regulations and safeguards. By the time those are developed, much of the four years given in this legislation would be gone.

This bill was heard on the first committee passage deadline day in the Senate and is being heard here with very little time to truly flesh it out. We respectfully ask that this bill not be processed as it is our firm belief that it is not a risk that should be taken with taxpayer dollars.

[Ms. Motarex submitted but did not reference [Exhibit K](#) and [Exhibit L](#).]

Chair Flores:

Thank you for joining us. I do not think we have any questions for you. We do not have anybody else in the Committee room, so at this time we will go to the phone lines.

Richard "Skip" Daly, representing Laborers Union Local 169:

Chair Flores and members, I have to admit that I made a mistake when I ever thought that this proposal would be limited to southern Nevada for any long period of time. In fact, most of the construction industry has been opposed to any type of unit price contracting. This type of proposal, in my memory, has been killed at least three different times and once it was in front of this very Committee with the Chairwoman who is now a county commissioner having killed the proposal. It is clear that it will not stay in Clark County, based on the testimony we heard in the Senate. I am sure there will be another public body that will come to the Legislature and pull on your coat and say, Mom, Dad, another agency, Johnny across the street, got a PlayStation 5 and he has a new toy to live with, so I want one too. Do not think that that is something that never could happen [unintelligible]. We have always been opposed to job order contracting or any type of unit pricing. We just do not think it is efficient or needed.

As alluded to earlier by Assemblywoman Thomas—whether LCB wrote it or not—the whole premise of the legislative declaration is that somehow the policies and procedures that we have put in place to protect the public's interest for public contracting, making sure it is fair, open, and all bidders have the opportunity to bid on an equal basis, is somehow a burden or a barrier when it comes to job order contracting. I think that is particularly offensive, if you ask me. We need to maintain and protect the public faith and integrity for public contracts. The rules require currently: advertising, equal access to all bidders, and that certain standards of qualifications be met. I do not think they should be characterized as burdens or barriers.

You all need to look at the Long Beach audit [\[Exhibit F\]](#) to get an answer to what could go wrong. Additionally, the Committee has to get answers to several questions that were on section 9. Some of them were asked, but I do not think very clearly; who will be deciding things like the types and quantities of work; the selection criteria and weights given to those criteria; how are these items and other things to be decided—like the unit price catalog, the formula pricing, what types of projects will be awarded using job order contracts? Who and how? Are they going to use a third-party on that, and how are those people going to be paid? By a percentage or a flat fee?

We also need to find out who will decide the renewal and extensions of these contracts and how. The bill does not prohibit the use of third-party administrators, so I think that has to be questioned—what their fee is going to be.

I also have concerns about whether the criteria and weight assigned are able to be changed from job order to job order, proposal to proposal. I think it is rife, as Assemblyman Ellison pointed out; it can easily be manipulated, and contracts funneled toward certain contractors by changing the weight and the criteria in one area where a contractor is stronger than another. I see problems with the entire process.

I see a problem with the promise to make a commitment for a minimum amount of work to be awarded. In the contract they set up to five different contractors. I am not quite following how it is going to work when you talk about everyone coming in with their unit price; their unit prices are not going to be uniform; their adjustment factors are not going to be uniform. Five different contractors are going to have five different levels of payment or reimbursement for the same work, and they are just going to give them on a rotation. That is not conducive or in line with the protections and the various things that the state has developed over the years, especially when you have given someone a commitment on a piece of work. I do not know how those things protect the public's interest.

There are still problems with the makeup of the selection committee. At least it does suggest that there will be more than one person and that at least one will have construction experience. I know in other sections of the law they say, "cannot be less than three or more than five"; a majority has to have construction experience. I know there was an attempt there, but I do not think it hit the mark.

In the subcontract language that is there—I listened to the testimony here. The prime contractor who gets the job has their process. They know they are going to get it if they have a unit price on traditional construction; or in most other, they have to select those subs and turn those subs in with their bid at that time, and then they cannot be substituted later. Under the CMAR process, the subs are selected later, but there is an elaborate process meant to stop bid-shopping where they have to prequalify those subs. They have to advertise to those subs; and then the subs have to submit proposals to the awarding body at a certain time. Only those subs can be selected. Under this procedure, I do not think all of the safeguards are there. The contractor can have the job; the prime can go out and say I need these types of subs and he will have however long it takes to shop around and say, I would love to give it to you, but so and so gave me a better price. The protections are not there. Once they list them, yes, there are the protections that Ms. Jacob mentioned that say they would not be able to substitute them after that. But there is a whole process happening before that where they can be manipulating those contractors.

