

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

**Eighty-Second Session  
May 17, 2023**

The Committee on Commerce and Labor was called to order by Chair Elaine Marzola at 12:57 p.m. on Wednesday, May 17, 2023, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda [[Exhibit A](#)], the Attendance Roster [[Exhibit B](#)], and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/82nd2023](http://www.leg.state.nv.us/App/NELIS/REL/82nd2023).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Elaine Marzola, Chair  
Assemblywoman Sandra Jauregui, Vice Chair  
Assemblyman Max Carter  
Assemblywoman Bea Duran  
Assemblywoman Melissa Hardy  
Assemblywoman Heidi Kasama  
Assemblywoman Daniele Monroe-Moreno  
Assemblyman P.K. O'Neill  
Assemblywoman Selena Torres  
Assemblyman Steve Yeager  
Assemblyman Toby Yurek

**COMMITTEE MEMBERS ABSENT:**

Assemblywoman Shea Backus (excused)

**GUEST LEGISLATORS PRESENT:**

Senator Nicole Cannizzaro, Senate District No. 6  
Senator James Ohrenschall, Senate District No. 21  
Senator Melanie Scheible, Senate District No. 9  
Senator Fabian Doñate, Senate District No. 10

**STAFF MEMBERS PRESENT:**

Marjorie Paslov-Thomas, Committee Policy Analyst  
Sam Quast, Committee Counsel

Minutes ID: 1154



Joe Steigmeyer, Committee Counsel  
Cyndi Latour, Committee Manager  
Julie Axelson, Committee Secretary  
Garrett Kingen, Committee Assistant

**OTHERS PRESENT:**

Alexandria Cannito, Government Affairs Coordinator, Lewis Roca  
David Goldwater, representing FaceTec, Inc.  
Terry Coffing, Chief Legal Officer, FaceTec, Inc.  
Annette Magnus, Executive Director, Battle Born Progress  
David Cherry, Government Affairs Manager, City of Henderson  
Peter D. Krueger, representing Nevada Petroleum Marketers & Convenience Store  
Association  
Bryan Wachter, Senior Vice President, Retail Association of Nevada  
Paul Moradkhan, Senior Vice President, Government Affairs, Vegas Chamber  
Teptring Piquado, Senior Director, State and Local Government Relations, Western  
Region, Chamber of Progress  
Misty Grimmer, representing Cox Communications  
Paul J. Enos, Chief Executive Officer, Nevada Trucking Association  
Tom Clark, representing Reno + Sparks Chamber of Commerce  
Kerrie Kramer, representing NAIOP  
Michael D. Hillerby, representing Mastercard Inc.  
Bobby Ernaut, representing Nevada Mining Association  
Katrin Ivanoff, Private Citizen, Las Vegas, Nevada  
Carl Szabo, Vice President and General Counsel, NetChoice  
Andrew Kingman, representing State Privacy and Security Coalition  
Lia Nitake, Deputy Executive Director for the Southwest, TechNet  
Jake Parker, Senior Director of Government Relations, Security Industry Association  
Khara Boender, State Policy Director, Computer and Communications Industry  
Association  
Lisa Partee, Private Citizen, Carson City, Nevada  
Leslie Quinn, Private Citizen, Las Vegas, Nevada  
Susan Proffitt, Vice President, Nevada Republican Club  
Marissa Temple, Private Citizen, Las Vegas, Nevada  
Paige Barnes, representing National Psoriasis Foundation; Crohn's and Colitis  
Foundation; and American College of Obstetricians and Gynecologists  
Jan Kallet, Private Citizen, Reno, Nevada  
Andrea King, Private Citizen, Reno, Nevada  
Vivian Leal, Private Citizen, Reno, Nevada  
Sarah Watkins, Interim Executive Director, Nevada State Medical Association  
Donna Laffey, representing Dignity Health-St. Rose Dominican  
Cari Herington, Executive Director, Nevada Cancer Coalition  
Tom McCoy, Executive Director, State Government Affairs, Nevada Chronic Care  
Collaborative

Becky Jayakumar, Private Citizen, Las Vegas, Nevada  
Jacob Murdock, Executive Director, National Hemophilia Foundation, Nevada Chapter  
Lucy Laube, Field Operations Coordinator, National Psoriasis Foundation  
Helen Foley, representing Nevada Association of Health Plans  
Paul Young, representing Pharmaceutical Care Management Association  
Lea Tauchen, representing National Association of Health Insurance Providers  
Bill Head, Assistant Vice President, State Affairs, Pharmaceutical Care Management Association  
Cyrus Hojjaty, Private Citizen, Las Vegas, Nevada  
André C. Wade, State Director, Silver State Equality  
Brooke Maylath, Private Citizen, Reno, Nevada  
Karen Thiele, Private Citizen, Reno, Nevada  
Spencer Trivitt, Private Citizen, Reno, Nevada  
Sy Bernabei, Executive Director, Gender Justice Nevada  
Elizabeth Sterns, Private Citizen, Las Vegas, Nevada  
Leann D. McAllister, Executive Director, Nevada Chapter, American Academy of Pediatrics  
Rob Phoenix, Private Citizen, Las Vegas, Nevada  
Sarah Adler, representing Nevada Advanced Practice Nurses Association  
Lea Case, representing Nevada Psychiatric Association  
Vanessa Dunn, representing Nevada Primary Care Association  
Elyse Monroy-Marsala, representing Nevada Public Health Association  
Terence McAllister, Fellow, American Academy of Pediatrics; and Vice President, Nevada Chapter, American Academy of Pediatrics  
Daela Gibson, Director of Public Affairs, Planned Parenthood Mar Monte  
Jessica Munger, Program Manager, Silver State Equality  
Karl Catarata, State Director, Human Rights Campaign, Nevada Chapter  
Briana Escamilla, Regional Organizing Director, Planned Parenthood Votes Nevada  
West Juhl, Director, Communications and Campaigns, American Civil Liberties Union of Nevada  
Elvira Diaz, Private Citizen, Sparks, Nevada  
Bob Russo, Private Citizen, Gardnerville, Nevada  
Janine Hansen, State President, Nevada Families for Freedom  
Lynn Chapman, State Treasurer, Independent American Party of Nevada  
Kathleen Palmer, Private Citizen, Carson City, Nevada  
Joy Trushenski, Private Citizen, Carson City, Nevada  
Jim DeGraffenreid, National Committeeman, Nevada Republican Party  
Stephanie Kinsley, Private Citizen, Henderson, Nevada  
Alaric Triggs, Private Citizen  
Lorena Cardenas, Private Citizen, Las Vegas, Nevada  
Jonathan Norman, Statewide Advocacy, Outreach, and Policy Director, Nevada Coalition of Legal Service Providers  
Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada; and founding member, Nevada Housing Justice Alliance

Lilith Baron, Policy Manager, American Civil Liberties Union of Nevada  
Paul Catha, Political Director, Culinary Workers Union Local 226  
Cody Hoskins, Political Director, Service Employees International Union Local 1107  
Manuel Ayala, Digital Content Manager, For Our Future Nevada  
Shelly Speck, Parent Leadership Coordinator, Children's Advocacy Alliance; and  
representing Nevada Strong Start Coalition  
Roberta Ohlinger-Johnson, Legislative Chair, Creditor Rights Attorneys Association  
of Nevada  
Matt Schriever, Private Citizen, Las Vegas, Nevada

**Chair Marzola:**

[Roll was called and Committee rules and protocol explained.] Welcome, everyone. We are going to hear four bills: Senate Bill 78 (1st Reprint), Senate Bill 194 (2nd Reprint), Senate Bill 302 (1st Reprint), and Senate Bill 370 (1st Reprint). I will not be taking those bills in order. We will also conduct a work session. I am going to conduct the work session first before we lose any members. We will now begin the work session with Senate Bill 91.

**Senate Bill 91: Authorizes a licensed clinical alcohol and drug counselor to supervise a certified problem gambling counselor intern. (BDR 54-57)**

**Marjorie Paslov-Thomas, Committee Policy Analyst:**

Senate Bill 91 authorizes a licensed clinical alcohol and drug counselor to supervise a certified problem gambling counselor intern [[Exhibit C](#)]. It is sponsored by Senator Lange and was heard on April 19, 2023. There are no proposed amendments.

**Chair Marzola:**

Are there any questions? [There were none.] I will entertain a motion to do pass S.B. 91.

ASSEMBLYWOMAN JAUREGUI MADE A MOTION TO DO PASS  
SENATE BILL 91.

ASSEMBLYMAN YEAGER SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN BACKUS WAS  
ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblyman Yurek. We will move to Senate Bill 131.

**Senate Bill 131: Revises provisions relating to reproductive health care. (BDR 54-44)**

**Marjorie Paslov-Thomas, Committee Policy Analyst:**

Senate Bill 131 revises provisions relating to reproductive health care [[Exhibit D](#)]. It is sponsored by Senator Cannizzaro and was heard on May 10, 2023. There are no proposed amendments.

**Chair Marzola:**

Are there any questions? [There were none.] I will entertain a motion to do pass S.B. 131.

ASSEMBLYWOMAN JAUREGUI MADE A MOTION TO DO PASS  
SENATE BILL 131.

ASSEMBLYWOMAN MONROE-MORENO SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN HARDY, KASAMA,  
O'NEILL, AND YUREK VOTED NO. ASSEMBLYWOMAN BACKUS  
WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Jauregui. We will now move to Senate Bill 214.

**Senate Bill 214: Revises provisions relating to governmental administration. (BDR 18-898)**

**Marjorie Paslov-Thomas, Committee Policy Analyst:**

Senate Bill 214 revises provisions relating to governmental administration [[Exhibit E](#)]. It is sponsored on behalf of the Sunset Subcommittee of the Legislative Commission and was heard on April 17, 2023. There are no proposed amendments.

**Chair Marzola:**

Are there any questions? [There were none.] I will entertain a motion to do pass S.B. 214.

ASSEMBLYWOMAN JAUREGUI MADE A MOTION TO DO PASS  
SENATE BILL 214.

ASSEMBLYWOMAN TORRES SECONDED THE MOTION.

Any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN BACKUS WAS  
ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblyman Carter. Next is Senate Bill 259 (1st Reprint).

**Senate Bill 259 (1st Reprint):** Revises provisions relating to alcoholic beverages. (BDR 52-676)

**Marjorie Paslov-Thomas, Committee Policy Analyst:**

Senate Bill 259 (1st Reprint) revises provisions relating to alcoholic beverages [[Exhibit F](#)]. It is sponsored by Senator Dondero Loop and was heard on May 8, 2023. There are no proposed amendments.

**Chair Marzola:**

Are there any questions? [There were none.] With that, I will entertain a motion to do pass Senate Bill 259 (1st Reprint).

ASSEMBLYWOMAN MONROE-MORENO MOVED TO DO PASS  
SENATE BILL 259 (1ST REPRINT).

ASSEMBLYWOMAN JAUREGUI SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN BACKUS WAS  
ABSENT FOR THE VOTE.)

I will assign the floor statement to me. Next is Senate Bill 330 (1st Reprint).

**Senate Bill 330 (1st Reprint):** Revises provisions related to health care. (BDR 57-161)

**Marjorie Paslov-Thomas, Committee Policy Analyst:**

Senate Bill 330 (1st Reprint) revises provisions relating to health care [[Exhibit G](#)]. It is sponsored by Senator Lange and was heard on May 5, 2023. There are two attached amendments proposed by Paige Barnes, Public Affairs Manager, the Ferrato Company.

**Chair Marzola:**

Are there any questions? [There were none.] I will entertain a motion to amend and do pass Senate Bill 330 (1st Reprint).

ASSEMBLYWOMAN JAUREGUI MOVED TO AMEND AND DO PASS  
SENATE BILL 330 (1ST REPRINT).

ASSEMBLYWOMAN TORRES SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN BACKUS WAS  
ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Kasama. That concludes our work session today.

We will move to our first bill, which will be Senate Bill 370 (1st Reprint). Before we get started, I want to give you the lay of the land today. Since we do have four bills, I will take 30 minutes in support, 30 minutes in opposition, and 30 minutes in neutral, which means there are going to be 10 minutes of testimony here in Carson City, 10 minutes in Las Vegas, and 10 minutes over the phone lines. With that, I will open the hearing on Senate Bill 370 (1st Reprint), which revises provisions relating to the protection of consumer information.

**Senate Bill 370 (1st Reprint): Revises provisions relating to the protection of consumer information. (BDR 52-42)**

**Senator Nicole Cannizzaro, Senate District No. 6:**

I am happy to be here with all of you today to present Senate Bill 370 (1st Reprint), which seeks to implement protections for health data and privacy protections for biometric data maintained and used by certain persons and entities. Before we start, I did want to ensure the Committee had received a proposed amendment [[Exhibit H](#)]. This is a compilation of several amendments we have received since this bill came out of the Senate, which we have agreed to accept. I believe you will also hear there are still some amendments either in the process of being proposed to us or for which we needed to work out some of the language in order to be in a place where we could accept those. I wanted to make sure the members of the Committee had received that document. Those are amendments we will be accepting and hoping this Committee will consider when taking any final action, if any, on this bill.

**Chair Marzola:**

Is the amendment dated May 11, 2023?

**Senator Cannizzaro:**

It is, Madam Chair. We will be talking about the bill, and these are amendments [[Exhibit H](#)] we have accepted. For the Committee members, those are things we would anticipate would be in any final version of the bill that you may or may not take a vote on.

With that, I want to talk a little bit about what the issues are that S.B. 370 (R1) is attempting to address. We, of course, are witnessing in our lifetimes very rapid technological advancements. The amount and type of data that is being collected and also processed is growing exponentially. Among the most sensitive types of data are health and biometric information, which contain highly personal details about an individual's physical and mental well-being. Consequently, I believe the need for robust protections to safeguard this data has become that much more crucial.

In recent years, there has been a significant increase in the number of entities that also collect, process, and use health and biometric data. This growth is due in part to the widespread adoption of electronic health records, wearable devices, and other health-related technologies. Additionally, biometric identification systems such as facial recognition, fingerprint scanners, and iris recognition have become increasingly popular for various applications, from unlocking smartphones to facilitating secure access into buildings.

Given the sensitive nature of this type of health and biometric data, there is a strong need to enact comprehensive legislation that addresses the potential risks and ensures the privacy and security of this information. As of February of this year, there were three states—Illinois, Texas, and Washington—that have all enacted biometric privacy legislation, while nine states are currently introducing and considering this type of legislation in 2023. Those states include Arizona, Hawaii, Maryland, Massachusetts, Minnesota, Missouri, New York, Tennessee, and Vermont.

These measures vary state by state, but the broad biometric proposals would generally require companies, with some exceptions, to let people know when their biometrics are being collected to secure consent for that and to lay out policies for how that information is kept and destroyed.

This is a concept—inasmuch as it relates to the health data piece and the privacy pieces around that as well—that was brought to my attention, and I have been working very closely with Alexandria Cannito on this. It arose out of several conversations we had about different applications and types of data you may be entering into applications to monitor your health. I think we could all probably open up our phones and find at least one: if you are tracking how much water you are drinking; if you are walking and trying to track how many steps you take; or, if like Assemblyman Yeager, you run an insane amount and want to keep track of all of that. That is another way we may capture that data. If you are monitoring things such as your menstrual cycle, those are things that can be used to help time ovulation and help with pregnancy planning. There are a whole host of different things you may or may not do with these types of apps. The impetus for this came from some discussions with Ms. Cannito.

With your permission, Madam Chair, I would like to turn it over to her for some additional comments. Then I think we have a walkthrough of the bill that I will do very briefly and then some additional testimony regarding some of the biometric pieces, if that works for you.

**Alexandria Cannito, Government Affairs Coordinator, Lewis Roca:**

I want to thank Senator Cannizzaro for sponsoring this bill. I was in a class last summer at the University of Nevada, Reno. One of our assignments was to read an article from *The Wall Street Journal* and then lead a class discussion. I picked an article that was about menstrual cycle-tracking apps and what happens if you are putting your data into these apps and it gets sold. We had this big class discussion and started talking about what we can do here in the state of Nevada to provide more protections for consumers when it comes to their health data.

I started talking about this idea outside of the class and talking with Senator Cannizzaro. And this is something that applies to any health data app that is out there. As Senator Cannizzaro said, there are so many things you can track: your sleep; how many steps you take; and if you have a heart condition and are monitoring your heart rate to bring that information back to your doctor. This encompasses so many different aspects of consumer health data. Again, I am very grateful to Senator Cannizzaro for bringing this forward.

**Senator Cannizzaro:**

Very briefly, I will walk through with the Committee members key sections of the bill. Beginning with sections 2 through 19, they define terms used throughout the majority of this bill. Some of these key definitions include section 7, which defines "consumer" as a natural person who resides in the state or whose consumer health data is collected in the state, excluding those acting in an employment context or as an agent of a governmental entity. Section 8 defines "consumer health data" as "personally identifiable information that is linked or reasonably capable of being linked to a consumer and that a regulated entity uses to identify the past, present or future health status of the consumer." Section 15 defines a "regulated entity" as a person conducting business in the state or providing products or services targeted to consumers in the state and determining the purpose and means of processing, sharing, or selling consumer health data.

Section 20 excludes certain data collected or disclosed under federal or state law from the provisions of this bill. Section 21 requires regulated entities to develop and maintain a privacy policy for consumer health data and obtain affirmative voluntary consent from consumers before collecting, sharing, or selling their data.

Section 22 prescribes requirements governing consumer consent for data collection and sharing, and specifically requires a regulated entity to obtain that same consent from the consumer before collecting or sharing consumer health data with certain exemptions.

Section 24 establishes consumer rights to request information about their health data and to demand its deletion. Section 25 prescribes requirements governing the response to consumer requests, including providing information free of charge in most circumstances, and requires an entity to respond to a consumer within a certain period of time.

Section 26 details the time frame, which is 30 days in the current iteration of the bill. I believe we have some amendments to address that as well. There are time frames for regulated entities, affiliates, and third parties to delete consumer health data upon receiving a request.

Section 27 requires regulated entities to establish an appeals process for where a request for data deletion has been denied. Section 28 requires regulated entities to implement policies and procedures to protect the security of consumer health data.

Section 30 prohibits selling or offering to sell consumer health data without written authorization from a consumer. Section 31 prohibits geofencing within 1,750 feet around any entity that provides in-person health care services or products for certain purposes.

Section 34 establishes that violating the provisions of the bill constitutes a deceptive trade practice and allows for lawsuits pursuant to that section of law. Sections 34.1 through 34.9 outline provisions for the protection of biometric identifiers, such as facial, fingerprint, or iris data, and establish requirements for the collection, possession, sharing, and sale of that data.

With your permission, Madam Chair, I would like to turn it over to David Goldwater. He is going to walk through some of the biometric pieces I just discussed in sections 34.1 through 34.9.

**David Goldwater, representing FaceTec, Inc.:**

[Provided PowerPoint presentation, [Exhibit I](#).] First, let me thank Senator Cannizzaro and Ms. Cannito for their commitment to consumer protection and data privacy. It is refreshing to see somebody willing to do this kind of work.

Let me say this about the jobs you are doing. In the next two years, it is almost certain you are going to get a call from a constituent, and they are going to be very upset because they have been spoofed; their bank account has been cleaned out; or their identity has been stolen. They are going to wonder what can be done. It is very likely when they examine how this spoof occurred that it links back to some sort of biometric identifier they have given out.

Sections 34 and 35 of this bill provide a very simple solution. Although there are lots of words and some complex structures, the solution is pretty simple. First, if somebody collects your biometric information, they can only use it or process it if they ask your permission. Next, they need to protect that data, and they cannot keep it for an indefinite period of time. That is it. That is sections 34 and 35.

You are going to hear from a lot of people who say, Yeah, that is a good idea, but there is some reason this tech giant thinks it is unworkable or cannot work. This is a lot of what you are going to hear. What they do not understand is you have to answer your constituent, and "yeah, but" cannot be an answer. Yeah, I would have protected you, but there was a reason this giant company needed to not protect you. It is not an answer.

Biometrics are used all the time. In this slide [page 3, [Exhibit I](#)], you can see signature recognition, fingerprints, and iris scanning. This is the kind of information that needs to be protected. When you use passwords, for example, and you are hacked, you can change your password. When your biometric information is used, you cannot change your iris; you cannot change your fingerprints. They are very versatile. They allow these companies to do the kinds of complex things we are doing in our information economy.

The growth of the biometric data industry is huge and growing faster every day. Our choice is pretty simple based on this kind of growth. We protect our citizens now, or we will be dealing with the consequences. It is not now or later. It is either protect or deal with the consequences. If your instinct is hitting you saying, Oh, the federal government should be doing something, your instincts are right. They probably should, but they are not, so it is up to you to protect your constituents.

You can see here on this side [page 6, [Exhibit I](#)], other countries have taken steps to protect biometric data. In fact, Europe even has the General Data Protection Regulation, which they passed in 2018, and it protects biometric data even to a greater extent than we are asking for.

Other states have also embarked on this journey, as mentioned by Senator Cannizzaro. As you can see on this map [page 8, [Exhibit I](#)], there are several states that have already passed something. Some laws are better, and they are getting better as we move through the states and these issues have been litigated. I think this bill reflects the improved product.

Finally, your constituents deserve as much as the people from Europe, Texas, Washington, and Illinois. Other states have embarked on this journey. Nevada should too. Keeping your constituents in mind, this bill should not be a "yeah, but" bill to turn it down, but a "yes, we have decided to protect our constituents, and here is how we have done it."

Unless you have questions for me, I would like to turn this over to Terry Coffing, and he will go through the sections in layman's language.

**Terry Coffing, Chief Legal Officer, FaceTec, Inc.:**

FaceTec is a Nevada-based corporation that sells and licenses software in the biometric industry. I would like to touch on a couple of things in section 34 of **S.B. 370 (R1)**, if I may. First and foremost, at the front of section 34, this bill does not, unlike others, create a private right of action. Enforcement is up to the Office of the Attorney General as a consumer protection type of statute.

Sections 34.1 through 34.9 say everything about this bill. It governs the collection, use, security, handling, storage, retention, and destruction of biometric identifiers. That, in essence, is what we are trying to say. If you are going to collect it, you need the permission, you need to tell us how you are handling it, and you need to set a time frame in a manner in which it will be destroyed.

In section 34.3, biometric identifiers are very broadly defined but generally relate to face, fingerprint, or iris of a person, which are the most commonly used biometric measures and identifiers in the industry today and present the greatest challenges that need the protection. The bill specifically does not pertain to certain entities under section 34.5. Number one, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and people who are subject to HIPAA. It provides a more stringent regulation. A financial institution is subject to the Gramm-Leach-Bliley Act. They also have their own regulation scenario. Anyone with a gaming license is excluded. Car dealers and manufacturers are excluded as well.

To alleviate a lot of concerns that have been raised to me under section 34.5, subsection 3, which reads, "Physical or digital photographs collected, possessed . . ." not for the purpose of processing that biometric information. If you are taking selfies with your friends, they are not covered even though that data could be potentially valuable or sensitive. Your Ring doorbells are not going to be affected. You are not collecting that for purpose of processing biometrics.

Section 34.7 lays out the meat. If you are going to collect biometric information, you must develop, maintain, and comply with a written policy, setting forth a schedule for destruction and how things are going to be stored, and it sets forth some time frames, the earlier of which the data is no longer needed, or one year after the most recent interaction between the person in possession with the biometric information and that subject.

Going on in section 34.7, the standard the people collecting biometric data must meet is the standard within the industry. We also have a standard set forth by the National Institute of Standards and Technology (NIST) that provides a good framework for people who are in the industry, want to collect, and they want to comply. The NIST standard is developed by the U.S. Department of Commerce, and it sets forth the standards the U.S. government must use when they are collecting that data and utilizing that data in their affairs.

Uniquely under section 34.8 subsection 2, this is what I would call a liveness requirement. It is a requirement that when you collect that biometric data, you have a live human being in front of you. I will give an example. This morning, I went through the airport. I went up to CLEAR, and a nice person guided me. My irises were scanned, and a live person verified I was a live person, not a mannequin, masked doll, picture, or digital picture. Currently under section 34.8, subsection 4, paragraph (d), gaming is specifically excluded.

Those are the main points of the bill I wanted to point out for you. I would entertain any questions if that is appropriate at this time.

**Senator Cannizzaro:**

That concludes our overall run-through of the bill and presentation. We would be happy to take any questions members of the Committee may have.

**Assemblywoman Torres:**

Thank you for this piece of legislation. I think it is so important we are having more conversations about how technology impacts our communities. We have more policy around that too, and how technology is working within our communities. With the language in the bill, will applications be required to get approval every single time they are selling that data? I believe you kind of hit on that. Will it just be that initial time, such as once you have downloaded the app, you have consented at that point? Quite honestly, when you are downloading apps, there are pages and pages. If others are anything like me, nobody is actually reading that language. You are scrolling down to the very bottom and clicking yes. That way, you can get that app downloaded. What does that process look like for the consumer?

**Senator Cannizzaro:**

The bill does not prescribe that it would have to be each and every single time you might use an application. It might be something that looks like what we are very familiar with. I agree with you. I think most of us probably hit accept because you are trying to get to that end point where you can use the application. Obviously to a certain extent, it is difficult to regulate that or to tell folks, you really should read the things you are consenting to.

What the bill does require is there is voluntary and affirmative consent that is given. It also prescribes on the back end the ability to delete that data if you so request. There has to be compliance with that. It could be something that is more of a form-type consent. We want it to be more than something that is very lengthy you are accepting at the end. We want it to be something you are aware that yes, they can use and collect your data and process it, but you have a right to delete it if you would like. What that would look like in form or substance would probably be a little bit different for each application. The bill, as written, requires them to have an ability for that affirmative, voluntary consent.

**Assemblywoman Torres:**

I am wondering what that looks like for the consumer. If the consumer has already accepted, once they sell that data, perhaps they are selling it to groups or even government agencies, I might not want to have that information. The concern is I have consented. They have given that, whereas right now I have not expressly consented that information, so I am not liable.

**Senator Cannizzaro:**

I think that is a very legitimate concern. We are trying to get at that with this bill. What that may look like, again, application to application, could be different. What we are trying to do is give some more information to consumers that your information, when it is collected, your health data that is collected, it could be sold and it could be transferred. There are restrictions in this bill that would prohibit that. There are some exemptions to that for affiliates and for where it is part of the same company. Otherwise, we are trying to make sure you are getting notice of that, so if you do not want your information to be sold and processed, you can request that not happen.

**Terry Coffing:**

Best practices of the industry currently are there would be a separate checkoff box in bold and capitalized indicating your biometric information is being collected. I will give you an example of what is going on in the industry currently, if that might help alleviate the concerns.

**Assemblywoman Torres:**

I appreciate that. I would like to see language that expressly states that it has to be separate. I do not want to see this added onto a form and, Yes, I consent. I understand what you are saying, and that is best practice, but I would like to make sure that best practice also goes into law.

**Assemblywoman Kasama:**

I wanted to clarify the states you had mentioned that are the on the map [page 8, [Exhibit I](#)]. The states in red on the map are those that have actually passed it or those that are contemplating passing it. It went so quickly. I cannot read the fine print. Does the red mean it passed, or they are contemplating it?

**David Goldwater:**

Reds are something along the lines of biometric laws that have been passed and existing laws exist. The light color are states where there is pending legislation.

**Assemblyman O'Neill:**

Going to section 8, the consumer health data. You have a variety of things listed here. Would I have to put this into my computer or into an app? There is so much listed here, and I am not sure how some of this is attained. Can you give me a better definition of all the material you have here, particularly when you talk about "Biometric data or genetic data related to information described in paragraph (a)" . . . back to any health conditions, disease, social, bodily functions, and vital symptoms. It seems as if you are asking for my whole life in this. Am I overreading this and the complexity of it? I am a little ambiguous.

**Senator Cannizzaro:**

In section 8, that is a definition that then can be used throughout the remainder of the bill when we are talking about what consumer health data means. This is a robust definition to be sure. This is not information you would have to disclose or you would have to give to a company or what might be part of what you may share. We are creating a definition of what consumer health data is so that we know what a covered entity would be. We know what information would be subject to requiring consent in order for it to be sold or processed, or what sort of information they might have to delete. This is really just a definition, and we wanted it intentionally to encompass anything you could use for health data purposes. We did not want it to be exclusive to, for example, maybe your exercise regimen. We wanted to include things such as if you are watching your sleep, your heart rate, your blood sugar levels, your menstrual cycle, your whatever the case might be. Health data comes in a variety of different forms and facets. Different applications may collect different types of that data. This is a definition of what would be covered under this bill if you are referring to consumer health data.

**Assemblyman O'Neill:**

In that same section, if I am following this correctly, in paragraph (c), "Information related to the precise location of a consumer within a radius of 1,750 feet." It is on page 6, starting on line 4. Can you tell me what that means?

**Senator Cannizzaro:**

Thank you for the question. We originally wanted this bill to also include if you may have data, let us say you are going to a clinic or pharmacy to pick up some kind of a prescription or to seek medical care. They may be collecting while you are in an app associated with that. They could be collecting data about your health status, about your picking up certain things,

or about your filling out a form for whatever may be ailing you. We did not want that information to slip out of what this definition could include in terms of information you have to consent for them to process or that you could ask for deletion.

Originally as written, the bill had included language that said this information would include any information that puts you at a precise location during the period of using that particular app. In consultation with many of the different stakeholders on this particular bill, it is my understanding—I am sure any of them could help clarify—the common piece of this when we are talking about a geolocation data point is that measurement for that 1,750 feet that dictates how folks like AT&T or T-Mobile might be tracking your location. That became part of this definition so they could comply with what their current systems are.

You will also see in the proposed amendment [\[Exhibit H\]](#) there is some additional language we want to add for precise geolocation information so we know what sort of location information can be collected and would be subject to the provisions of this bill. That is what that piece was. We wanted to include any information that would be obtained as a result of your being within a certain parameter of seeking some sort of health or wellness service. This particular definition with the 1,750 feet was based upon what is common practice in a lot of those telecommunications companies that collect your geolocation data.

**Assemblyman Yurek:**

I have two questions, and both have come to me from various stakeholders. I was trying to look through the amendment and I apologize, I did not get a chance to look at that thoroughly beforehand. One concern I have heard from the business community is with these specific requirements, it could perhaps even require somebody to give their consent every single time or every day they choose to come in to gain access to the building or something like that, creating this logistical nightmare. Can I get you to clarify? Is that a requirement that could cause an unintended logistical problem for businesses on these sorts of issues?

**Terry Coffing:**

We do not believe that is going to be a significant issue provided your consent is drafted appropriately. While we are subject to the NIST guidelines, NIST provides some guidelines to allow that. I would not expect every time an employee comes in and puts a fingerprint down to clock in—which is a common method—that would require a consent every time. The Illinois courts may have interpreted that differently, but we specifically did not try to bring that over to this bill.

**Assemblyman Yurek:**

I would encourage you because that seems like a legitimate concern that could be problematic and to continue working with individuals to try to resolve that issue and to address some of those concerns. I would encourage that.

**Terry Coffing:**

I think the place where it could be addressed is in the length of time the data can be stored. Right now, it is the earlier of when the interaction is over or one year. We would certainly be receptive to extending that period if that would alleviate concerns.

**Assemblyman Yurek:**

My other question, I am going to confess, is probably a little bit more awkward and direct. Another concern that has come to me and mentioned a little bit with NIST. That standard is one of the concerns that came to me from some stakeholders. It was that your company, FaceTec, might be the only one that satisfies that. Are there competitors out there? I agree with the underlying policy of what we are trying to do here, but if it is going to favor one business or something like that, I want to give you an opportunity to address that concern on the record and address whether or not there are legitimate other qualifying competitors out there that could provide this level of service. Does this, in an imbalanced way, support you and your business?

**Terry Coffing:**

First of all, I represent to you that FaceTec does very little of its business in the United States. That is because the United States is behind in this and other companies have raised the standard, and we have endeavored to comply with that standard. We have numerous competitors that can comply with the statute and NIST standards, so it is not us. This is not something we are going to get rich on tomorrow. In fact, I cannot think of a Nevada-based company which we currently provide software to. The question is good, and it is justified, but the answer is no. This is not something we are going to get rich on the next day.

Certainly we believe we are a world leader, and we did over a billion liveness detections last year and are on track to do a billion and a half this year. It is not going to have an immediate impact to my company. There are plenty of people in the field who can comply with the standards.

**Chair Marzola:**

Are there any additional questions? [There were none.] Before we start support testimony, I want to remind everyone I will take 30 minutes in support, 30 minutes in opposition, and 30 minutes in neutral. That is 10 minutes here in Carson, 10 minutes in Las Vegas, and 10 minutes over the phone lines. Does anyone wish to provide testimony in support of S.B. 370 (R1)?

**Annette Magnus, Executive Director, Battle Born Progress:**

We stand in support of S.B. 370 (R1). This bill would go far to protect the security of Nevadans' health data, especially from being purchased and sold for advertising and other profit-motivated purposes. In 2016, drug corporations spent \$6 billion buying 4.6 million drug ads targeted to consumers, including over 650,000 TV commercials. With access to buying our private health data, drug corporations can continue their marketing practices in ways that restrict consumer knowledge and choice rather than enhancing it.

As an organization with a staff and volunteers who rely upon ethically sound medical practices to maintain a healthy lifestyle, I take it very personally to advocate for ethical consumer data practices. The amendment from Senator Cannizzaro [[Exhibit H](#)] to protect biometric data is also crucial, as using the fingerprints, iris, or face of a person is data which could be misused or to compromise a person's phone or other devices should they be lost or stolen.

I am especially worried about this issue as it relates to period data and other data surrounding reproductive health care, especially in light of the decisions from the courts recently. We thank Senator Cannizzaro for her work on this bill and urge you to support S.B. 370 (R1).

**David Cherry, Government Affairs Manager, City of Henderson:**

We want to begin by thanking Senator Cannizzaro for allowing us to participate in stakeholder discussions and for her support of the city's proposed amendment [[Exhibit J](#)], which is available on the Nevada Electronic Legislative Information System (NELIS).

As a local government, we may collect information that is covered under S.B. 370 (R1). We are not in the business of monetizing this data, which is related to the performance of governmental functions, delivery of services, or other related civic purposes. Our amendment provides clarity regarding how S.B. 370 (R1) treats data collected by government entities, and we urge your support for S.B. 370 (R1), the city's proposed amendment.

**Chair Marzola:**

Is there anyone else wishing to testify in support? [There was no one.] We will move to testimony in opposition. Is there anyone wishing to testify in opposition to S.B. 370 (R1)?

**Peter D. Krueger, representing Nevada Petroleum Marketers & Convenience Store Association:**

Our concerns are strictly around section 34. We did not have concerns with the bill initially, but we have concerns about such things as in section 34. Legislation was passed last session regarding electronic age verification on tobacco products. The way we read this bill—and I hope the sponsor and supporters could assure me otherwise—the data we collect, which is usually off a driver's license, passport, or other ways to verify the individual trying to buy tobacco products, and many of our companies are using it on alcohol and other age-restricted products, if that is in jeopardy and keeping it for a year, it is up to company policy, it could be because the Attorney General conducts what they call stings, or they check and want to see if the business is using—because it is required by law—electronic age verification and that data to be able to show regulators that yes, we in fact are using it, is in jeopardy.

The other thing I noticed, nonrestricted gaming is exempt where restricted gaming, which is slot routes that are a big part of convenience stores, seems not to be restricted in this. For those reasons, we are concerned and opposed. This is a reach that would affect the everyday transaction for someone coming in to buy tobacco once a week or once a day. There are

those who say they should not, but again, it is an individual, personal lifestyle decision, whether I agree or you agree. It has to be verified and give a written consent. For those reasons, we stand opposed.

**Bryan Wachter, Senior Vice President, Retail Association of Nevada:**

We want to thank Senator Cannizzaro for allowing the several conversations we have had over the last several weeks. We certainly agree and want to support the intent of how S.B. 370 (R1) was originally drafted. I am going to spend the bulk of my two minutes talking about section 8, but I do want to mention the biometric amendment [[Exhibit H](#)]. There is a reason this language had not been unearthed from Illinois for 15 years, and it is because the industry standard has gone away from these specific interactions.

We do heavily share the concern that this legislation does seem to be geared towards one particular company as opposed to really looking at the security of people's information, given we have carved out several, so we are concerned. It is important for security or it is not.

In regard to section 8 and the definition of health care data, our big concern with being able to support the bill is this is very ambiguous. Any product that can be used to derive information from or when you are looking at health status, it is not defined. Health status can be literally anything. There is a nonexhaustive list in section 8. Because of that, our clerks and retailers are going to have to make this determination as to what products you could purchase that we could derive some information about your health status from. An example might be a treadmill. You could have a running hobby; you could be a marathon runner; or it could signal you have a health status condition. We are unsure exactly where that ambiguity ends. It would be very difficult for us to comply with this bill without requiring every consumer in Nevada to consent to almost every single product they buy individually in their daily lives.

We look forward to being able to work with the sponsor, but at the moment, this will negatively impact Nevada's consumers, and for that reason we are opposed.

**Paul Moradkhan, Senior Vice President, Government Affairs, Vegas Chamber:**

The Vegas Chamber would also like to thank Senator Cannizzaro and the proponents of the bill for meeting with the Chamber and having several stakeholder meetings over the course of this bill. We do appreciate their efforts and open communication. The Chamber still has concerns about section 34 of the bill as it pertains to the biometrics provisions. As you know, the Chamber has so many different sectors in its membership, and several of those members' sectors still have concerns. We have been negotiating in good faith with the proponents and vice versa, trying to resolve those issues with this bill, specifically when it comes to the broad definitions as it applies to the biometrics components—for example, security raises concerns and employee entry into their place of work, we believe would unintentionally be captured in the current drafting this bill.

I want to be clear, we do not object to the provision that you see in section 34.8, subsection 3 with the selling or leasing of data collection. That makes sense. That is not where our concern is. We are in continuing conversations, and we are trying to resolve those concerns.

I do want to thank Senator Cannizzaro for taking several amendments from several specific industries for the exemptions, but our goal here is to achieve a compromise that works for the entire business community with a policy that is equitable and parity throughout structure.

**Tepring Piquado, Senior Director, State and Local Government Relations, Western Region, Chamber of Progress:**

[Submitted written testimony, [Exhibit K](#).] The Chamber of Progress is a tech industry coalition working to ensure everyone benefits from technological advancements. Unfortunately, today we must oppose S.B. 370 (R1). While we appreciate the author's effort to enhance protections for health data, we are concerned about potential unintended consequences if the bill is enacted as currently drafted.

We urge the authors and Committee to consider two crucial technical changes. First, regarding consumer health data, the current definition in the bill is overly broad and encompasses all consumer data, including activities unrelated to personal health, as we heard, such as buying deodorant or even apple cider vinegar may be misconstrued as a home remedy for health status, or it could just be a product we use in cooking. We propose amending the language to specifically include data generated by consumers that pertains to physical or health conditions, such as health history, including menstrual cycles, lifestyle choices, or treatment history.

Second, regarding biometric data, the bill's language is overly expansive and covers all forms of biometric data, even those unrelated to health or health services, which could harm normal consumer activities and lead to scope creep. We also recommend limiting the definition to data collected solely for health-related purposes. It would strike a balance between safeguarding personal information and legitimate health-related reasons and preventing the misuse.