In regard to the letter of the Labor Commissioner [[Exhibit G](#)], let me explain a little bit more. I am sorry if they were not able to see it. I just saw the mock-up last night and read the changes in section 6 regarding the applicability of NRS Chapter 338. The previous language said that the provisions of NRS Chapter 338 applied to job order contracting. Now they have

taken it out and said only these three things: the apprentice utilization, paying prevailing wage, and turning in certified payroll reports. In the Labor Commissioner's letter there are several areas where she mentioned that, theoretically, would she be able to enforce them? Would she not be able to enforce them? I think this bill would create a conflict there, but there are other things that are left out that I did write down: the provisions that were just put in last session defining what a bona fide benefit is, would that apply to these job order contracts or not? The annualization portion of that. Whether you are employed at the site of the work and the information on the person whom the Labor Commissioner uses to determine that is not included. Now, what are the labor standards for job order contracting? Whether or not there is a contractual relationship that the Labor Commissioner said you cannot use an independent contractor and you cannot claim an independent contractor performing construction work is not a worker. Those provisions are left out of the new language, labor standards that would not be included for job order contracting.

The forfeiture and penalties for misrepresenting or misreporting a person in NRS 338.060 have been left out. Of course, NRS 338.090, where the Labor Commissioner has enforcement and can issue penalties—that section has been left out.

After listening to testimony and with all of that being said, we are profoundly opposed to this type of contracting. We do not think that it is going to be beneficial. It is not going to be limited to southern Nevada for very long. This bill should be burned in a barrel in front of the building in my personal opinion.

Chair Flores:

Thank you, Mr. Daly. You are always doing your "Daly Touch" on things. I appreciate that. We will continue with opposition testimony to Senate Bill 67 (1st Reprint).

Rob Benner, Secretary-Treasurer, Building & Construction Trades Council of Northern Nevada:

We oppose S.B. 67 (R1). When I testified in the Senate, I testified in neutral because we were told it was going to be restricted to Clark County. However, it has become clear after listening to the first hearing and those who spoke in support at that hearing that this program will likely go statewide in the future. We are now opposed to S.B. 67 (R1). In the building trades we have seen the effects of this process, and we can look at what happened in other cities that have implemented job order contracting to see what the results are.

Long Beach, California, implemented job order contracting in 2003. In 2016 a team of independent auditors evaluated the performance of the program and released their results in a study. They found a lack of oversight, an emphasis on speed over quality, a lack of competitive bidding, and dramatic cost overruns. In fact, the audit found cost overruns on 91 percent of the projects that were reviewed. Several projects had cost overruns of almost 50 percent due to change orders. This audit was done after job order contracting had been in place for 13 years. If this bill passes, there should be at least an independent audit before it is expanded. We are strongly opposed to job order contracting in northern Nevada. I do not think there is a municipality in northern Nevada that has a capital improvement fund

budget of \$25 million. If job order contracting is expanded, this bill would allow the municipalities in northern Nevada, in theory, to award their entire budgets using this method, which is not appropriate. Job order contracting is a problematic process that leads to a lack of transparency, cost overruns, lack of oversight, and potential conflicts of interest. We encourage you to oppose it.

Chair Flores:

Thank you. I will take the next caller in opposition to Senate Bill 67 (1st Reprint).

Danny Thompson, representing Operating Engineers Local 3:

We are opposed to this bill, I can tell you, after reading the mock-up. We agree with Mr. Daly's comments that all of these protections that were put in NRS Chapter 338 over the years were put in there to address problems that were created, and solutions were found in those changes in the law. We see this bill undoing all those fixes. We have always been against job order contracting or unit-price contracting—there have been many different names it has been called. We have seen it before in a school district in a certain county where they had the good old boys system and, to Assemblyman Ellison's point, he hit the nail on the head—the potential for that to happen here is very real, especially with the changes that are proposed in the mock-up. Without repeating all the points in opposition, we would agree with them; those are our concerns, and we are adamantly opposed to this bill.

Mike West, representing International Union of Painters and Allied Trades:

I represent District Council 16 of Painters and Allied Trades in both northern and southern Nevada. We are also opposed to S.B. 67 (R1), which is particularly concerning for the finish crafts. First, for a public body or its authorized representative to rank proposals, without any statement in the bill that somebody from the building trades would be on these panels, is concerning. Next, the language about unit pricing and the formula sounds too much like piecework, and we fight every day against the underground economy, piecework, and misclassified workers. Additionally, about the provision in section 12 where at least 50 percent of the work is subcontracted out—for example, if the general contractor decides to self-perform all of the finish work including paint, drywall finishing, floor covering, and glazing, which we cover, but that is less than 50 percent of the total project cost—the painters and allied trades have lost everything on that project.