We want to emphasize these proposed amendments [[Exhibit K](#)] do not diminish the importance of protecting consumers' health data. Rather, they aim to refine the bill's language, improve clarity for regulated entities and consumers, align with existing state privacy regulations, and reduce unnecessary administrative burdens. Chamber of Progress is committed to collaborating with you to enhance the health data privacy protections. We are eager to provide further insights on these critical issues and work towards our shared goals.

**Misty Grimmer, representing Cox Communications:**

We are in full support of S.B. 370 (R1) as it relates to the original intentions of the bill to protect consumer health data. We also very much appreciate the multiple meetings Senator Cannizzaro has hosted to work on the details of this bill. We are unfortunately in opposition to the sections of the bill that include the biometrics requirements.

Cox and similar telecom and Internet providers are considered critical infrastructure via U.S. Department of Homeland Security regulations. Our networks are the backbone of the emergency response system for 911 and any communication that happens via the Internet. For these reasons, there are federally mandated security requirements on our facilities. Some of the facilities where the infrastructure that stands up our network is located have security measures that may use biometrics for employee access.

The requirements of the biometrics portions of S.B. 370 (R1) would require we make the manner in which we implement those biometric security measures and the time frames around how long they are in place public. We believe this would create a substantial homeland security risk. Therefore, we have proposed an amendment [[Exhibit L](#)] that would exempt providers who are defined as critical infrastructure via Homeland Security regulations. We have submitted this amendment to Senator Cannizzaro. She has not yet accepted it, but we hope the Committee and Senator Cannizzaro will consider accepting that amendment. It should be up on NELIS.

**Paul J. Enos, Chief Executive Officer, Nevada Trucking Association:**

Looking at the original intent of the bill, I think a lot of us can support making sure our data belongs to us. Taking a look at the biometric provisions and some of the broad definitions, we do have some issues. One of the tools we are using in the trucking industry today is cameras, and there are cameras that face outward to help us protect ourselves in case, Oh no, that driver really did cut us off, or they ran into us. Something a little more controversial is the use of inward-facing cameras for drivers. It is a tool a lot of our trucking companies like to have. Sometimes the drivers, especially older guys, do not like it very much. They do not trust it until it tends to let them off when they get blamed for doing something.

In some of these cameras, we are collecting data that I think could be construed as biometric because we are looking at the eye blink pattern. We want to see if that driver who is moving 80,000 pounds down the road is fatigued, and that is data that sometimes we have to share with our attorneys, our insurance companies, or law enforcement.

I do have some concerns about how this bill is going to apply and how that biometric provision is going to apply in the real world, particularly with folks who are in interstate commerce and who are going to be traveling across multiple jurisdictions on a daily basis, having to consent, do that every time you get in the truck, and try to figure that out. It is going to be difficult. For those reasons, we are in opposition to this bill.

**Tom Clark, representing Reno + Sparks Chamber of Commerce:**

I choose not to be repetitive this afternoon. Most of the opposition testimony we would be presenting has already been stated, so for those reasons, the Reno + Sparks Chamber of Commerce stands opposed.

**Kerrie Kramer, representing NAIOP:**

We are in opposition. Our concerns revolve around the biometric piece of this legislation and our ability to secure a job site or building with cameras. As proponents have stated, this

legislation currently exists in a few states such as Texas and Illinois. These two states are acknowledged to have some of the most draconian antibiometric laws in the Union. In Illinois specifically, there is no information showing how this has prevented the type of data breaches mentioned. Simply, this bill as amended in the Senate makes Nevadans less safe. We urge your opposition.

**Michael D. Hillerby, representing Mastercard Inc.:**

I will submit the prepared remarks we had in order to be brief before the Committee. We share the same concerns you have heard from many of the other speakers here today in opposition, specifically those sections of the bill dealing with a more defined and narrow definition of "consumer health data" that is workable, and also, specifically, the language that was amended out of the original bill in section 32 that provided a fraud prevention exemption. Those kinds of tools are really important to the fraud prevention and security we provide to our consumers. Being able to do that across all 50 states in a way that is consistent is very important, and a patchwork of laws does not work for that. We support the amendments that have been submitted through TechNet [[Exhibit M](#)] and through the State Privacy and Security Coalition. As others have said, we appreciate the time Senator Cannizzaro and the proponents have spent with us. Hopefully, we can work out something on this bill.

**Bobby Ernaut, representing Nevada Mining Association:**

In the interest of time, we will say ditto. We have some concerns with the biometrics provisions and will continue to work with the sponsor on the bill.

**Katrin Ivanoff, Private Citizen, Las Vegas, Nevada:**

I am going to say ditto because I do not know a lot about technology. I am here as a concerned citizen and concerned parent. Everybody who spoke was representing entities. I wanted you to know that people also do not like sharing their information. I like the bill as intended, but the way it is written is very vague. I think it does not go far enough to protect the consumers. It protects more companies and things than actual consumers, which I believe the main intent is supposed to protect us.

I do not understand when you guys are writing laws why you do not simply say, You are not allowed to sell the data, period. That would protect the data. Why do they have to be all kinds of mumbo jumbo where attorneys can go later and argue both sides of the story. It should be that consumer data should not be sold, given away, or any other ways of distributing, especially without the knowledge of that person. That is my two cents. I wanted you to know that not just companies care about what you guys are doing here. Thank you for the hard work.

**Carl Szabo, Vice President and General Counsel, NetChoice:**

[Submitted written testimony, [Exhibit N.](#)] Thank you for the opportunity to speak in opposition. My opposition comes in the form of the biometrics components, which I have been addressing for over 15 years across the country. I want to start by addressing some of the questions that were raised with regard to which states have enacted these laws. The

simple answer is only two: Illinois and Texas. To be clear, every state that has considered this legislation, this biometric legislation, this year has either rejected it or has not yet moved it, and it is likely on its way to not being passed. That includes Arizona, Maryland, Minnesota, Mississippi, Missouri, and Rhode Island. In Illinois, there are multiple versions of this bill trying to correct their mistakes of the past.

To also be clear, if you are putting together a photo album—for example, I was doing this for Mother's Day of my wife and children—using photo recognition of photos with my wife and child. That would be illegal under this legislation. It would be outlawed as it is in the state of Illinois, and as we saw from the case against Shutterfly. Another example where this legislation will come and harm your citizens is using a Nest Cam. I use a Google Nest Cam, and in fact, my parents use a Nest Cam to make sure people coming to the door are who they say they are using facial recognition. Such technology is not allowed in the state of Illinois because of the biometrics language, which is copied here.

Finally, one of the main challenges, and you heard this from many different businesses, is the harm to businesses. One of the ways fingerprint recognition is used is to guarantee someone is who they claim to be. To do that, many businesses have begun implementing fingerprint scanners on back doors.

**Andrew Kingman, representing State Privacy and Security Coalition:**

We are here in opposition to S.B. 370 (R1) because it includes language derived from a 15-year-old statute that not a single other state has replicated and which has been further changed to codify a single entity's business plan into law. To be clear, we do not oppose the consumer health data language. While there are still important changes to be made—for example, the definition of "share" is missing critical exemptions—we support the intent of that portion of the bill.

With regard to the biometric section, we cannot support the bill as currently drafted. This section, as I mentioned, is based on a 15-year-old law in Illinois. Because it is old and out of date, it does not recognize very simple modern advances such as the ability to provide consent via voice, which helps the disabled and elderly, nor does it recognize the fundamental distinctions between consumer-facing entities and their vendors. It greatly differs from more modern biometric protections that are now part of comprehensive privacy laws.

More important, it does not provide any exceptions for cybersecurity activity, an application for which biometrics represents a generational improvement over current methods of security. Businesses cannot obtain opt-in consent from cybercriminals, and in Illinois, this has resulted in businesses turning down their services, leaving consumers more vulnerable and less protected. Troublingly, cybersecurity protections that were in this bill have been removed. A recent study shows that three states that have the most stringent biometrics provisions, Illinois, California, and Texas, represent nearly a third of all identity theft attempts in the country with twice the rate of fraud as other states.

Lastly, it is important to note this language has been proposed by a single company intent on codifying their business plan as the only acceptable plan in the state. Their intent to gather consumer data further puts consumers at risk because there will be a single point of collection for all biometric information in the state. For these reasons, we oppose S.B. 370 (R1).

**Lia Nitake, Deputy Executive Director for the Southwest, TechNet:**

We respectfully oppose S.B. 370 (R1). We very much support the bill's intent to protect consumer health data, and we thank the sponsor for her stakeholder conversations on the bill thus far. As others have stated, narrowing the definition of "consumer health data" and of "health care services or products" is of critical importance. We also requested the bill include exemptions [[Exhibit M](#)] widely recognized in other state laws, including exemptions for fraud prevention, public records, and deidentified data, as well as exemptions for certain internal operations such as product recall, identifying and repairing technical errors that impair functionality, responding to legal claims, or providing the services that were requested by the consumer.

As it relates to consent, we request that one uniform consent standard apply to the collection and sharing of consumer health data and biometric identifiers. We ask the bill take into account that processors may not always have either the knowledge or the data needed to fully assist the regulated entity.

We remain opposed to the biometric data component of the bill, and to avoid repetition, I will align our comments with those of previous speakers. For these reasons, we respectfully oppose S.B. 370 (R1).

**Jake Parker, Senior Director of Government Relations, Security Industry Association:**

The Security Industry Association represents security solutions providers in Nevada and throughout the U.S., including the leading providers of biometric technologies. We object to the insertion of broad restrictions on the use of biometrics technologies that are completely unrelated to health care data and would apply to nearly every business in the state. One issue certainly is the definition of "biometrics," which is so broad it includes nonbiometric data such as photos and video. This would be impossible to work with security systems where you would need written consent of individuals. This is not workable.

Even if you look at just the biometric technology aspects of it, that means most use of biometrically enabled security systems would be prohibited, and this is not limited to the gaming industry, but there it is extensively used. Such systems are also used for enhanced customer experiences through VIP recognition and other measures.

I will say, too, this appears to limit the use of the technology only for verification applications, again, with written consent, meaning on paper, which is not workable but also excludes many important use cases for biometrics. A word about the inclusion of NIST requirements: this is a standard that is technical requirements for federal agencies

implementing digital identity services over the Internet. That is a very narrow use case, and it is not applicable broadly to biometric applications. The Committee should at least remove these problematic provisions for moving forward. [A letter was submitted, [Exhibit O](#).]

**Khara Boender, State Policy Director, Computer and Communications Industry Association:**

[Read from written testimony, [Exhibit P](#).] We are in respectful opposition to S.B. 370 (R1). The Computer and Communications Industry Association is an international not-for-profit trade association representing a cross section of communications and technology firms. While we strongly support the protection of consumer data and understand Nevada residents are rightfully concerned about the proper safeguarding of their data including health and biometric data. Today I appreciate the opportunity to highlight several of our concerns of the bill, which largely echo those who have spoken before me.

The Computer and Communications Industry Association recommends further tailoring the definition of consumer health data to apply to health conditions rather than status and narrowed exhaustive list of what this term includes, especially amending the "without limitation" language. This narrower definition would benefit both covered entities and consumers alike. For businesses working towards compliance, this would allow regulated entities to target consent requests from consumers to data definitively within a health-related context and also avoid creating liability for instances outside the bill's intended scope.

Relatedly, this would also ensure consumers would not receive an unreasonable number of opt-in consent notifications in the course of normal transactions. The Computer and Communications Industry Association also recommends considering amendments to narrow the definition of "biometric data." The listed inclusions should also be narrowed and clarify that biometric data does not include a digital or physical photograph, an audio or video recording, or any data generated from either unless such data is generated to identify a specific person.

Similar to others who have spoken before me, we would also encourage lawmakers to consider amendments that would ensure entities could process biometric identifiers to prevent, detect, protect against, or respond to security incidents, fraud, harassment, or other maliciously deceptive activities. We appreciate your consideration of these comments and Senator Cannizzaro's ongoing willingness to work with stakeholders. We stand ready to provide additional information.

**Lisa Partee, Private Citizen, Carson City, Nevada:**

I, too, oppose S.B. 370 (R1) for all the reasons stated by the agencies and companies that were in the hearing today. I second Ms. Ivanoff's testimony and all those prior to and after her as well. The biometric language is concerning, as is the harm to businesses. Please vote no on S.B. 370 (R1).

**Leslie Quinn, Private Citizen, Las Vegas, Nevada:**

I oppose S.B. 370 (R1) as it is written, and I concur with all previous opposition. I third Katrin Ivanoff's testimony as well. I appreciate if everyone votes against and opposes S.B. 370 (R1).

[[Exhibit Q](#) and [Exhibit R](#) were submitted but not discussed and will become part of the record.]

**Chair Marzola:**

We will move to testimony in neutral. Is there anyone wishing to testify in neutral to S.B. 370 (R1)?

**Susan Proffitt, Vice President, Nevada Republican Club:**

As so many others have already said, I would ditto what Katrin Ivanoff said. I believe that the last five or six speakers were spot-on. There are too many problems with this bill, but we do need to address the issue.

**Chair Marzola:**

Are you testifying in the neutral position to S.B. 370 (R1)? We have already closed opposition testimony, but you are more than welcome to submit your testimony in writing. Is there anyone else wishing to testify in the neutral position? [There was no one.] Senator Cannizzaro, would you like to give any final remarks?

**Senator Cannizzaro:**

A couple of things, if I may. First, I want to thank all of the folks who were here today, both in opposition and support. We have done several meetings, many individual meetings, several big meetings, and different groupings in order to listen to all of the concerns and try to accommodate where we may be able to find some language that strikes the right balance. I want to thank them all for participating and coming in good faith to discuss negotiations on amendments.

Obviously, there are still some you heard were submitted that I think we still have to work through a little bit of the language on. We are hoping to be able to present that to you all for your consideration as well.

First and foremost, I want to be clear that for as much as we have heard about the health status piece and if you purchase something, what that could potentially say about your health and if that data is collected. That is not what this bill is designed to do. I do not believe the language does that. As I have said to the folks who have expressed that concern, that something like buying a soda or buying a treadmill might make some sort of comment on your health. I do not believe that is covered by the language of the definition for "consumer health data" that appears in this bill. I am certainly happy to make sure that is abundantly clear because we are talking about data you are using to monitor your own health. What is done with that data when it is collected and processed or sold? How do we make sure we

still own our data in any event they may be processing it or selling it? That is what we are trying to get at with this bill. Not any particular thing that could ever happen. If I buy sunscreen, does that mean I have skin cancer? That is not what this bill is designed to get at.

We did also speak with, and I am reviewing some language from, the Vegas Chamber to discuss where they may be using some of this data in order to facilitate business needs. I do not think that is what the bill is intending to get at. I do not think there are provisions of the bill that necessarily get at somebody who is coming and entering into work. I know we had a question about that. There are some pieces where we want to make sure things like a driver camera is not what we are trying to intend to capture with this bill. It is not any time that there may be any data related to you whatsoever that now you fall into the parameters of this bill. I do not think the language says that, but we are still going to work through some of those pieces. I appreciate the time and the conversation, Madam Chair, and I do not know if Mr. Coffing or Mr. Goldwater wanted to add any other brief closing remarks on the biometric piece.

**Terry Coffing:**

I want to clarify one thing I said. I was asked by this gentleman about competitors. There are many competitors in this field that do it quite well and would be fully compliant with not only this standard, I believe, but the proposed language. One is a little company called Apple. They have been doing it for years, and they do it with hardware, whereas my company provides software that works across a variety of platforms. I wanted to clarify that.

**David Goldwater:**

I would again like to thank Senator Cannizzaro. I remind you in my presentation, a lot of what was discussed was not necessarily the collection of biometric data. There were scenarios not covered by this bill, as Senator Cannizzaro pointed out. This is not a Yes, this is a good idea, but we should turn it down. This is a Yes, and we will find a way to protect consumer data. I appreciate being able to work with any of the opponents on this to get to a place where we can protect your constituents. At the end of the day, this is your data, and you should have to give permission when someone else uses it.

**Chair Marzola:**

Thank you again for the presentation. I will now close the hearing on S.B. 370 (R1). I will now open the hearing on Senate Bill 194 (2nd Reprint), which revises provisions relating to step therapy protocols.

**Senate Bill 194 (2nd Reprint): Revises provisions relating to step therapy protocols.  
(BDR 57-885)**

**Senator James Ohrenschall, Senate District No. 21:**

Thank you very much for hearing Senate Bill 194 (2nd Reprint). With me here in Carson City, I have Paige Barnes of the Ferrato group, who has been assisting me on this

legislation, and down in Las Vegas, I have Marissa Temple, who is the mother of a patient who has been battling Crohn's disease. If it is okay with you, Chair, they are all part of my overall presentation on S.B. 194 (R2).

Senate Bill 194 (2nd Reprint) is a bill aimed at expanding and streamlining the process of requesting exemptions from step therapy protocols for prescription drugs as well as ensuring these protocols are based on solid medical and scientific evidence. As many of you know, step therapy, sometimes called fail first policies, is a practice used by insurance companies which requires patients to try lower-cost medications before allowing a more expensive treatment a health care provider may be recommending. Let us say I go see my doctor, and my doctor says, You know, I think prescription A would really help you and it would be great, but your policy right now says we need to try prescription Q for six months and see how that works. If it does not work, in six months we will see if they will approve prescription A. That is that policy in a gist.

For commercial or private health insurers, increased cost, because of expensive treatments, lowers the potential revenue that is possible to gain, which can also lead to increased premiums for the patient. However, it is not guaranteed that cost savings achieved by step therapy will reach the insured through lower premiums or reduced copays. Health care practitioners usually prescribe the most effective treatment for their patients but may not place a priority on prescribing the lower-cost treatments. A health care practitioner may simply not have the pricing information from the patient's health insurance to be able to prescribe a more inexpensive but still effective treatment.

Health insurers' covered prescription drugs are included in lists called formularies. Some health insurers may divide these lists into preferred or nonpreferred lists while others use a tiered system. When using a tiered system, prescription drugs are categorized based on the type of prescription drugs such as generic drugs, preferred brand-name drugs, nonpreferred brand-name drugs, and specialty drugs. Often, patients pay the lowest copay for drugs listed in the first tier and the highest in the last tier.

During each discussion concerning step therapy reform, cost is justifiably at the forefront. The most common concerns our Legislature has when looking at similar reforms has been how this will impact premiums for our constituents and our state. A 2019 analysis of silver level plans in states where step therapy reform laws have been enacted found there was not a change in the cost of premiums for those states compared to premiums in states without laws performing the step therapy protocol.

Senate Bill 194 (2nd Reprint) is important because it addresses concerns related to insurance companies' step therapy protocols, which can sometimes result in delays or denial of necessary treatments for patients, especially for those with serious conditions. Existing law already enables patients to request an exemption from step therapy protocols established by their insurers for prescription drugs used to treat late-stage, cancer-related symptoms. That was groundbreaking work Senator Roberta Lange sponsored last session, and I am very proud of what she did in that area.

Senate Bill 194 (2nd Reprint) would extend this provision requiring certain private sector insurers to create a process for insured individuals and their attending practitioners to request an exemption from any step therapy protocol, as well as to appeal a decision regarding such a request. Insurers would be required to grant the request if the attending practitioner submits adequate justification for the exemption from the step therapy protocol. Senate Bill 194 (2nd Reprint) also mandates this exemption process and the submission of an appeal be accessible to the insured via the insurance company's website.

In addition to expanding the exemption process, S.B. 194 (R2) ensures private sector insurers use guidelines based on medical or scientific evidence when developing a step therapy protocol. This is an important measure to guarantee that patients receive the most effective treatments based on the best available medical and scientific evidence.

Senate Bill 194 (2nd Reprint) also empowers the Commissioner of Insurance to suspend or revoke the certificate of a health maintenance organization or other health insurer that fails to comply with the requirements set forth in the bill. Chair, with your permission, I would like to turn it over to Ms. Barnes, Ms. Temple, then I am happy to answer any questions.

**Marissa Temple, Private Citizen, Las Vegas, Nevada:**

Chair, I appreciate you, and I appreciate the Committee. I know many of you personally and professionally, but I want to introduce myself for those who do not know me because I think it gives context to my comments here today. I am an attorney and a 27-year resident of Las Vegas. My husband is also an attorney. I have spent the last almost 19 years practicing in the field of insurance and, specifically, in the field of insurance coverage.

Today, I am here to talk about why I think the insurance companies are getting it wrong. Two years ago, my otherwise very healthy 10-year-old son fell ill, and it was a very scary time for us. He was the star of his Green Valley Little League team. He played flag football, he was a track star, and suddenly he could not walk. He was having trouble eating. He was throwing up constantly. He lost a considerable amount of weight, and he reached a point where he could no longer attend school. We had no answers as to why this was all happening. He was in and out of the emergency room. They said, Take care of yourself and figure it out. We will run a couple of tests, but we think it is just anxiety, and we think you will be okay.

Ultimately, he was admitted to Sunrise Children's Hospital here in Las Vegas. After some tests and several weeks in the hospital, he was diagnosed with a severe case of ulcerative colitis. He had a shot at a normal life. That is what he was told by the medical providers there despite this incurable disease, but that was only if he could find the right medication that would work for him. As a pediatric patient, he was only offered two medications: Remicade and Humira, both of which are very costly and require life sacrifices.

His pediatric gastroenterologist, one of only a few in town, knew Humira was the option for him, but he also knew it was a \$7,000-a-month drug. Even though we had this medically trained individual telling us this was the drug that would cure him and possibly give him

a shot at a life that other 10-year-olds would get to have, the insurance company told us they disagreed and wanted him to start cheaper steroids. They wanted to put my 10-year-old son on a steroid regimen indefinitely to make sure that was not something that would benefit him versus this costly drug. They wanted the lesser-cost alternative. There was no certainty at that point it would work. It made no sense to us because chances were, he was going to end up hospitalized again at a higher cost, ultimately, to the insurance company.

This directive sent us on a spiral of phone calls, letters, emails, meetings, and everything we could do as parents to get the insurance company to cover the higher-cost drug to cure my kid. We are two lawyers. I am an insurance attorney, and it was so difficult for me to do the legwork that I cannot imagine what people go through who do not have the resources we had. I do not know how they deal with that process we went through.

Senate Bill 194 (2nd Reprint), step therapy reform, is really important. It is critical for patients like my son. It addresses the issue of insurance companies standing between patients and the medication their trained medical providers believe and know they need. Do not require patients to take these extra steps to get help before they can get this medication, regardless of the cost. The story plays out time and time again; patients end up in a worse position and require additional surgeries and trips to the emergency room. These are concerns that are addressed by this bill, and I appreciate your consideration of it.

**Paige Barnes, representing National Psoriasis Foundation; and Crohn's and Colitis Foundation:**

We appreciate Senator Ohrenschall's commitment to S.B. 194 (R2) and to patients. To be clear about this bill, S.B. 194 (R2) does not prohibit step therapy. Nothing in this bill requires insurers to grant the exemption, but rather this provides a process for which providers and patients can advocate to not have to go through that process.

The bill expands upon previous work from the state Legislature. Over the interim, we have seen the step therapy exemption process work for late-stage cancer patients. Senate Bill 194 (2nd Reprint) expands upon the existing and effective exemption process for all patients in the private commercial market. While we represent two patient groups, we are part of a broad coalition of patient groups supporting S.B. 194 (R2), including the Arthritis Foundation, Nevada Oncology Society, Epilepsy Foundation, National Organization for Rare Disorders, Nevada Society for Dermatology and Dermatologic Surgery, American Kidney Fund, and many more.

Access to proper medications is critical for patients with chronic illness. For example, if a patient with psoriasis goes without proper medication, they can develop psoriatic arthritis, which cannot be reversed. Psoriatic arthritis is an inflammatory autoimmune condition affecting a patient's joints and skin. Patients will experience more severe symptoms that cannot be remedied as quickly or will result in irreversible damage.

I would like to direct the Committee's attention to a letter submitted by Hannah Grauso [\[Exhibit S\]](#). She was unable to join us today but helped us present this bill on the Senate side. For a year, her insurance required her to stay on a drug that was not working for her. Hannah has Crohn's disease. For this year, Hannah pulled out of high school extracurriculars and missed many classes as she was unable to get out of bed most days. After failing on the medication for a year, her insurer finally granted her to try the medication her doctor originally prescribed. She is now stable on medication and attending the University of Nevada, Reno and has a thriving social life.

The decision about proper medication to prescribe should be a decision between the patient and the provider. Senate Bill 194 (2nd Reprint) requires insurance to consider a patient's symptoms and illness and previous medication success when reviewing step therapy exemption requests. It is unfair to force patients to retry previously failed medication or medications that are expected to fail. It is also upon the provider to determine exigent circumstances. These are the types of cases where patients are rapidly declining towards death or where a provider is trying to prevent that rapid decline within the following 24 hours. As a provider files an exemption request, they can provide information to support the exigent circumstances.

Thirty-six other states have passed step therapy reform. We have shared a study with the Committee members demonstrating there is no impact on premiums from such legislation. The study compares states with and without reform and looks at states before and after passing those reforms. Again, S.B. 194 (R2) does not prohibit step therapy. It simply expands upon an exemption process to all patients on private commercial plans and requires a timely response from insurance. Patients must have access to the right medication at the right time. We urge the Committee's support, and we are available for any questions.

**Senator Ohrenschall:**

Thank you so much for hearing S.B. 194 (R2). I want to thank Ms. Temple for sharing her personal story, and I am happy to answer any questions. Before I do, I would like to point the Committee to some language in the bill that recurs in every section. The first time it appears is on page 2, section 1, lines 31 through 33. "The insurer shall determine whether such justification exists if the statement and documentation demonstrate that," and then there are the different factors.

Senate Bill 194 (2nd Reprint) provides a process to request an exemption from step therapy protocols. Under the bill, the insurer is the gatekeeper as to whether that exemption from the step therapy protocol will be granted. If an insured is denied that exemption and they feel the insurance company acted incorrectly, as far as I understand the law, their only remedy would be to go to the state Insurance Commissioner, which is a lengthy process.

Again, this does not ban step therapy or prohibit it. It does provide an exemption process and an appeal process in a timely way. It requires establishment of a website so our constituents can try to easily request that exemption when their health care provider feels a certain drug that might be more expensive is the one they really need. I am happy to answer any questions.

**Chair Marzola:**

I have two quick questions before I have the Committee ask questions. Ms. Barnes, I believe you said either 34 or 36 other states have passed this. Is that correct?

**Paige Barnes:**

Thirty-six states.

**Chair Marzola:**

My second question has to do with an amendment we received [[Exhibit T](#)]. Is it a friendly amendment or not?

**Senator Ohrenschall:**

I appreciate all the stakeholders who have been working with me, working with the Crohn's and Colitis Foundation, and the National Psoriasis Foundation. As you can see, we processed two amendments over on the other side. I appreciate our trying to work collaboratively. Unfortunately, that amendment [[Exhibit T](#)] is not friendly. I am committed to try to keep working with everybody, but I feel there are things in that amendment—in terms of the progress I am hoping to make for our constituents—that are not in their benefit, but I am committed to try to keep talking and keep working with all the stakeholders.

**Assemblywoman Hardy:**

When I first came to the Legislature, one of the things I worked on was prescription drugs and was able to work with the Chronic Care Collaborative. I became familiar with step therapy and some of these conditions and the patients who need these medications. Some of the things you said in all of your testimony were talking about chronic illnesses. We are talking about arthritis, colitis, and all of those types of things that are serious and people can live with their whole lives. I wanted to make that clear that these are chronic conditions we are talking about and people we are trying to help.

As you pointed out in the bill, it says the provider or doctor who is working with this patient knows their history and knows their case. In asking for these exemptions, they have to provide documentation. They cannot say, Well, I think this is what they need. They have to provide whatever that is. Could you talk about the kinds of documentation you are talking about, such as their case history and things like that, to support asking for this exemption? In my opinion, they are coming from the best place of why the patient needs to start at step four instead of step one.

**Senator Ohrenschall:**

I believe the bill is written in a balanced way to provide this exemption from the step therapy protocol for our constituents, and to let the insurer go over all the documentation submitted and try to make that decision. Certainly, I think documentation the health care provider might give is, perhaps, history of what the patient has taken, what has been effective, and what has not been effective. I think those would certainly be reasonable for the health care provider to send to the insurance company to request this exemption. Again, at that point, the ball would be in the insurer's court as to whether they are going to grant that exemption or not. If it is not granted, and if the health care provider says to the patient, I really think Humira is the right medication for you—to use the example Ms. Temple brought up—and Remicade is not going to be effective, I see going to the Commissioner of Insurance as the only remedy. They do a great job at the Division of Insurance, Department of Business and Industry, but that is not the quick process we have envisioned in this bill.

In this bill, we are hoping for an answer within two business days. If there are exigent circumstances, we are hoping for an answer within 24 hours. Certainly, if one of our constituents has to appeal this to the Commissioner of Insurance, that might be a lengthy process. Hopefully that would be rare, but I believe this process is very balanced.

**Assemblywoman Hardy:**

Thank you for pointing that out. It does still say, "The insurer shall determine whether such justification exists . . . ." I agree with you. Sometimes time is of the essence for these people, so I appreciate trying to provide a process they can then get this that is timely. What do they do if it is denied, and what is that process to get an appeal?

**Assemblyman Carter:**

I have concerns. I have 20 years of experience helping manage an Employee Retirement Income Security Act (ERISA) Health Plan, which is self-insured and not fully insured like this is addressing. I am very concerned by the fact we eliminated some groups. If this is good for the goose, why is it not good for Public Employees' Benefits Program (PEBP)? Why is it not good for state employees if this is so great? It is not narrowly defined. It is very broad applying to everything.

It makes me think back to my experiences with step therapy when we had doctors saying Clarinex was required rather than Claritin over the counter, which was ridiculous. We had doctors who would say it was medically necessary. With all of the broadness and lack of definitions, it seems as if we are engaged in a battle of the titans here between Big Pharma and big insurance. This bill is trying to swing it way over to Big Pharma when we should be reaching for the middle.

My main example is where it says "medical necessity," but it does not say who determines medical necessity. It appears all the doctor has to do is say, In my opinion, this is medical necessity, and boom, it must be approved. What is to stop that doctor who maybe has been

on a golfing tour, or that patient who has been watching all of these massive amounts of ads going in and demanding? Where are the controls for that? That is what I am concerned about.

**Senator Ohrenschall:**

I appreciate the question and certainly appreciate your experience working in health insurance for members of your organization in the past. I believe the bill is written in a balanced way. Certainly, if we look at the factors the insurance company will look at, we look at what is recommended by the health care provider. I am looking at the language on page 3. Is it contraindicated or will it likely cause an adverse reaction? Is it "expected to be ineffective based on the known clinical characteristics of the insured and the known characteristics of the required prescription drug"? Has it "been tried by the insured, regardless of whether they were covered by the current policy" or not, whether they had an adverse effect, or "is not in the best interest of the insured"?

As to the Clarinex example, I think these factors are certainly something the insurer can take into account. If the health care provider is providing something that is not the standard of care, I think they certainly have every right to deny it. I believe this is written in that balanced way so the insurance companies can do that and if there is something that seems off base—if a health care provider is requesting something that does not seem like the standard of care for that medical condition.

As to the limited characteristic of the bill. Many years ago during the 2009 Session, I sponsored a bill regarding medical insurance coverage for children on the autism spectrum. It was very similar to this in that it started off with a small step in terms of whom it covered. That is where we started, and little by little, it has become much more universal in terms of spreading to other insurance policies. I do not know if that is going to happen here. This is certainly a small step, but I think it is an important step for our constituents.

**Paige Barnes:**

Nothing in this bill is prohibiting other plans from providing this. As I mentioned, 36 states are already doing this. We hope those processes that are working in other states and that are working for late-stage cancer in Nevada move over then to the private commercial market. Nothing is preventing PEBP, ERISA plans, or the local government public employee plans from doing this. We hope this becomes the standard in the state.

**Assemblyman Carter:**

You said nothing is stopping them except for that fiscal note where PEBP, our own state agency, says it is going to cost \$3 million per biennium, which is exactly counter. Is our state agency totally wrong?

**Senator Ohrenschall:**

Thank you for pointing that out. My intent was never—in this bill and this small step towards providing for an exemption from step therapy protocols—to include PEBP. Over in the other house, there were concerns that even though that was not my intention, the way it

came out of drafting tangentially brought PEBP in. We certainly attempted to remedy that with the amendments. As I understand it now, that fiscal note should not be applicable because we certainly endeavored through our amendments not to cover PEBP. That was not my intent with this bill.

**Assemblyman Yeager:**

I think we have all had to deal with insurance companies. It can be very time consuming and very challenging. My question has to do with section 1 of the bill. On page 2, line 10, it talks about establishing "a clear, convenient and readily accessible process" for either the insured or the practitioner. We have that process; they get two business days or 24 hours depending on whether it is an emergency situation; and then we skip forward, and if you do not hear a response in that time frame, it is deemed to have been granted. Here is my question. I remember dealing with an insurance company, and I was told by someone on the telephone I had to fax something to the insurance company. I do not remember the last time I faxed a document to anybody. I asked if I could scan it and send it, and they said, No, it has to be a fax. What is your intent? When we talk about "a clear, convenient and readily accessible process," can you tell me what you mean by that, particularly in terms of when we are talking about the insured versus the practitioner and whether that phrase might mean something different for each one of those individuals?

**Senator Ohrenschall:**

The statute is written with some flexibility in terms of not trying to micromanage in the *Nevada Revised Statutes* (NRS) what that "clear, convenient and readily accessible process" would be. I would envision it as something you can do on your smartphone quickly, easily and your health care provider could do on a smartphone and not require having a fax machine or going down to Kinko's to be able to fax paperwork to the insurance company. I know with my family, we have had claims for my kids from my insurance company where they wanted more information and wanted to know if it was an on-the-job injury. They are not old enough to be legally employed anywhere. We have filled out the forms and sent them certified registered mail and gotten the card back that they got it, and unfortunately, they told us, We have never received it, and this is being denied. That can be very frustrating.

This bill is meant to try not to establish a process like that; try to cut through red tape; try to make sure people who need a certain medication will get it quickly if the health care provider believes they need to get it. I believe if this passes into law, there might be regulations that are adopted by the Commissioner of Insurance as to what that process would be, and hopefully there would be public comment and hearings, but I would certainly envision something you could do on your smartphone and not need to go get a fax machine or some other cumbersome method.

**Paige Barnes:**

If you go down a few lines further, starting on line 17 and make the process accessible in paragraph (b) accessible through the Internet website. I think that might help to answer your question. I think the process being readily accessible on the Internet is as the language sits.

**Assemblyman Yeager:**

Thank you for that clarification. I guess my related question to that in this provision is in regard to if an insurer does not respond, it is deemed granted, which I think makes a lot of sense because I think that is one of the frustrations in dealing with insurance companies at times. It is not exclusive to insurance companies, but often we send something out into the universe, and we just hear nothing. Then you have to make a bunch of follow-up phone calls. How would someone go about proving they did what was envisioned in the "clear, convenient and readily accessible process" but did not receive a response? Would there be a regulatory process around proving that because the bottom line is somebody is going to have to approve the medication. What does the insurer or the provider have to show to them in order to get clearance in a situation where the insurance company simply does not respond?

**Senator Ohrenschall:**

If this passes into law, I believe that could be paperwork from your pharmacy that your insurance company has denied covering this, and you did not have a reply. In terms of how that website will work, hopefully there will be something to log that you submitted the request and what the reply was, as opposed to whether there was no reply. Again, some of that might come through regulation through the Division of Insurance during the interim. We did not want to be micromanaging in the NRS, but that is how I would envision it. Something you might get through that website.

**Chair Marzola:**

Are there any additional questions? [There were none.] We will move to testimony in support. Is there anyone wishing to testify in support of S.B. 194 (R2)?

**Jan Kallet, Private Citizen, Reno, Nevada:**

I have had multiple sclerosis (MS) for 34 years. I also have a very aggressive cancer called the esophageal adenocarcinoma. At the age of 70, I have rheumatoid arthritis (RA) that is raging. I understand how important S.B. 194 (R2) is. I had to stop taking my original MS drug Copaxone after 21 years because my insurance took it off their formulary. They forced me to try and fail a generic MS medication, glatiramer acetate, which my body could not tolerate. Desperate, I started paying \$8,000 a month out of pocket. I filed an appeal to the insurance company, and it was denied. Lucky for me, one of my RA drugs, leflunomide, is almost the same as another MS disease-modifying drug called Aubagio. My rheumatologist wants me to be on an infusion, Orencia, that will cost \$24,000 a month at the infusion center. Not to me personally, but to the insurance.

None of my medications are what is best for me. It is beyond crazy we allow this. My oncologist is working with me to figure out what to do to try and keep these things at bay. Passing S.B. 194 (R2) would give our doctors a chance to help patients like me to access the drugs that actually work instead of spending thousands on whatever we can get through an approval process that does not prioritize our health. Please help us.

**Andrea King, Private Citizen, Reno, Nevada:**

I would like to read the testimony of Heidi England, a fellow MS patient who could not be here today. She says:

I would like to tell you what medical management technique means to me. It cost me my job and my identity. It gave me two brain lesions and took the feeling in my arms and hands. I was in pain, had difficulty thinking, could not write my own name, could not tie my own shoes, or button my blouse.

I worked for the State of Nevada for almost 17 years. Suddenly, as a cost-saving measure, the specialty pharmacy contracted by the State of Nevada changed to a new specialty pharmacy as a medical management technique. My drug for multiple sclerosis was withheld from me for almost two months. I contacted the Governor, my elected officials, and anyone and everyone I could to try and find help. Nobody could do anything to help me. I got extremely sick, had to retire from my career with the State of Nevada, and I still live with the effects of the severe permanent neurological damage every day.

What we do in order to keep people well and on medication should be a priority, not a cost savings experiment. Medical management techniques are a sadistic way to treat your fellow Nevadans and have real consequences as my story can tell you. Please fight for the rights of me and others who need honest, accessible health care.

P.S. regarding S.B. 194 (R2), step therapy protocol is another sadistic form of treatment, which is letting the insurance company play God with many lives of Nevadans who need to be treated the way their trusted doctors had intended and with the specific drug and treatment that was intended.

**Vivian Leal, Private Citizen, Reno, Nevada:**

I have been a multiple sclerosis patient for 22 years. I want you to look at the medication pricing chart we entered into the exhibits. With the obscene and unjustifiable price hikes, these are our options. When I was diagnosed, I was first put on Avonex 22 years ago. That is exactly the same medication. Look at the price. We are not talking about Claritin or Clarinex. We are talking about the only medications for MS. There is no cure for MS, and we need it for as long as we are alive. MS is an immune system disease. You give it a break, and it pounces.

Heidi and Jan's stories speak to how this aggressive weaponization of the preauthorization management system is creating outcomes that are neither better for the patient nor less costly. They both require many months of hospitalizations and other medications to then compensate to try to regain where you were when you were taken off the medication. This is not even about which medication is best for the patient or more expensive. The decisions are not being made by our doctors. They are being made by people assigned at the insurance

company who may or may not have qualifications with which to make this choice. I was being treated by the head of the Stanford MS clinic, and he recommended a certain dosing schedule and drug for me. After 20 years, I am not new at this. I cannot start with the first medication. It will not work for me. He knows this. The person assigned by the insurance company who denied—despite an appeal and a peer-to-peer—that medication was a pediatric oncologist. I have great regard for pediatric oncologists, but they do not know anything about MS. The people making these decisions are not in fact considering the full scope of research or the history of a patient as to what is likely or not likely to work for them.