Where it says that the estimated costs would be the same as an out-bid public works project—the examples have been given about Long Beach and about California localities. In California, there is current legislation that states there has to be cost savings, not just the same, but a savings, for there to be a job order contract in place.

Finally, this legislation in California—at the state level, not Long Beach or the localities—has been trying to fix job order contracting in the state for years. It includes new legislation which states that anything over \$25,000 should provide an enforceable commitment that the contractors at every tier use the skilled and trained workforce, who are people who have graduated from a state-approved apprenticeship program—not a union apprenticeship program—but a state-approved apprenticeship program with an apprenticeable occupation in

the building trades, which would eliminate this idea that the general contractor might keep the 50 percent to do with their people that would otherwise be performed by an apprenticeable occupation of the building trades. For these reasons, we are adamantly opposed to S.B. 67 (R1).

Chair Flores:

Thank you. Next caller in opposition to S.B. 67 (R1). [There was no one.] At this time, we will go to those wishing to testify in the neutral position on S.B. 67 (R1).

Shannon M. Chambers, Labor Commissioner, Office of Labor Commissioner, Department of Business and Industry:

Chair Flores and Vice Chair Torres, I know you are short on time. I will try to make this as quick as possible. First of all, I certainly do not want to diminish any of the work that Ms. Jacob and all the stakeholders have done on this bill. Second of all, the Labor Commissioner has not been involved in any of the discussions on this bill. I am not saying that is a bad thing; it sounds like there has been a lot of work that has been done here.

My main concern as the Labor Commissioner is Reprint 1 on S.B. 67 (R1) had the authority of the Labor Commissioner to enforce any requirement under NRS Chapter 338. We now have a mock-up [[Exhibit D](#)] where the Labor Commissioner will only be allowed to enforce certain provisions of NRS Chapter 338. In my opinion and experience as the Labor Commissioner since 2014 and rolling out a new pilot program—you have heard some of the concerns—to not have the authority of the Labor Commissioner to enforce all the provisions of NRS Chapter 338, would be a mistake. I did not have an opportunity to discuss this with Ms. Jacob; I got this at 7:30 a.m. and jumped in on this. I do not jump in on things unless I feel it is appropriate, which is why I am making these comments now. I do not understand why that language was changed to only allow the Labor Commissioner to enforce certain provisions of Chapter 338. In my opinion, especially given what I know in my history and my claim history on prevailing wage and public works, the Labor Commissioner should be allowed to enforce all provisions of NRS Chapter 338. That is why I chose to offer a written statement and am choosing to offer this testimony today. I am happy to work with Ms. Jacob and all the stakeholders. It is my recommendation that the language in Reprint 1 in section 6 that says the Labor Commissioner can enforce any requirement be the language that moves forward. I will leave it at that and am happy to answer any questions. Again, I just want to have that on the record.

Chair Flores:

Thank you for calling in to join the conversation. I am sure folks will reach out to you after today's hearing. Next caller in the neutral position on Senate Bill 67 (1st Reprint). [There was no one.]

In the interest of time, Ms. Jacob, I am going to ask that we please not do closing remarks. I am sorry; we need to get down to the floor. We will not do closing remarks but, members, here is what we are going to do because I know we still have a host of questions unanswered and things that we want clarified. We will circulate the additional questions from the

members via email. For example, I know Assemblywoman Anderson has additional questions; we will send those out and then we will circulate the responses to the questions so everybody can see them, and we will do that with every single question you all have so we are all in the same conversation.

With that we will close the hearing on Senate Bill 67 (1st Reprint). Lastly, we will go to public comment.

Brian Rippet, President, Nevada State Education Association:

I am a chemistry and physics teacher in Douglas County serving as the president of the Nevada State Education Association. I am commenting today as this Committee has purview over *Nevada Revised Statutes* Chapter 288, which includes provisions for collective bargaining. As you may know, language in Senate Bill 543 of the 80th Session, the School Funding Plan, set the ending fund balance for school districts not subject to collective bargaining at 16.6 percent. This is a grand departure from our current policy and practice. We believe this is an anti-collective bargaining provision that would wall off hundreds of millions of dollars from school districts and employees in fiscal year 2021. Combined with the state's sweep of district funds above 16.6 percent, this effectively ends collective bargaining on any subjects having a cost. Please do what it takes to help return to the current practice as outlined in the *Nevada Administrative Code* so that educators can continue to fairly bargain.

Annemarie Grant, Private Citizen, Quincy, Massachusetts:

I am the sister of Thomas Purdy, murdered by the Reno Police Department and Washoe County Sheriff's Office.