We are really tired of calling an 800 number where they have two weeks to respond back to you. After that, you may file an appeal and each decision is two weeks. The same thing happened to, I think it was Assemblyman Yeager, who was told to fax. They did not receive it, or as Senator Ohrenschall said, you have proof they did receive it, but they still tell you they did not. We have no purchase as patients with which to say, "I did send it; you did receive it, and here is a record." We need a process, and our doctors need a process to talk some sense into some of these decisions. It is not even about money. Which one of these is cheap? I think the lowest-priced medication on here is \$50,000.

I did want to mention something, especially in regard to Assemblyman Carter. What has not been mentioned is at the federal level, the Safe Step Act, which is currently under consideration in Congress, is aggressively being pursued by the federal level to ensure protections for ERISA plans. This is the way of the future. We are making dumb decisions and hurting people to no advantage, not even financial in the long term. We need this first baby step. I do wish in the future we would require insurance decision makers to have any competence in the disease the patient has or any qualifications. Hopefully, that is something we can work on in the future. Right now, it is whoever they have assigned.

We have more medication stories than we can tell you. Talk to anybody, ironically, about the success stories for multiple sclerosis. You do not see us not being able to get in here or to speak. We all have our challenges with a lot of this neurological illness, but we are a success story. This research is a success story, but drugs are no good if you cannot get them. Once we decline, getting spinal function back is nigh-on impossible. We have made great strides in improving the flexibility of our brains, which is why I can see even though I have been blind; some of us can swallow even though we have been unable to; et cetera. Let us make success look like success and save some lives, some working hours, some competency, and some dignity for people like us.

**Sarah Watkins, Interim Executive Director, Nevada State Medical Association:**

As a patient and physician advocacy organization, we are in support of S.B. 194 (R2), as this allows the appropriate treatment and consistency between the patient and the physician.

**Donna Laffey, representing Dignity Health-St. Rose Dominican:**

I will keep it short and note we are in support of patients having access to the medications that are the best for them. We thank the bill sponsor for bringing this forward and urge your support.

**Cari Herington, Executive Director, Nevada Cancer Coalition:**

[Read from written testimony, [Exhibit U.](#)] We know we have made extreme progress on stage III to IV cancers with Senators Lange's bill last session. However, we need to, as you have heard, do this for everyone. For cancer as well as with many other chronic diseases, we have had accelerated research and innovation. Now we can individualize care and treatment. Precision medicine and personalized care, I am sure you have heard, can even oftentimes look at the genetic makeup of a tumor and decide how to treat it for that individual, given their risk factors, their family history, and their tumor makeup.

Precise, personalized care greatly improves outcomes and ultimately saves lives. Step therapy, however, is more of a generalized approach to patient care, and it focuses on cost first and patient second, and it does not necessarily take into account an individual's history, unique attributes, disease, genetics, nor physicians' knowledge and expertise.

Cancer patients at any stage do not have the luxury of trying out various drugs and failing first. With cancer as well as many of these other progressing diseases as you have heard, time is of the essence and failing truly is not an option. Senate Bill 194 (2nd Reprint) provides some guardrails for step therapy and goes a long way in putting patients first.

**Tom McCoy, Executive Director, State Government Affairs, Nevada Chronic Care Collaborative:**

Our goal is to change those things within our health system that are not working, those that are barriers to patient access to care. Nevada Chronic Care Collaborative's patient communities face chronic disease, and that Nevada population relies on medications to maintain their health and, importantly, their quality of life. They need, and should have, the right medications at the right time, and that is what S.B. 194 (R2) is all about.

**Becky Jayakumar, Private Citizen, Las Vegas, Nevada:**

Step therapy negatively affects patient care for conditions that cause irreversible damage. Less than three years ago, I was diagnosed with cancer and eventual blindness. Luckily, my cancer was treated with surgery. However, that cancer caused a rare autoimmune disease called paraneoplastic retinopathy. This leads to destruction in the back of the eye or the retina. It is a progressive disease with no cure, but the opportunity exists to slow the disease, which prolongs the time of having actual functional vision. However, my insurance required failure of two cheaper oral immunosuppressants prior to receiving a higher-cost, more effective therapy.

During those 15 months, I lost about 60 percent of my retinal function. The vision will never be restored, and I currently only have 15 percent visual field with no night vision or dim light vision. On top of that, while I was on those failed immunosuppressants, I had vision-threatening side effects. Blindness is the number one medical fear, and I have literally been watching myself go blind as I have still not received the recommended treatment regimens that are recommended by the leading expert in this field.

My only concern in this legislation is the language around standard of care, as a set standard of care may be lacking for rare diseases like mine when less than 500 people have the condition. As a health care provider and patient, these practices of declining more efficacious therapy due to cost is unjust. Thank you for listening and for your consideration.

**Jacob Murdock, Executive Director, National Hemophilia Foundation, Nevada Chapter:**

We are a patient advocacy organization in the state, representing over 500 individuals with bleeding disorders and their families. I am encouraging you to vote yes on S.B. 194 (R2). Bleeding disorder patients use complex biological drugs that do not work the same for every person. Being forced to fail first on a drug chosen by the insurance company may mean enduring a life-threatening or disabling bleed before getting approval for the drug prescribed by their hematologist. We know the best option for our patients would be to get on the right medication first.

**Lucy Laube, Field Operations Coordinator, National Psoriasis Foundation:**

[Submitted written testimony, [Exhibit V](#).] I am also a patient with chronic illness. I wanted to echo what the last person said in support. These doctors are making the decisions on what medications are best for the patient based on the patient's individual condition and symptoms. At National Psoriasis Foundation, we call this treating to target. The provider is making the choice of which medication to provide based specifically on the patient, and we believe that is the most qualified person to be making these decisions in conjunction with the patient.

I also wanted to echo that these medications are not medications like Claritin. These medications can be thousands of dollars or tens of thousands of dollars. We are talking about medications that have a serious implication on a patient's health. When we talk about these expensive medications, it is never the intention of the provider or the patient to go after the most expensive drug on the formulary. That is not why we are trying to go after these drugs instead of cheaper alternatives.

Instead, as some folks with MS said, these are the only medications that exist for us and work the most appropriately for us. Personally, I have Crohn's disease, and out of the seven medications I have tried, six of them failed me. Only one of them has worked. It is really important the medication that is most appropriate for the patient is the one they have access to. We believe the provider and the patient are the ones most qualified to make that choice rather than the insurance company; though, to echo what Paige Barnes says, the insurance company, at the end of the day, still has the decision whether or not to approve this.

**Susan Proffitt, Vice President, Nevada Republican Club:**

I would like to say thank you very much to Assemblyman Yeager. I liked the questions you were asking, and I am very pleased to see you all working in a bipartisan manner as you are trying to right a wrong that has severely damaged my family and many others. My husband was forced to wait an entire year for cancer surgery. I wanted to point out one thing. Delaying is sabotaging our care. Insurance companies really do stall, and that is a problem. This bill does not include something about that, but it would at least give doctors a better

chance of advocating on our behalf to keep us as well-functioning as possible. Fighting these diseases and chronic pain is hard enough but being stalled due to age is also a concern. Please make sure this bill also protects people over 75 from being denied treatment as my husband was until the cancer spread.

Senator Stone, please ensure punitive actions at least as severe as those imposed on Nevadans in many of the bills being passed in this session are added to this bill before passing it. If you do that, I would greatly appreciate it, sir.

[[Exhibit W](#), [Exhibit X](#), [Exhibit Y](#), [Exhibit Z](#), [Exhibit AA](#), [Exhibit BB](#), [Exhibit CC](#), [Exhibit DD](#), and [Exhibit EE](#) were submitted but not discussed and will become part of the record.]

**Chair Marzola:**

Is there anyone else wishing to testify in support? [There was no one.] We will move to testimony in opposition to S.B. 194 (R2). Is there anyone wishing to testify in opposition?

**Helen Foley, representing Nevada Association of Health Plans:**

The Nevada Association of Health Plans (NVAHP) is a 12-member trade organization that deals with commercial health as well as some government programs. Before I provide context on why NVAHP is opposed to S.B. 194 (R2), I would like to share with the Committee that our organization was hopeful the sponsor and the proponents of S.B. 194 (R2) would agree to the reasonable approach offered by the Pharmaceutical Care Management Association (PCMA). Since this has been rejected, we feel it is important for us to weigh in at this time and be on the record.

I would like to begin by emphasizing step therapy provides the member with a clinical review that ensures the proper medication is being safely prescribed to the member. Step therapy is used to ensure members are getting the most reasonably priced and effective medication available. For instance, there are generic medications that often have the same quality and strength as brand-name medications but are significantly less expensive. This translates to lower out-of-pocket expenses for the members. Additionally, step therapy is a process that helps keep costs low for everyone because the process encourages the use of medications that are lower priced and just as effective.

With all this in mind, NVAHP understands what S.B. 194 (R2) is trying to accomplish. While many of our health plan members already have processes in place to review exemption requests like these, there are two main concerns with S.B. 194 (R2) as written, which PCMA's amendment helps to resolve. First and foremost, carriers do not have the expansive ability to deny exemption requests as described. Although S.B. 194 (R2) outlines the several options carriers have to determine whether sufficient justification was provided to prove an exemption request, several of these options are very subjective. The subjective nature of this language disallows a clinical review.

There are many other issues we wanted to discuss. Time is short, but there is one I really want to bring to your attention. Unfortunately, this legislation only affects less than 18 percent of the population of Nevada. It has been the decision of other members of the Legislature before this bill got to you to exempt PEBP, to exempt Medicaid, and to exempt self-insured local governments and municipalities including the school districts. They are all exempt, so only 18 percent are covered. I do not know if these individuals who desperately needed help are in any of those plans, but it does not affect them at all. I know it is expensive, but it should be something the Legislature looks carefully at to include everyone in these processes. We hope the sponsor and the proponents work together, and we hope they can adopt the PCMA amendments.

**Paul Young, representing Pharmaceutical Care Management Association:**

I have Bill Head on the line. He is going to propose the amendment, walk through our hostile amendment [[Exhibit T](#)], we will call it, and answer any questions. However, I would like to know. Senator Ohrenschall mentioned the Division of Insurance regulations, and I do not see that for my review in the bill, so I want to be part of that conversation if more language is coming. Again, Senator Ohrenschall, as always, is great to work with. I will follow up with them.

**Lea Tauchen, representing National Association of Health Insurance Providers:**

To keep it brief, we echo the remarks of PCMA and the Nevada Association of Health Plans. We also remain concerned that broadening the criteria for exemptions could limit the effectiveness of step therapy and increase health care costs. We are also in support of the amendment that was proposed by PCMA.

**Katrin Ivanoff, Private Citizen, Las Vegas, Nevada:**

I am not very familiar with the bill. However, from what I am hearing here, I love the intent. I want to put it on the record that the intent is very good, but any bill that exempts public employees and legislators, which is you guys, I do not believe any of you should be passed. If you are going to make laws for us to follow, you should be included in those laws.

As written, I am against it. However, the doctor should be the one deciding what medication needs to be given to the patient, so the doctor and the patient together. I do not know when we passed the law that let the paper workers in the insurance company decide what medication is best for someone without their ever going to a medical school. That should never be the case. So yes, you should make a law that protects the consumers. Any law that includes you getting an exemption I am against, because you should follow the same laws we are following.

**Bill Head, Assistant Vice President, State Affairs, Pharmaceutical Care Management Association:**

My apologies for not being there in person. Unfortunately, I had airplane issues, so I was unable to make the flight this morning. We do respectfully oppose the bill for a number of reasons. Before I get into the specifics and our amendment [[Exhibit T](#)], I want to echo a couple of things stated about the step therapy process. It is, as stated, a clinical review. It

is based on U.S. Food and Drug Administration guidelines, medical evidence, and other medical information provided by the prescriber and outside sources made by medical professionals; that is doctors and pharmacists. It is not done by clinical staff or administrative staff.

While it does have a fiscal impact, as there is a financial aspect to it, I think in the earlier bill, it was mentioned that pharma manufacturers spent about \$5 billion a year on direct-to-consumer advertising. It is a way to address that. More importantly, there is a patient safety and protection issue at stake. This clinical review looks at the entire prescription drug and medical history of each particular patient. Two patients with the same disease can in fact react differently to the same medication, so drug-to-drug interactions, drugs with certain side effects, and so forth are all necessarily reviewed for that particular patient. It is all about giving the right medications to the right patient at the right time.

In 2019, the Government Accountability Office did a peer review of 52 utilization management studies and found in addition to the financial savings of these tools, there were improved patient outcomes. The Federal Trade Commission several years earlier came to similar conclusions.

Step therapy has been part of Medicare Part D since 2003. As mentioned earlier too, it is part of PEBP and part of the Nevada Medicaid program as well. We certainly understand the interest in trying to expedite the process. Ultimately, rather than jury-rigging the system like S.B. 194 (R2) does, we would like to see the platform of electronic prescribing be the basis for both step therapy and prior authorization. That way, the doctor and the patient have all the information at hand. If the health plan or pharmacy benefit managers require additional medical information, test results, and so forth, it can all be done electronically in real time. Ultimately, we would like to see all the states get to that point so there is no delay in patient care, which leads us into our concerns with S.B. 194 (R2).

As mentioned, there is a lot of ambiguity in the language. We are concerned about the ambiguity of the language. We would respectfully request you consider our amendment and if it is that important for the private sector, it should apply to the state's most vulnerable population: Medicaid beneficiaries.

**Chair Marzola:**

You can always submit your testimony in writing to the committee secretary as well. Is there anyone else wishing to testify in opposition?

**Cyrus Hojjaty, Private Citizen, Las Vegas, Nevada:**

Ditto.

**Chair Marzola:**

Is there anyone else wishing to testify in opposition? [There was no one.] We will move to testimony in neutral. Is there anyone wishing to testify in neutral on S.B. 194 (R2)?

**Leslie Quinn, Private Citizen, Las Vegas, Nevada:**

I am neutral on S.B. 194 (R2). I agree with Ms. Ivanoff. I do not believe there should be any exemptions. All of us in Nevada are all fellow Nevadans. We should all follow the same regulations. At the same time, I believe doctors should be able to provide medical documentation to substantiate using a brand-name medication for a patient if necessary. That should always be the case. It should be life is more important than what a bean counter is making. That is the part I support as far as for the step therapy. Insurance should allow the doctor to decide the medications a patient gets and not what an insurance company establishes.

**Chair Marzola:**

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

**Senator Ohrenschall:**

Thank you for hearing S.B. 194 (R2). I believe this is a balanced approach to try to help our constituents when they are meeting with their health care provider trying to get the medication they need.

Certainly I appreciate PCMA and the amendment they proposed. The concern I have with the amendment is the deletion of the 24 hours when exigent circumstances are there. It is concerning not having that in there. The deletion of two of the factors in section 4, subsection 3 was a concern to me. Another concern is the language about if there is no reply. I think all of us have had that experience where we have not heard back. The proposed new language that shall not be deemed to prove unless there has been conversation regarding the exemption request. I am worried that is so open-ended, someone might not get an answer for weeks and not get the medication they need. I appreciate the time. Chair Marzola, Ms. Barnes would also like to address some points.

**Paige Barnes:**

Senator Lange's bill last session was the first step. It took an incremental step targeting late-stage cancer. This is, as we see, the next step in this process. Again, it is policy changes made in incremental steps. We understand that, and S.B. 194 (R2) attempts to take a balanced approach in an incremental step. Senate Bill 194 (2nd Reprint) standardizes the process and requires a timely response while giving patients a voice and a way to advocate for themselves that is not currently there. The choice between medication and the determination for the medication is a decision between the provider and the patient.

As I shared with the Committee in my opening remarks and had sent around earlier this morning, we have a study that shows there is no impact on premiums looking at a number of other states that have passed this legislation. This legislation does not prohibit step therapy practices. Nothing is requiring insurance companies to approve the requests within the bill.

**Chair Marzola:**

Thank you for your presentation today. I will now close the hearing on S.B. 194 (R2). I will open the hearing on Senate Bill 302 (1st Reprint), which revises provisions relating to health care.

**Senate Bill 302 (1st Reprint): Revises provisions relating to health care. (BDR 54-55)**

**Senator James Ohrenschall, Senate District No. 21:**

I thank you for hearing two of my bills in one day. I do very much appreciate your time. Thank you for hearing Senate Bill 302 (1st Reprint) today. Senate Bill 302 (1st Reprint) addresses an issue that affects the lives and well-being of many transgender individuals in our state as well as across the country. I am very pleased to be joined here in Carson City by Dr. Karen Thiele, Brooke Maylath, and André Wade; down in southern Nevada at the Sawyer Building, I believe we have Sy Bernabei, Leann McAllister, Terence McAllister, and Elizabeth Sterns; and on the phone lines, we have Elvira Diaz, who is a parent and helped me copresent this bill over on the other side. With your permission, Chair, I will give brief introductory remarks, turn it over to my copresenters, and I am happy to stand for any questions.

Gender-affirming services are medically necessary treatments for individuals who experience gender dysphoria, a condition that results from a mismatch between gender identity and the sex assigned at birth. These services can include hormone therapy, surgery, or counseling and are crucial for the well-being of transgender and non-binary people. Unfortunately, the most recent data has 17 states where the legislatures have passed statutes where providing or receiving gender-affirming services can lead to legal consequences including criminal prosecution. Reportedly, another 21 states are considering and/or working to introduce legislation that will similarly restrict and criminalize the provision of gender-affirming care and services. This not only denies these individuals access to essential health care but also subjects health care providers to the risk of losing their professional licenses, damaging their reputation, and possibly facing legal sanctions.

According to the Human Rights Campaign, in 2022 legislators across the country introduced 315 discriminatory anti-LGBTQ+ bills, 29 of which passed into law. The majority of these bills targeted the transgender and non-binary community. So far in 2023, the Human Rights Campaign is tracking 340 of these bills, where 150 of these bills would specifically restrict the rights of transgender individuals. Some of these measures impose punishments for providers of health care with up to 10 years in prison and a fine of up to \$15,000. That specifically is Senate Bill 184 in the Alabama Legislature.

It is crucial that here in Nevada we enact laws to protect health care providers, individuals, and families from being prosecuted for involvement in aiding or receipt of gender-affirming services. By doing so, we can ensure the individuals in need have access to these life-affirming treatments, and health care providers can offer these services without fear of

legal repercussions. A half-dozen states have enacted laws similar to S.B. 302 (R1) and another 21 states have plans to or have already introduced laws protecting gender-affirming care.

Senate Bill 302 (1st Reprint) is a significant step in the right direction. Section 1 prevents health care licensing boards from disqualifying or disciplining individuals for providing or assisting in gender-affirming services if those services are lawful and consistent with professional standards in Nevada.

Section 2 would prohibit the government from surrendering or arresting a person in Nevada who is charged in another state for an alleged crime involving gender-affirming services if those services happened in our state. Section 3 extends this protection to state agencies in the Executive Branch, which would be prohibited from assisting in investigations or proceedings initiated by other states related to gender-affirming services except under certain limited circumstances.

Section 4 would require health care licensing boards to examine the feasibility of providing licensing for out-of-state providers of gender-affirming services to ensure our constituents seeking these services have access to the necessary care. To be clear, S.B. 302 (R1) is drafted to ensure the care that falls below an acceptable standard of care, or is otherwise unlawful in Nevada, would not be protected. Therefore, if the care is not lawful within the standard of care in Nevada, then this bill does not cover such care.

Again, with your indulgence, Chair, I would like to turn it over to my copresenters here in Carson City, and then we will go down to the Sawyer Building. I think I neglected to mention we have Rob Phoenix on Zoom, who is a health care provider down in southern Nevada. André Wade will go first.

**André C. Wade, State Director, Silver State Equality:**

Thank you, Senator Ohrenschall, for sponsoring this very important and timely piece of legislation. Silver State Equality is a statewide LGBTQ+ civil rights organization here in Nevada. On February 18, 2022, the Texas Attorney General issued an opinion letter answering the question to whether certain types of gender-affirming medical care could constitute child abuse under existing Texas law. The Attorney General's opinion was yes, certain types of gender-affirming care could meet the definition of child abuse. Shortly after the Attorney General issued his opinion letter on a gender-affirming care, the governor of Texas issued a directive ordering the Texas Department of Family and Protective Services to investigate reports of children receiving gender-transitioning procedures.

All of this is overwhelmingly absurd and hard to take, given that gender-affirming care is delivered in age-appropriate, evidence-based ways, and decisions to provide care are made in consultation with doctors and parents. Collectively, representing more than 1.3 million doctors across the United States, every medical and mental health organization, including the

American Medical Association, American Academy of Pediatrics, and the American Psychological Association, recognizes it is medically necessary to support people and affirming their gender identity.

The Child Welfare League of America—a coalition of hundreds of private and public agencies that has been around since the 1920s—released a statement opposing redefining child abuse to include gender-affirming care, stating they stand "with national and local organizations in opposition to any attempt to redefine child abuse to include gender-affirming care for youth who are transgender or nonbinary." The president and chief executive officer of the Child Welfare League of America stated, "Providing appropriate, compassionate medical care for your child is not child abuse." The policy decision that came out of Texas has reverberated across the United States, resulting in copycat laws and families fearing for the safety of their transgender children.

For decades, we have worked to encourage parents and families to accept their lesbian, gay, biromantic, or transgender children regardless of their religious and faith beliefs or lack of understanding of what it means to be LGBTQ+. Research done by Dr. Caitlin Ryan shows the more a parent or guardian is accepting of their child, the less likely the child is to have negative outcomes.

Thanks to policies and laws coming out of Texas, Arkansas, and Tennessee, just to name a few, parenting is now becoming criminalized when a parent makes a private, personal family decision to provide gender-affirming care and services to their child. Now parents are moving to other states simply to access gender-affirming care. Parents are panicking about what to do. Currently, there is no infrastructure in place to support 146,300 trans youth who are deprived or are going to be deprived of care. Therefore, states like Nevada will need to take their own responsibility of protecting health care providers who are already providing treatment because unfortunately, the provision of gender-affirming health care is also being criminalized. It has been said that opponents of gender-affirming care attempt to wield the concept of medical judgment as both a sword and a shield, preventing physicians from exercising medical judgment to provide gender-affirming care while preventing them from providing care at all.

Legislation like S.B. 302 (R1) has been enacted in states like California, Vermont, Massachusetts, Illinois, New Mexico, Minnesota, and Colorado because state governments are overreaching into the lives and parental rights of families to stop them from letting their children access gender-affirming health care. It has gotten so bad that health care providers in Nevada, our beloved state, are now at risk of being punished and criminally penalized if a Nevada doctor helps a family that travels from another state to access gender-affirming care. Do we really want our health care providers to go through that? Another state coming after our physicians? Do we really want to risk our health care providers in Nevada leaving and going to states where they can practice without these concerns, thereby exacerbating the health care provider shortage? No, we do not.

Transitional care for youth is not a single procedure. It is a series of conversations with patients, parents, and guardians; referrals to providers, counselors; and dependent on the patient's sustained hormone replacement therapy. The looming presence of bans on gender-affirming care has made it difficult for providers to plan for the future and offer a full range of medical services. We ask you to have the moral courage to do what is right by the people this bill aims to protect from harm. We must ask ourselves, Who has the right over their body's autonomy, and who has the right to decide? Who has the right to equal protection under the law, and who has the right to decide?

Governor Spencer Cox of Utah said when he vetoed a sports ban for transgender athletes, "When in doubt, however, I always tried to err on the side of kindness, mercy, and compassion. I also try to get proximate and I am learning so much from our transgender community." We urge those of you who do not quite understand this issue to err on the side of compassion and learn directly from those who are transgender and are here to help facilitate those conversations. You will undoubtedly learn a lot and be moved. Thank you for your time and attention on this matter, and thank you in advance for supporting S.B. 302 (R1).

**Brooke Maylath, Private Citizen, Reno, Nevada:**

For full disclosure, I am an employee of the State, in the Department of Health and Human Services. My comments today have absolutely no reflection on that employment. They are not the words from my employer. They are strictly my own and not the representation of any group. I have, however, been a primary voice for the transgender community in these chambers for the past 10 years.

What I want to really stress is this bill is not a referendum of whether you agree or not on the ability for transgender people to gain acceptance or to have medical coverage. This is a provider protection bill. Let me repeat that; this is a provider protection bill for providers who are providing legal, evidence-based, medically accurate, and individualized medications and treatments to people for their specific needs. Mr. Wade has covered all of the major medical organizations that support this kind of treatment.

Why are we here having to do this? It is because 17 states have passed legislation banning transgender people getting care. Five of those states have criminalized that kind of care, and they are going after providers outside of their jurisdictions. This is unacceptable. Where did all of this information come from? We have actually traced it to a hate group—as specified by the Southern Poverty Law Center—hate groups that have calculatedly created these false misrepresentations of data and lies out of whole cloth to tarnish and to be able to attack the transgender community and those providers. We have the receipts, and I do mean their receipts, between Florida political action groups and one of these hate groups to manufacture these lies.

Now I know we are going to hear some of those lies repeated by people in this room, and they are going to present in opposition. Let us forgive them, for they know not what they do. They are simply repeating those lies that were manufactured out of whole cloth. You do not have to do that.

We also note that in all of these laws in these 17 states, and those 5 that have criminalized this kind of action, they have carved out special places so the procedures—the same procedures that may possibly be justified for gender-affirming care on a transgender person—can be done without penalty to an intersex child who does not have the capability for informed consent or for things like rhinoplasty or a nose job or breast augmentation for a cisgender teenage girl. If we are going to have these kinds of limitations on the practice of medicine because somebody is underage and supposedly does not have the ability to make an informed consent, why are they curating these carve-outs for these other folks? It is because of the manifest bigotry and misunderstandings of what it is to be transgender, which is hard enough without having this kind of hatred shown our way.

Again, this is a provider protection bill. It affects everybody in this room. It affects every citizen of the state of Nevada. Providers practice within the scope of their education, of their medical practice, their license to practice medicine in the state of Nevada, and their ethical codes. They are not doing things willy-nilly and handing prescriptions out like M&Ms. That does not happen. We have a provider shortage in this state. There are multiple bills running through this Legislature as we speak that are trying to budget for many dollars to improve recruitment. This affects current and potential future providers of health care in the state, urban and rural alike. If we cannot protect our providers, including primary care, family physicians, obstetricians and gynecologists (OB-GYN), endocrinologists, and many more who treat a couple of trans patients who may or may not be adult or may or may not be children, but they include hundreds, thousands of other cisgender Nevadans, including everybody who is on this dais. What happens if your doctor is threatened with criminal allegations and feels it is no longer safe to practice medicine in this state because this state fails to protect their license to practice in this state due to those criminal allegations from outside of this building, from outside of our borders? This will affect 100 percent of Nevadans if we allow these other states' actions to threaten and take away our providers. I yield any additional time to my esteemed colleague, Dr. Karen Thiele.

**Karen Thiele, Private Citizen, Reno, Nevada:**

I am a family doctor practicing here in the northern part of Nevada. All opinions being expressed are my own, and I am here as a private citizen and as a licensed physician here in the state of Nevada. I would like to voice my strong approval of S.B. 302 (R1), which allows for protection of physicians who provide care to transgender patients, and not only physicians but those who are licensed health care providers—such as my colleague Rob Phoenix down in Las Vegas—who also provides this very necessary care to hundreds of patients in Nevada.

I have felt, personally, like I was protected being here in Nevada up until about six months ago when I saw things starting to deteriorate in the rest of the country. In fact, I felt this bill was so important that I rearranged my clinical time today. I am not taking care of patients to

be able to come and speak with you all because I think this is so important. This is probably more important to me than seeing and providing medical care for my patients this afternoon. I think we need to get the voice out there that this is necessary care. This is care that has been going on for decades that is safe and is evidence-based. I can tell you from personal experience that my patients have had lifesaving results from being able to access appropriate medical care for their gender treatment. This includes adults and adolescents.

I think we get lost sometimes in looking at the evidence, claiming scientific evidence, and trying to cherry-pick studies that tell us how we want to support our own view. What I want to point out is the collective lived experience of my patients. I have about 100 patients on my transgender panel in addition to the several hundred patients I have who are cisgender. Those patients on my panel have had excellent results, zero regret, and have enjoyed a much more productive life thanks to the care they are able to receive by me and my colleagues who provide this care.

I am not sure how much else there is to say at this point. I have devoted many years of my life to the practice of medicine, to learning how to manage care for transgender patients. I am teaching other medical providers how to provide that care. This is standard medical curriculum; this is standard residency curriculum. The medical world is very onboard with the value of this care and understands it is a human right. I think legislatures need to stay out of my exam room and allow me and my patients to make the best decisions for them.

**Senator Ohrenschall:**

Chair, with your indulgence, along with Dr. Thiele, I have Spencer Trivitt. He is a third-year medical student here in northern Nevada, and if he could briefly speak to the bill.

**Spencer Trivitt, Private Citizen, Reno, Nevada:**

I am here to give my perspective as an upcoming doctor and as a student. I was born and raised in Gardnerville. I love this area. I am a northern Nevadan through and through. I want to practice here. I want to have kids here. I want to raise a family here. I want to die here, but I want my practice to be protected here. That is the essence of this bill as already stated.

The shield law prevents me from criminal litigation for providing care that is evidence-based. I am going through rigorous schooling right now. Trust me, I can tell you how little sleep I get studying. This rigorous education includes the provision of gender-affirming care. This is evidence-based. You can look up all the organizations that support it. I tried to put them in my opinion, but not all of them fit in the character limit.

This is not a subject of debate of whether or not it works. This is a subject of debate of whether or not you wish to protect providers here in the state of Nevada. That is the essence of the bill. That is what I am here to represent. I would love to provide care here in Nevada, but unfortunately, if my ability to do so is not protected, I—along with many other colleagues—will have no choice but to seek employment in another state that will protect our rights as providers.

We do have a health care shortage here in the state. This is known to all of you. All of you try to get appointments at doctor offices and complain about the wait. This bill would help address that. Providers flock to states that provide shield laws. That is a fact. You can look at the residency match statistics for shield law states with abortion care and OB-GYN residencies. It is very impressive. This has already been shown. The same thing applies with this shield law. If this law is passed, providers will flock to the state. I promise you. If it is not passed, you will see the opposite occur. As much as it breaks my heart, as much as I would love to provide care here in northern Nevada, that option would not be available to me.

**Senator Ohrenschall:**

We have Rob Phoenix on Zoom. We will start with Mr. Phoenix and then go down to Las Vegas with your indulgence, Chair.

**Chair Marzola:**

Before we get started, just so you know, we are going to lose that room in Las Vegas in about eight minutes. I am trying to get the smaller room.

**Senator Ohrenschall:**

Then actually, if Mr. Phoenix has the patience, could we go to the Sawyer Building first? I did not realize that. We will start with Sy Bernabei in the Sawyer Building.

**Sy Bernabei, Executive Director, Gender Justice Nevada:**

[Read from written testimony, [Exhibit FF](#).] I thank you, Senator Ohrenschall, for supporting and sponsoring this very important bill. I am a very proud trans person who has received gender-affirming health care, and it literally saved my life. The medical care these doctors provide is essential and protected right now in this state. I want to remind everyone this is not exclusively a transgender issue. Cisgender, meaning people who are not trans, also receive lifesaving gender-affirming health care. Practitioners have been prescribing hormones and performing surgeries in what today we call gender-affirming health care for years. This includes cisgender men who take testosterone therapy, cisgender women who undergo breast augmentation, teen boys who have gynecomastia and get breast reductions, and cisgender women who get laser hair removal. None of these patients are transgender, yet they receive gender-affirming health care, and the threat to strip the doctors of their license that allows them to do so affects them as well. Punishing providers would affect everyone.

When I say the phrase "lifesaving health care," I am not speaking in hyperbole. For folks who think and believe the narrative that trans people undergo these surgeries and how this health care has a higher rate of depression and suicide are simply buying into a false narrative. They have done studies and shown that for trans people like me who have gotten this health care, the regret rate is less than 1 percent. In comparison, cisgender people who get plastic surgery have a regret rate of 65 percent.

I want to provide some helpful analogies to this because I think people get caught up in the moral objections to this health care. There are many services that are available here in the state of Nevada that are legal that people might object to morally, but we cannot punish the provider of said services. Recreational cannabis is legal in this state. Many tourists come here and enjoy that particular product, but we do not punish the dispensaries or threaten to take away their license to sell that product. Twenty-four-hour alcohol purchases are allowed in this state, yet we do not threaten to rescind the liquor license of a bar or a grocery store that sells that product.

Providing gender-affirming health care is legal in this state, and until it is not, we cannot punish the providers of that service. If a medical provider is charged with a criminal violation related to gender-affirming health care services, then you should apply this consequence to any other service that is legal in this state you morally object to. Arrest the owners of dispensaries and pull their license, arrest the bar owners and the bartenders for serving a patron after 2 a.m. and pull their liquor license.

This particular service, gender-affirming health care, saves lives. It is even more important to protect than the ability to protect dispensaries or liquor stores. I do not have much to ask of you. I am asking you to protect these practitioners who are saving lives and providing a better life for these patients no matter if they are residents of Nevada or travel from another state. Again, this health care is totally and completely legal in the state of Nevada. It should also be noted and considered within a broader strategy to put an end to underground and unsafe health care that people have literally died from. My question to you is: do you want the blood to be on your hands?

**Senator Ohrenschall:**

I believe we also have Dr. Terence McAllister, Leann McAllister, and Elizabeth Sterns at the Sawyer Building.

**Chair Marzola:**

Senator Ohrenschall, are these your presenters or are they testifying in support?

**Senator Ohrenschall:**

They are all copresenters.

**Elizabeth Sterns, Private Citizen, Las Vegas, Nevada:**

[Read from written testimony, [Exhibit GG](#).] I am the mother of a transgender child. Our son found the words to tell us when he was 11. He is 17 now and is thriving, thanks to the love and support from his family and his necessary affirming medical care. Our family moved here from Texas in November 2021. We left our family, our friends, and our home after Texas lawmakers tried to pass laws that would criminalize our support of our son.

We nervously watched sessions like this, wondering if they would pass a bill that would prohibit his health care providers from continuing his care; would label us as child abusers; remove our children from us; and put us in jail. There was very little relief when the bills ran out of time and did not pass because we did not think that would be the end of it.

Our son's doctors felt the same as we received calls from some letting us know that even though the bills did not pass and even though they knew how absolutely necessary his care was, they were now too scared to continue caring for him. It turned out we were all right to worry. Soon after we left Texas, they decided affirming transgender children could already be considered child abuse, and they began investigating families like ours.

We are so grateful to be here now and to call such a beautiful, fun, and welcoming state our home. We are relieved to know our son's medical decisions will continue to be between him, his parents, and the medical professionals. It is our hope and our need that this bill passes so our family, other families of transgender children, and even transgender adults will not have to experience having their necessary, lifesaving care kept from them because of ignorance.

**Leann D. McAllister, Executive Director, Nevada Chapter, American Academy of Pediatrics:**

I will be brief because I know time is short. I did submit something in writing [[Exhibit HH](#)]. I greatly support the physician you have already heard from and the medical student. Pediatricians in our state need S.B. 302 (R1). I have here with me today one of my favorite pediatricians, my husband of 23 years, Dr. Terence McAllister, who also needs S.B. 302 (R1). Because we are running short on time, I will say to the members of the Committee, if at any time you have any medical questions or pediatric health care questions, my husband, Dr. McAllister, or any members of my board are happy to discuss them with you.

**Senator Ohrenschall:**

Chair, with your indulgence, Rob Phoenix is on Zoom.

**Rob Phoenix, Private Citizen, Las Vegas, Nevada:**

[Submitted written testimony, [Exhibit II](#), and [Exhibit JJ](#).] I am a nurse practitioner in Las Vegas and in the interest of time, I will keep my comments brief. I, too, like Dr. Thiele, have given up some clinical time today in providing care to speak to you because of the importance of this issue and how it personally impacts me as a provider of health care.

As the largest provider of gender-affirming care in the state of Nevada, I care for over 1,000 patients who are gender diverse. This bill protects my ability to provide care. As Sy Bernabei mentioned, this also protects my ability to provide care for those who are cisgendered as well, like Karen, who lives behind my office and chooses to access services in my office because we are close to her. If my ability to protect her and provide care for her is taken away because of this bill not being supported, I will lose that ability to take care of her as well as thousands of other patients.

I received an email today from one of my malpractice carriers that the state of Arizona passed a bill, Senate Bill 1138, that has outlawed providing gender-affirming care in the state of Arizona. There is a question in that bill as to whether providers who refer patients for out-of-state care will be subject to professional discipline and criminalization. This bill has relevance to us as providers in the state and has relevance to all of us as residents of the state. Nevada ranks number 48 in the number of providers to patients. Senator Jacky Rosen is addressing this on a federal level because of the desperate need we have for providers. We need to protect access for patients to providers. This bill does that. This bill helps us provide care to all the residents of Nevada.

**Senator Ohrenschall:**

Thank you very much for your indulgence, Chair. I am happy to answer any questions.

**Chair Marzola:**

Are there any questions? [There were none.] We will move to testimony in support of S.B. 302 (R1). Is there anyone wishing to testify in support? As a reminder, as I have been doing the entire day, we are going to do 30 minutes of support, 30 minutes of opposition, and 30 minutes in neutral. It will be 10 minutes here, 10 minutes in Las Vegas, and 10 minutes on the phones.

**Sarah Adler, representing Nevada Advanced Practice Nurses Association:**

Advanced practice registered nurses are among the providers—as you saw Rob Phoenix—who have developed specific expertise in the care for the LGBTQ+ community. This service must be protected by you from legislators in other states. We appreciate your support for this bill.

**Annette Magnus, Executive Director, Battle Born Progress:**

We are here today in strong support of S.B. 302 (R1) as part of the Nevada Equality Coalition and believers in LGBTQ+ equality. It is no secret that transgender people in the United States are facing legislative attacks on their very identity. Just this past month, Idaho signed into law a bill criminalizing the providing of gender-affirming care to young people, and earlier this month, a similar bill became law in Arizona. This is on top of bills in Texas, Kansas, Tennessee, and others that ban or restrict gender-affirming care, drag performances, and target LGBTQ+ people in other ways.

This bill will allow health care providers to perform gender-affirming care without fear or stigma of being disqualified by a health care licensing board. Moreover, it protects them from lawsuits or sanctions from other states like the ones mentioned who want to export their agenda here in Nevada. It would also not allow the Governor of Nevada or any state agency to cooperate with any attempted criminal prosecution of a gender-affirming care provider.

Senate Bill 302 (1st Reprint) would be a powerful statement that Nevada will not participate in the ignorant and hateful cultural war being fought at the expense of our LGBTQ+ family, especially our young people. The Nevada way has always been about freedom of expression

and equality for all people under the law. Senate Bill 302 (1st Reprint) fulfills that promise. We thank the bill sponsors and the Equality Coalition for working to bring this important bill forward. We are proud to support it. Please pass S.B. 302 (R1).

**Lea Case, representing Nevada Psychiatric Association:**

As medical doctors who will be some of the population impacted by this bill, those who would be protected coming to Nevada or practicing in Nevada from another state, this is good legislation and it is good policy. We thank the sponsor for bringing it forward. I would also add that Nevada is a hospitality state. What is more welcoming than saying you can practice here at the top of your license? You are protected here to make the best evidence-based medical decisions you can between you and your patient. That is protected here in this state. I cannot think of a better way to welcome our physicians to Nevada than to say that to them with S.B. 302 (R1).