These are not my words, I just want to preface this: "I am going to build a couple AR pistols just for BLM, Antifa, or active shooters who cross my path and can't maintain social distancing." "I would be a good helper and throw a lot of gasoline in their direction as they light their lighters and then say oops as I walked away." Those were just two of the vile, disgusting, disturbing, and [unintelligible] generating tweets sent out by Sparks police officer George Forbush. The city disciplined Officer Forbush for violating Sparks administrative rules, civil service regulations, and Sparks Police Department general orders with a four-day suspension. Forbush alleges he was unjustly disciplined for misconduct after he posted on a personal social media account about matters of public concern, is what he called them. Forbush is seeking \$1 million in damages because the city's [unintelligible] disciplinary action caused him psychological, emotional, and reputational harm and will hurt his post-retirement employment prospects. Another bad officer costing the taxpayers money. The Sparks City Council at their Monday, May 10, 2021, meeting approved retaining Holland and Hart LLP as special counsel to the city in the Forbush lawsuit. These fees are billed by the hour and the hourly rate varies based on the person performing the work. The total financial impact will depend on how the case progresses.

What is most troubling is Forbush sees nothing wrong with his statements as someone who has the ability to kill without consequence. His attorney wants to pretend that the community does not have a legitimate fear based on his statements. He is a member of the SWAT team that is typically sent to volatile situations. I know many community members, especially in the Black community, who do not want him showing up for their call. You may or may not recall I spoke to this Committee previously about 30-year-old Kristofer Talancon who was asphyxiated by Sparks police in 2016. Forbush was one of those officers. Please support bills that promote transparency and accountability for law enforcement.

Chair Flores:

Thank you for joining us. Next caller wishing to testify for public comment. [There was no one.] Members, I appreciate everybody asking questions and engaging in today's conversation. I recognize that there are still a bunch of unanswered questions. Know that we will hopefully be able to get some of those answered and, hopefully, find some common ground. We will be meeting tomorrow at 9 a.m. This meeting is adjourned [at 12:09 p.m.].

RESPECTFULLY SUBMITTED:

Zachary Khan
Recording Secretary

Geigy Stringer
Transcribing Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a copy of a PowerPoint presentation titled, "[Senate Bill 4](#)," submitted by Joanna Jacob, Government Affairs Manager, Clark County.

[Exhibit D](#) is a mock-up amendment of [Senate Bill 67 \(1st Reprint\)](#) dated May 12, 2021, presented and submitted by Joanna Jacob, Government Affairs Manager, Clark County.

[Exhibit E](#) is a sample list of Clark County potential projects for job order contracting, submitted by Joanna Jacob, Government Affairs Manager, Clark County.

[Exhibit F](#) is a report titled, "Job Order Contract Audit Report," dated May 25, 2016, by Laura L. Doud, City Auditor, et al, Long Beach City Auditor's Office, submitted by Alexis Motarex, Government Affairs Manager, Nevada Chapter, Association of General Contractors.

[Exhibit G](#) is testimony dated May 13, 2021, submitted by Shannon M. Chambers, Labor Commissioner, Office of Labor Commissioner, Department of Business and Industry, in the neutral position to [Senate Bill 67 \(1st Reprint\)](#).

[Exhibit H](#) is a letter from Fran Almaraz, Government Affairs, Teamsters Locals 14, 631, and 986, dated May 13, 2021, submitted in support of [Senate Bill 67 \(1st Reprint\)](#).

[Exhibit I](#) is a letter from Phil Jaynes, President, Local 720, International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, Its Territories and Canada, AFL-CIO, CLC, dated May 13, 2021, submitted in support of [Senate Bill 67 \(1st Reprint\)](#).

[Exhibit J](#) is a report titled, "Audit Report on Job Order Contracting by the Department of Education," dated June 28, 2006, by William C. Thompson, Jr., Comptroller, Bureau of Financial Audit, Office of the Comptroller, City of New York, submitted by Alexis Motarex, Government Affairs Manager, Nevada Chapter, Association of General Contractors.

[Exhibit K](#) is a copy of a PowerPoint presentation titled, "Job Order Contract (JOC) Audit," by Laura L. Doud, City Auditor, Long Beach City Auditor's Office, submitted by Alexis Motarex, Government Affairs Manager, Nevada Chapter, Association of General Contractors.

[Exhibit L](#) is an article titled, "City Auditor Finds Long Beach Jobs Order Contracts Process Was Prone to Fraud, Lacked Oversight," by Jason Ruiz for the *Long Beach Post*, dated May 25, 2016, submitted by Alexis Motarex, Government Affairs Manager, Nevada Chapter, Association of General Contractors.