**Vanessa Dunn, representing Nevada Primary Care Association:**

Federally Qualified Health Centers (FQHCs) exist to serve medically underserved populations, and no population has been as underserved as the trans community. We must protect the providers who serve those communities. Additionally, FQHCs are governed by their community, and the services they provide are those identified as lacking from other providers. Finally, we do not know any alternative evidence-based treatment for those patients other than the ones that are approved by the national and international medical associations. Thank you for your consideration of S.B. 302 (R1).

**Sarah Watkins, Interim Executive Director, Nevada State Medical Association:**

Being a patient and physician advocacy organization, we are in strong support of S.B. 302 (R1) due to the protections the bill provides for health care providers in the state.

**Elyse Monroy-Marsala, representing Nevada Public Health Association:**

The Nevada Public Health Association is a member organization of the American Public Health Association (APHA). The APHA released a study in 2016 titled, "Promoting Transgender and Gender Minority Health through Inclusive Policies and Practices." This study details a lot of evidence and research about how discrimination against trans and gender-nonconforming people increases the likelihood of things like social isolation, homelessness, financial instability, psychological distress, and many other risk factors that can lead to other health problems. Senate Bill 302 (1st Reprint) seeks to provide physicians with protections as they seek to provide inclusive evidence-based health care to people who are trans and gender-nonconforming. For those reasons and the others stated today, the Nevada Public Health Association supports this important measure.

**Paige Barnes, representing American College of Obstetricians and Gynecologists:**

We are here in support for all of the reasons you already heard.

**Terence McAllister, Fellow, American Academy of Pediatrics; and Vice President, Nevada Chapter, American Academy of Pediatrics:**

I am a primary care pediatrician in Las Vegas speaking in support of S.B. 302 (R1). As a pediatrician, I have been horrified to watch politicians across the country attack families and health care providers supporting transgender young people. The American Academy of Pediatrics, like all other major medical associations in the country, endorsed gender-affirming care as a safe and effective way for physicians to help transgender young people improve their physical and mental health and well-being.

Politicians, especially those elected in other states, have no place telling me or other pediatricians how to do the jobs we have been trained, certified for, and licensed by the state of Nevada to do. Nevada needs to remain a welcoming state for all families, and that starts with protecting the expert physicians who help children grow up healthy and safe. Nevada's leaders have an important opportunity and responsibility to stand up for families and doctors in our state by passing S.B. 302 (R1).

**Daela Gibson, Director of Public Affairs, Planned Parenthood Mar Monte:**

Planned Parenthood Mar Monte is a proud provider of gender-affirming care in northern Nevada. We support this bill and ditto other supportive testimony.

**Jessica Munger, Program Manager, Silver State Equality:**

Silver State Equality is Nevada's statewide LGBTQ+ civil rights organization, and we are in strong support of S.B. 302 (R1).

**Karl Catarata, State Director, Human Rights Campaign, Nevada Chapter:**

We are the largest civil rights organization working to achieve lesbian, gay, bisexual, transgender, and queer equality. We want to make sure we are inspiring and engaging all Americans. We strive to end discrimination against LGBTQ+ people and realize the world that achieves fundamental fairness and equality for all.

On behalf of our thousands of members across the state of Nevada and your constituents in northern and southern Nevada, we ask you to have the moral courage to vote yes on S.B. 302 (R1). Gender-affirming health care services are defined as medically, surgically, behavioral health, and specifically necessary for the support of our LGBTQ+ communities. Gender-affirming health care works, and Nevada needs to be a leader in these services. Your constituents are requesting of it; local nonprofit organizations are requesting of it; families and children in the state of Nevada are requesting of it; and health care providers are requesting of it. We hope you do the right thing and make the commonsense decision to vote yes on this bill. Thank you all for your time and your consideration.

**Briana Escamilla, Regional Organizing Director, Planned Parenthood Votes Nevada:**

We are in full support of S.B. 302 (R1) because we believe no person seeking or providing legal, safe, and evidence-based gender-affirming care should be at risk of criminalization. All people deserve access to the full spectrum of care they need to be healthy and to thrive. That includes gender-affirming care, which is safe, evidence-based, and medically necessary.

In fact, the most influential factor in the health, safety, and life expectancy for trans and non-binary individuals is the access they have to gender-affirming care. Now, at a time when states around the country are restricting or banning gender-affirming care completely, it is critically important we take steps to protect this medically necessary care. We urge you to support S.B. 302 (R1).

**West Juhl, Director, Communications and Campaigns, American Civil Liberties Union of Nevada:**

I am happy to be able to stand in solidarity with my gender diverse siblings. I am non-binary myself. I do want to say that I think there is a civil liberties interest here that is much simpler than this hot button issue would make people think. I think there is a clear civil liberties interest in protecting law-abiding Nevadans from out-of-state, politically motivated prosecution. It seems pretty simple to me.

**Elvira Diaz, Private Citizen, Sparks, Nevada:**

I am in support of S.B. 302 (R1). Last Sunday was Mother's Day. Happy Mother's Day to all the mothers who are listening to me. I am a mother of an 18-year-old transgender child who first came out to me when he was four and one-half years old. I quickly began to understand what he was going through. How could I support him and the resources that were available for us, especially as a single mother? We faced many challenges, including having to go out of state to get his medication because my insurance at that time did not cover his gender-affirming care.

After years of traveling out of state for his medication, I was eventually able to get Medicaid. Unfortunately, that means we were also living under the federal poverty level. My son is now a healthy young man, and I am proud of all his accomplishments and everything we have perceived together to ensure he has his medical needs met. I know without his care, he could have faced years of gender dysphoria that could have impaired his development.

Senate Bill 302 (1st Reprint) will allow parents of transgender children to make the private family decision to consent to health care without the overreach of the government criminalizing parenthood. Moreover, S.B. 302 (R1) will respect one's personal freedom and individual liberty to decide medical rights and afford to them. Additionally, S.B. 302 (R1) will allow health care providers to practice in the state of Nevada without fear of retribution by also adding to the charges of health care providers. I urge you to support S.B. 302 (R1) to ensure all parents are able to access gender-affirming care from qualified providers from the children to try as the most untypical serve [unintelligible].

[[Exhibit KK](#) and [Exhibit LL](#) were submitted but not discussed and will become part of the record.]

**Chair Marzola:**

Is there anyone else in support? [There was no one.] We will move to testimony in opposition to S.B. 302 (R1). Is there anyone wishing to testify in opposition?

**Bob Russo, Private Citizen, Gardnerville, Nevada:**

I oppose S.B. 302 (R1) because it will make Nevada a safe haven for doctors who come here to perform gender-affirming treatments and are seeking protection from prosecution in other states. It will prevent the Governor from extraditing doctors who have broken gender-affirming laws in other states.

I believe the larger picture behind this, and similar bills, is a concerted effort to push gender-affirming surgery and the use of puberty blockers and cross-sex hormones on our youth. In my opinion, this is not only immoral but dangerous to the health and well-being of our young people. According to California endocrinologist Michael Laidlaw, "Cross-sex hormones carry side effects including sterility, increased risk of cardiovascular disease, and increased risk for breast and uterus cancers, and other harmful psychoactive effects of high-dose hormones such as mood swings and even psychosis." Ryan T. Anderson, in a March 9, 2018, article with the Heritage Foundation, cites a 30-year Swedish study that showed, "Ten to 15 years after surgical reassignment, the suicide rate of those who had undergone sex-reassignment surgery rose to 20 times that of comparable peers."

To my knowledge, it is not unusual for kids to outgrow their gender dysphoria. Therefore, I am in the camp that believes that gender-affirmative procedures should be reserved for those capable of making a clear decision as to whether they want it, a minimum age of 21 years. It also appears the push for gender-affirming care is about money, big money for the medical and pharma industries. According to the recently released documentary titled *Affirmation Generation*, in the United States, reassignment surgery market revenue income was \$304.8 million in 2020, with estimates reaching \$781.8 million by 2027.

In my opinion, this movement is sacrificing our youth at the altar of government dependency, Big Pharma, and medical industries. We are likely to have a generation of young people growing up with chronic illnesses and depression dependent on pharmaceutical drugs and the inability to live productive and fulfilling lives. Please oppose S.B. 302 (R1).

**Janine Hansen, State President, Nevada Families for Freedom:**

I object to the slanderous and insulting statements made by people who are testifying in support of this bill, calling us ignorant, hateful, liars and bigots. I thought it was the standard of this building to be respectful.

Senate Bill 302 (1st Reprint) destroys the constitutional balance of power between the three branches of government, tying the hands of the executive, law enforcement, and the courts. Senate Bill 302 (1st Reprint) violates the *U.S. Constitution* under the extradition clause in Section 2 of Article IV says it is the duty of the governor to have arrested and delivered up to another state, any person charged in that state with treason, felony, or other crime who has fled justice and is found in this state.

Nevada will become a sanctuary state, harboring hack doctors from across the country. In a discussion of the largest robust study on sex reassignment in 2016, the Centers for Medicare and Medicaid Services during President Obama's Administration pointed out the

study identified increased mortality and psychiatric hospitalization compared to the match controls. The mortality was primarily due to completed suicide. Some 19-fold greater than the control group.

Dr. Quentin Van Meter, board-certified pediatric endocrinologist, said the "change will come when families and individuals fire major lawsuits that take down the physicians, drug companies, hospital health care systems, and insurance companies that allowed this harm to children." Dr. Andre Van Mol, board-certified family doctor, said that pharmaceutical companies are profiting greatly from transgender patients . . . . With so much potential for profit, it is no wonder that the scientific data is being suppressed or ignored. We encourage you to protect our children, protect our families, avoid giving huge profits to Big Pharma, and oppose this bill.

**Lynn Chapman, State Treasurer, Independent American Party of Nevada:**

We know we do need more doctors to come to Nevada, but we believe we need to be very careful in what doctors we allow to come to our state and practice medicine. Doctors who may have criminal charges pending against them in another location for any reason are not the doctors we need to invite here to have a practice or do surgeries. We do not need to protect the doctors who have been criminally charged and have pending charges against them in another state.

Also concerning us in this bill is the prohibition of any state agency in the Executive Branch from providing information, time, money, facilities, property, equipment, and resources of the state in the furtherance of an investigation initiated in or by another state. In other words, any state agency in the Executive Branch is not allowed to do their job. That is not what the citizens want or expect. Here is yet another bill that would interfere with another branch of government, taking away the Governor's ability to do his job. The people elect the Governor with expectations he would be doing the job he was elected to do and be responsible for that job. Please vote no on S.B. 302 (R1).

**Kathleen Palmer, Private Citizen, Carson City, Nevada:**

Senate Bill 302 (1st Reprint) would make Nevada a sanctuary state for doctors who may be in criminal action for medical interventions regarding minor children in other states. Do we want to provide sanctuary to these doctors so they can set up shop to provide treatment to children in Nevada? These procedures are often experimental. The World Professional Association for Transgender Health (WPATH) sets the standards such as they are for medical practice. The guidance *WPATH Standards of Care, Version 8* offers is often offered merely as suggestions due to a lack of long-term data and successful outcomes. Trans affirming doctor, Marci L. Bowers, admitted that children who undergo transition before puberty will never have adult sexual function or experience orgasm.

The experimental nature of these procedures leaves behind devastation and regret for some of its recipients. Ritchie Herron is a victim of penile inversion and castration. He documents his torment on his Substack and YouTube channel, which is named TullipR. While WPATH claims most outcomes are good, Ritchie has trouble managing the trickle of urine from his

constricted urethra after going to the toilet. He also mentions pain, areas of no sensation, and urinary tract and other infections. He says he does not fully empty his bladder. That means after going to the toilet, he will continue to drip for up to an hour. When he is out and about, he must wear sanitary pads or risk smelling of urine. His pelvis is behaving as if it has been impaled, constantly trying to heal, constantly confused about what to do with the nerves. There is nothing but numbness in the outer groin. He tried prodding with clean knives and needles to see if he can feel anything. Like his transition itself, his inverted penis is a caricature of a female body part, that despite being dressed up to appear female is unmistakably male, which is why he struggles to call it a vagina. It is a lobotomized penis.

**Katrin Ivanoff, Private Citizen, Las Vegas, Nevada:**

As of 2:10 p.m. today on the Nevada Electronic Legislative Information System (NELIS), there was 81 percent opposition on this view. As far as I know, NELIS is the only place I can get the information for constituents who are expressing opinions, not particular entities that everybody else is representing. When people are opposing something and write something in the rate of 80 percent, why would you support it? Does the opinion of your constituents not matter to you? If you are not really representing us, your constituents, who are you representing? The voters are the ones who elected you, and 80 percent of them are telling you we do not like this bill.

Also, the one presenter in Las Vegas, a pediatrician, who said, You Legislature stay away from my office. I want to be the one deciding what to do. At the same time, he said, Oh, but vote yes on this. That makes no sense. He either wants you out or in. He does not even know what he wants, yet he presents as an expert. The other person said there is no criminal liability to doctors in Nevada right now. When they were presenting this bill, a lot of them said the other states are making it criminal. I believe they are not factually correct because they are making it criminal for minors, and if anybody does procedures to minors, not to adults. That is a huge difference. I think we should keep our minors safe, and we should not allow any transgender surgery to our minors. I wanted to add that my heart goes out to the people who are transgender. I cannot imagine what it is to feel like your body is not really what you wanted to be. Please vote no.

**Joy Trushenski, Private Citizen, Carson City, Nevada:**

I oppose S.B. 302 (R1). Please do not make Nevada a sanctuary state for gender-changing doctors from other states who have violated the laws of other states. There has never been before so many children at young ages who are claiming to be boys if a girl and claiming to be a girl if a boy. Children are easily manipulated, and I believe they are being influenced by people who do not have their best interests at heart. These claims are leading to transgender surgeries at an early age without parental consent.

These children have no idea what the long-term negative health effects will be. For the rest of their lives, they will have to take hormones and drugs, which are expensive and harmful. Males are not meant to be injected with massive female hormones, and females are not meant

to be injected with massive male hormones. It causes major health problems. The National Library of Medicine states, it will cause cardiovascular disease, strokes, cancer, and other problems.

God made only two genders: male and female. I believe gender dysphoria is a mental health problem, much like those who have anorexia. Each see themselves as different from reality. The medical health professions and pharmaceuticals are making huge sums of money off of pushing transgenderism and surgeries. This is wrong and harmful to our children. Please vote no on S.B. 302 (R1).

**Leslie Quinn, Private Citizen, Las Vegas, Nevada:**

I have a family member who was born a hermaphrodite, and I have seen the numerous, painful surgeries this poor child has had to go through. I oppose S.B. 302 (R1). Senate Bill 302 (1st Reprint) has the same restrictive language as Senate Bill 131, regarding the licensing boards, the Governor, and regulatory agencies. Senate Bill 302 (1st Reprint) removes these agencies' ability to serve and protect Nevadans from nefarious practitioners setting up shop here in Nevada, regardless of their previous medical performance. Our laws need protections in place to keep Nevadans safe.

It is criminal and hypocritical for legislators to applaud and protect any practitioner who encourages the cutting off of a child's body parts or anyone under the age of 21 but push the Legislature to limit gun purchases to the age of 21. If a child is old enough to decide on a gender-affirming care under 21, why must they wait to purchase a gun at 21? People are not starfish. They cannot grow back body parts.

For anyone struggling with gender dysphoria, depression, anxiety, not believing that you are enough, or any mental health issue, know you are fearfully and wonderfully made just the way you are. Know you are loved and accepted from head to toe just the way you are. Know many support and accept you just the way you are. You are not born a mistake and your body parts are not medical waste. Know you are loved and accepted by the God of all creation, so much he sent his only son to die on the cross for you. I encourage everyone to love and accept fellow humans just the way they are. Please do not encourage vengeance or retribution against others who do not agree with you. Choices are freedom we are all given by God. I ask all legislators and my legislators, Assemblywoman Brittney Miller and Senator Marilyn Dondero Loop, to oppose S.B. 302 (R1).

**Jim DeGraffenreid, National Committeeman, Nevada Republican Party:**

I am in opposition to S.B. 302 (R1) on behalf of the Nevada Republican Party. At its core, S.B. 302 (R1) is an unnecessary political statement. No other state is prosecuting doctors for performing legal procedures in Nevada that might be illegal in that state. We heard testimony on the abortion tourism bill, S.B. 131, that this type of prosecution is the same as a state where gambling is illegal attempting to prosecute a resident of that state for gambling while on vacation in Las Vegas. That does not happen either.

At its best, S.B. 302 (R1) is an unnecessary statement, but at worst, it would enable hack doctors who cannot be licensed in their home states to practice medicine in Nevada. We oppose it in either event.

Additionally, this bill in section 3, subsection 2 excludes conversion care from the definition of what the bill terms "gender-affirming care," and we feel that subsection should be stricken. Finally, this bill is amended as local government to the entities are prohibited from cooperating with law enforcement agencies, and this is an unacceptable overreach. For all of these reasons, please vote no on S.B. 302 (R1).

**Stephanie Kinsley, Private Citizen, Henderson, Nevada:**

I would like to discuss some common sense and common denominators I see happening right now. No sanctuary city turns out for the good. It always leads to higher crime, and it is like you are trying to circumvent good laws that are in place. I would also like to add that there is no transgender child. That child probably has a mentally ill mother with Munchausen syndrome and a beta father allowing this to happen. No child is born in the wrong body.

The same people, meaning Democrats and liberals, who say you can have a penis and still be a woman, but at the same time, if my son does not cut off his wiener, he might kill himself out of sadness that he is not a woman. You see how backwards your own logic is and how it makes no sense.

You are the same people who have Planned Parenthood here speaking. Planned Parenthood was founded to kill Black people. I happen to think maybe these people are trying to kill children across the board, even if they are not Black. They just like killing children. These surgeries have a high death rate. There are huge complications that lead to death. When the children are left alone, over 80 percent of them are gay. They are mentally ill gay kids, and a lot of these kids are autistic.

**Chair Marzola:**

You can continue your testimony, but in this Committee, I expect respect at all times.

**Stephanie Kinsley:**

I am being respectful. I am saying these are mentally ill, gay children who are being manipulated by their parents. These doctors are the same doctors who told you to wear a mask to prevent COVID-19 and to get an experimental vaccine to prevent COVID. That was not science. That was following the money, not following science.

**Alaric Triggs, Private Citizen:**

In the first place, I would like to say this law is not only attempting to further enable an egregious practice by attempting to subvert the laws of other states, but it is also making those who break the laws in other states by performing illegal surgery—deemed by the representatives of those states to be both harmful and unethical—safe from the repercussions of so doing. This is not only an attempt to meddle in the business and laws of other states to enforce an agenda, but it is a major breach in interstate trust and cooperation to prevent the

extradition of persons deemed criminals by one state because they are not considered criminals by another. It is out of place and defying of the justice system in this country which, ineffective as it is, still exists for a purpose.

Ask yourselves why, if people should not respect certain laws in other states because they disagree, they should see any reason to obey or respect your laws or any laws for that matter. In that case, if the law is only to be applied arbitrarily with caprice and prejudice, then it would not only cease to be law, but it would choose to have authority over the people and would lead to anarchy and chaos.

Gender change surgery is a dreadful thing allowed to be done to underage children. If a person is under 18 and not deemed responsible enough to buy cigarettes because of the health hazards they are not mature enough to understand, how are they considered mature enough to have their genitals carved out and replaced? Unlike tobacco or alcohol, something like that will absolutely affect everything you do the rest of your life. You can stop smoking, but you cannot reverse gender change surgery. Does it make any sense then to allow children access to something far more dangerous than tobacco before they come of age?

I ask these questions, and may the Legislature open its eyes and see the issues this will inevitably create and the lives it will inevitably ruin.

**Lorena Cardenas, Private Citizen, Las Vegas, Nevada:**

Why are we still pushing for gender-affirming surgery when as time goes on—and this new fad of gender surgeries continues—more stories are coming to light of people who regret having gotten these procedures because they are suffering and are in a lot of pain. They regret what they did to themselves.

Do you want to know how many youths received gender-affirming surgeries before 2012? Zero. Please fact-check me on this. There were zero records of someone receiving gender-affirming surgery. Why are Democrats trying to be champions for inclusion when what you are really doing is advancing an agenda that is leaving a trail of mutilated children and young adults in its wake? Have you heard the testimonies of teenagers who explained how they are going against their own biology and forcing gaping holes in their groins to create an opening to imitate a vagina? Does this sound horrific to you? You want to talk about receipts? I urge you to hear the testimony for yourself at My Children's Advocate on Instagram and Facebook.

To further add insult to injury, this bill does not just specifically provide these surgeries at no cost. It protects providers from being held accountable from malpractice and criminal allegations. Why would you not even want a provider to be held accountable for what they did wrong in another state? It is butchering at its finest. The agencies that are supporting the surgeries are doing it for profit, not for compassion, as this will always lead to a negative outcome, since gender-affirming health care leads to a person needing medical assistance for the rest of their life.

To the doctor who will most likely build a lifelong bond with her patients testifying on here, it is not that things regarding this topic are deteriorating in Nevada, it is that people are becoming aware of the monstrosity you are committing. We do not want shield laws. We do not want you people butchering our people in this state. Legislators err on the side of caution, not compassion. This is not hate; this is common sense. Senator Ohrenschall, your constituents will know this is what you did with your time in office.

**Lisa Partee, Private Citizen, Carson City, Nevada:**

Gender-affirming care is already lawful in Nevada. Even the presenters testified to that. Most of those in favor who testified said they feared they would not be able to provide the care—that is the future doctor—or receive the care they seek. This is not the issue. Rather the opposite, as everyone said they were able to obtain treatment in Nevada. The issue is protecting felonious doctors who chose to break laws in other states. We do not need doctors who disregard laws to come here to possibly cause harm to other people. This bill truly does not guarantee the safety of anyone.

We are not haters. We are trying to protect children who cannot know what they want and may be confused. I expect parents to get them the help they need and require, even counseling and mental health treatment if needed. I have not heard anything about mental health treatment today. No kids should have surgeries before the age of 21.

My heart goes out to kids who are trans. It always has. Kids should not be encouraged to go through any treatment until they are mature enough to decide for themselves. For those adults who have been treated and saved, that is great. We do not want criminal doctors coming here to Nevada. Let us get people counseling before mutilating kids.

**Susan Proffitt, Vice President, Nevada Republican Club:**

I have heard a lot of misinformation coming from the supporters here, and I was a little disheartened when I heard the Chair interject herself and correct someone who opposed when they were speaking their own mind. They never said anything about those calling us names. That is not exactly fair.

I would like you to consider the following. The most recent study in the field of gender dysphoria is also the longest running study on this. It was 10 years. The study did not support the conclusions that gender reassignment via surgery or hormones is necessary, nor does it increase the quality of life of the gender dysphoric. If the scientific research does not support the value of such options, should you? Why did this bill go to the Senate Committee on Commerce and Labor? It is strangely similar to S.B. 131, which takes away all parents' rights. You are going to be changing people's gender without our knowledge. Yet you have somebody present this who has claimed otherwise. This is disingenuous.

The largest study to date on individuals who received a diagnosis of gender incongruity—published in the *American Journal of Psychiatry* in 2019—recently published a correction on August 1, 2020, to their original findings. Outcomes measured were mood and anxiety

disorders, health care visits, antidepressants, anxiolytic prescriptions, and hospitalization after a suicide attempt. Patients who have sex reassignment surgeries did worse than those who did not.

**Cyrus Hojjaty, Private Citizen, Las Vegas, Nevada:**

I will ditto the comments made by opposition.

[[Exhibit MM](#), [Exhibit NN](#), [Exhibit OO](#), [Exhibit PP](#), and [Exhibit QQ](#) were submitted but not discussed and will become part of the record.]

**Chair Marzola:**

Is there anyone else in opposition? [There was no one.] We will move to neutral testimony on S.B. 302 (R1). [There was no one.] Senator Ohrenschall, would you like to give some short closing remarks?

**Senator Ohrenschall:**

My chief cosponsor, Senator Scheible, is here. With your permission, I would like her to make some closing remarks, along with Dr. Thiele and Brooke Maylath. Thank you so much for hearing the bill.

**Senator Melanie Scheible, Senate District No. 9:**

I will keep this brief. I think this bill is incredibly important. I want to remind everybody about the broader landscape we find ourselves in. When I went to law school, we learned very early on that one state could not make laws that criminalize something in another state. I still believe that to be true. If I sat on the U.S. Supreme Court, I would strike down these laws that criminalize behavior of somebody in one state, in a different state. I am not a Supreme Court justice, and none of us are. That is why we are all here passing the policies we do have the power to enact.

I see this bill as a preventative measure to say if courts are going to start radically changing the way they interpret the *Constitution* to suggest one state is able to infringe on the rights of another state and tell the residents of someone outside of their borders what they are able to do, then Nevada is going to stand up and say, Not here. You do not tell us what to do in our patients' rooms with their health care. I hope you will all support S.B. 302 (R1).

**Karen Thiele:**

I wanted to address some of the misinformation I heard in opposition to this bill. I would like to make it clear there are states that are outlawing gender-affirming care to adults, and that is why we also discuss that here. Yes, the original wedge issue was with youth, but this has now metastasized to adult care as well. I do feel that is directly threatened in many states in the Union.

In dealing with children, I can assure you there is nobody performing surgery on children. It is exceedingly rare for that to occur and only occurs after many years of multidisciplinary care for that child, including health care, including mental health care. None of this takes

place without mental health care. We have not explicitly talked about that here, but I want to reassure the Assembly members that mental health care is a huge part of how we care for children. I wanted to make sure that information was out there.

**Brooke Maylath:**

I am currently a transgender senior citizen, but I was born as a transgender child. If you want to understand what a lifetime of going through society as transgender is like, I will be happy to have that conversation one on one with anyone. I want to thank those who came forth in opposition for bringing up so many issues that are wonderful examples of misinterpretation of what this law actually does. This protects Nevada licensed providers from criminal allegations for providing care within their practices within the state of Nevada. It does not protect those who are performing procedures or treatments outside of Nevada, nor does it protect those who are licensed outside of Nevada. This law is about protecting Nevada providers who provide care for all sorts of people, including transgender people.

Some of the other examples that came forth were exactly what I had said earlier. We heard people who honestly believe the misinformation and lies deliberately produced by hate groups they are parroting here, and they fully believe that is true, but it is not. I do not hold them accountable for that. I do, however, hold each and every one of you accountable for what your decision is in protecting Nevada providers in this time of physician and provider shortage. That is what this bill does.

Lastly, I would like to be able to put this in a bit of historical perspective. Ninety years ago, on May 6, 1933, people from the German Student Union invaded and took over Magnus Hirschfeld's medical clinic that was called the Institute for Sexual Science in Berlin, Germany. Four days later on May 10, they began book burning, starting with Magnus Hirschfeld's library and manuscripts, many of which were one of a kind in the world, going back hundreds of years of research and veracity on gender diversity in Europe and throughout the rest of the world. That book burning throughout all of Germany has gone down in history as being something the rest of the world was not that keen on. When we stand back and stand by those kinds of actions, that kind of furor leads to genocide. When you vote on this bill, how do you want history to record your decision? I leave you with that question.

**Spencer Trivitt:**

I would like to echo what Dr. Thiele said. I would also like to encourage you to take a look at the American Endocrine Society guidelines, which do very clearly outline the way we approach gender-affirming care. They also have guidelines for pediatric patients and those guidelines you will see very clearly outlined that surgery is not recommended in anyone under the age of 18. You will also see the use of hormone treatment is not recommended in anyone under the age of 16 with some very limited exceptions. These are the guidelines medical practitioners are adhering to. I would like to leave you with that.

**Chair Marzola:**

Thank you for the presentation today. I will close the hearing on S.B. 302 (R1). I will now open the hearing on Senate Bill 78 (1st Reprint), which makes various changes relating to property.

**Senate Bill 78 (1st Reprint): Makes various changes relating to property. (BDR 10-623)**

**Senator Fabian Doñate, Senate District No. 10:**

I am here to present Senate Bill 78 (1st Reprint). I will try to make it as quick as I can. This is a good bill. It is a bipartisan bill that revises provisions relating to property. I am joined by Mr. Norman, who represents Legal Aid of Southern Nevada. Quickly, the rationale as to why we are here is I had trouble, like many other residents in the state, applying for housing. My encounter was when I was moving up to Carson City. There were a bunch of fees tacked onto my application that were very confusing. It started off when my roommate and I were moving up to Carson City for this session, and there were fees being tacked on. When I told them I was coming here for a six-month lease, they added more fees to it, and lo and behold, I was spending upwards of \$2,000 on fees simply because of the changes I had requested to come up for session. That is a situation many families in this state go through. It is an issue many families have asked us to look to solve. That is the reason why we are here today and why this conversation is important. I will turn it over to Mr. Norman, who can go over the bill quickly and the amendment that was submitted [[Exhibit RR](#)].

**Jonathan Norman, Statewide Advocacy, Outreach, and Policy Director, Nevada Coalition of Legal Service Providers:**

If I may, I will go over the amendment [[Exhibit RR](#)], and then if there are questions about the bill, we can answer them. The amendment makes changes to section 6, which deals with application fees, and section 12, which deals with fee disclosures at the point an individual is signing a lease. Those changes were to make the bill consistent with another bill working its way through this session, Assembly Bill 298. With that, I think we can answer questions. Everything else is from the first reprint of the bill.

**Chair Marzola:**

Are there any questions? [There were none.] We will move to testimony in support of S.B. 78 (R1). Is there anyone wishing to testify in support?

**Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada; and founding member, Nevada Housing Justice Alliance:**

I am here in support of S.B. 78 (R1). Our coalition formed after the 2019 Session to bring tenant voices directly to the Legislature. Tenants in Nevada have struggled to keep up with rising rent costs and dealing with lackluster tenant protections for far too long. Senate Bill 78 (1st Reprint)—along with a number of other pieces of great legislation from this session—will go a long way to ensure Nevadans can find and maintain affordable housing without being stretched thin. Our communities cannot thrive when Nevadans are

struggling to maintain safe, secure, and affordable housing. Housing stability is the foundation for children's educational success, positive health outcomes, economic opportunity, and equitable, vibrant communities. We urge your support.

**Lilith Baron, Policy Manager, American Civil Liberties Union of Nevada:**

We had a very long day, so I am going to echo the sentiments of my partners and say ditto. We are in support.

**Paul Catha, Political Director, Culinary Workers Union Local 226:**

Fundamentally, the Culinary Union believes landlords should make money off of rent, not off of unpredictable fines and fees, and tenants deserve transparency.

**Annette Magnus, Executive Director, Battle Born Progress:**

For time, I am going to say ditto.

**Cody Hoskins, Political Director, Service Employees International Union Local 1107:**

We support S.B. 78 (R1), and we urge your support. We believe it will be great for our members and members of the community to have these types of protections for tenants.

**Manuel Ayala, Digital Content Manager, For Our Future Nevada:**

Today I am reading testimony from a community member here in Las Vegas [[Exhibit SS](#)]:

For the record, my name is Humberto Sandoval. I am new to the Las Vegas Valley and in the short time I have been here, I have already experienced what it means to be a renter in Nevada. It means paying exorbitant rents and bracing myself for hidden, excessive fees with little to no notice from landlords. The only contact I have received is often just to remind me about the high late fees, a fee of 80 percent of my total rent, nearly doubling the \$1,700 that is already difficult to afford.

My landlord has also made it so the only way to pay rent is by using a cashier's check. This creates an additional and unnecessary burden that often delays my ability to pay rent.

By passing S.B. 78 (R1) and cracking down on these unnecessary fees, my neighbors and I will no longer be subjected to this exploitative system that so many landlords have created in Nevada. Landlords should not be able to hold such high fees over our heads while adding more and more obstacles to paying rent. We need to pass S.B. 78 (R1) to end the exploitation of Nevada renters and hold these landlords accountable.

**Shelly Speck, Parent Leadership Coordinator, Children's Advocacy Alliance; and representing Nevada Strong Start Coalition:**

I am providing testimony in support of S.B. 78 (R1). The housing climate in Nevada has become increasingly difficult for working families. With prices rising significantly over the

last several years, in addition to the attached fees and deposits required to secure housing, the basic housing needs are becoming more difficult to maintain. Additionally, landlords and property owners are able to evict nonlease tenants in just 30 days and then delay the rightful resign of deposits to terminated tenants. It is plain to see working families are being left behind.

With S.B. 78 (R1), landlords will be limited to charging only necessary application fees to keep them from profiting off those in search of housing [unintelligible] renters and requiring all applicable monthly fees to be listed clearly on the first page of the rental agreement, allowing applicants and new tenants a clear understanding of exactly what they will be paying each month.

Senate Bill 78 (1st Reprint) will also benefit Nevadans by extending the no-cause eviction process for nonleaseholders to 60 days from 30 days, and 90 days for seniors and the disabled to allow those tenants time to find new housing rather than leaving them without a roof over their heads.

Senate Bill 78 (1st Reprint) will benefit residents and families of Nevada, urban and rural. The bill provides multiple safety nets for tenants in order to find housing, provide cost clarity, and keep Nevadans from finding themselves in a position where they are forced to leave their homes without another option in place. Please consider these factors and provide your support today for S.B. 78 (R1). Thank you for your time and attention.

**Chair Marzola:**

Is there anyone else in support? [There was no one.] We will move to testimony in opposition to S.B. 78 (R1). Is there anyone wishing to testify in opposition?

**Roberta Ohlinger-Johnson, Legislative Chair, Creditor Rights Attorneys Association of Nevada:**

We oppose section 8.5, subsections 1 and 2 of S.B. 78 (R1). We take no position on the other parts of the bill. We oppose section 8.5 in the reprint because we believe it will hurt those it is intended to help and will overburden courts. The Creditor Rights Attorneys Association of Nevada attorneys advise upwards of half of their landlord-tenant cases settle without a lawsuit. As amended, section 8.5, subsection 1 will hurt those who know they owe some money and are attempting to take care of it because it will shorten the amount of time available for payment arrangements and require suit regardless of payment status solely to protect the statute of limitations. That will overburden the courts with unnecessary suits.

We also oppose section 8.5, subsection 2. Of the cases that do go to suit currently, another half require service by publication, and that is not available in small claims court. The reason they require publication is because the former tenant may have skipped, which is left without leaving a forwarding address. This will create an administrative burden, as claims are filed in small claims as required with concurrent jurisdiction and transferred to justice court.

Additionally, the bill requires proof of damages as causation, and there are some cases where expert testimony will be required such as to prove impact caused a water break rather than a maintenance or product defect. These will also require transfers to justice court.

For the foregoing reasons, we oppose S.B. 78 (R1), section 8.5. Again, we take no position on the other parts of the bill.

**Susan Proffitt, Vice President, Nevada Republican Club:**

First of all, I would like to say I have heard a lot of misinformation today, starting with whoever presented this. This is not a bipartisan bill. Every one of you is a Democrat. We do not have a libertarian, a Republican, or an independent on the list. I urge you to oppose S.B. 78 (R1).

Although the bill seeks to address some serious issues within the housing market, retail to rentals, it does create some unintended consequences with severe restrictions imposed on landlords. The adverse effect on already high rental markets will disintegrate the rental market, which will lead to higher prices and cause more housing affordability issues.

Should S.B. 78 (R1) pass as written, small individual owners such as myself will probably decide to sell because all of the additional risk and cost incurred are not within our capability, whereas large corporate-owned apartments would be able to afford and assume the risk that it creates. This would disrupt the supply chain of housing and therefore lead to higher prices.

Our state and demand continue to grow. We need to increase, not decrease. This bill is unfair. It affects families who may be using it for additional income and to supplement their investment portfolio. Although we agree renters need help and we need to pass something to protect them from excessive fees, we also need to ensure we do not severely leave the owners unprotected and at risk of bad actors who would use this to avoid fulfilling their contractual obligations.

If your goal is to help low-income families, I suggest you unlock economic opportunities so families can get ahead by doing a few things. I would like to suggest we reform some of the burdensome housing and land use and zoning regulations, eliminate cronyism and tax subsidies for billionaires and major corporations, and remove barriers that stand in the way of personal economic opportunities.

**Matt Schriever, Private Citizen, Las Vegas, Nevada:**

As a small-business owner, I oppose section 8.5 of S.B. 78 (R1). By reducing the statute of limitations to two years, the bill reduces the time in which a landlord can find a tenant who skips out on rent. This would have the negative consequence of overburdening the court system with the flood of extra lawsuits within those two years, rather than giving the parties the time to try to resolve this without expensive lawsuits.

The two-year statute of limitations would also make the monetary amount of monthly repayment options higher because no landlord is going to agree to a payoff term longer than two years when they know they will be prevented from filing a lawsuit after two years if the tenant stops paying. In the time after a tenant skips out on a rental, the landlord's focus should be spent on mitigating their damages by rehabilitating the property damage to the unit and finding a new tenant, and less concerned about spending money to find, serve, and file a lawsuit.

By requiring these cases to be filed in small claims court, landlords who do file litigation will no longer get their attorney's fees reimbursed because small claims does not allow an award of attorney's fees. The landlord will be out on rent and attorney's fees even though the rental contract says the attorney's fees are recoverable. Lots of tenants do not provide forwarding addresses when they move, and small claims court does not have a procedure for allowing service by publication. In these instances, the landlord will be left without any remedy to recover its losses. Section 8.5 in this bill only benefits tenants who failed to pay rent. It punishes landlords and paying tenants.

**Chair Marzola:**

Is there anyone else in opposition? [There was no one.] We will move to neutral testimony. Is there anyone wishing to testify in neutral to S.B. 78 (R1)? [There was no one.] Senator Doñate, would you like to give any closing remarks?

**Senator Doñate:**

I want to have Mr. Norman clarify a few of the concerns we had in opposition. I tried to make the presentation as fast as I could, but I think it is important as to the context of what happened on the Senate side. We did work with Senator Hammond. He did vote for this bill on the Senate side. He sits on the Senate Commerce and Labor Committee. We were talking about how at the end of the day, people deserve to know what the contracts are they are going into and how much they have to pay for them, which is part of the amendment [\[Exhibit RR\]](#) you see today. If you look at the concept of what we are proposing, we worked with the Nevada Association of Realtors and the Nevada State Apartment Association, and they are neutral on this bill because we wanted to make sure what we put forward was something that made the tenant and landlord relationship a little bit better. I will go ahead and let Mr. Norman touch point on other issues as well.

**Jonathan Norman:**

I wanted to point out that the opposition testimony was about section 8.5 and about the impact on the courts. We worked with the courts. We ran this language by the Las Vegas Justice Court. There are no flags or fiscal notes on this bill for the courts being burdened. I would also point out that the statute of limitations is lowered to two years. There are two years to work out a payment plan for landlords and tenants. I spoke with our attorneys at Legal Aid, and they said you can file a motion to serve by publication in small claims court, so it is not that that is foreclosed; there is just an extra step.

**Senator Doñate:**

We appreciate everyone's willingness to hear the bill, and we thank the Chair for her time today.

**Chair Marzola:**

We appreciate your being here and waiting for so long. I will now close the hearing on S.B. 78 (R1). I will open it up for public comment. Is there anyone wishing to give public comment? [Public comment was heard.] This will conclude our meeting for today. Our next meeting will be Friday, May 19, 2023, at 1:30 p.m. This meeting is adjourned [at 5:17 p.m.].

RESPECTFULLY SUBMITTED:

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Julie Axelson  
Committee Secretary

APPROVED BY:

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Assemblywoman Elaine Marzola, Chair

DATE: \_\_\_\_\_

## EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is the Work Session Document for [Senate Bill 91](#), presented by Marjorie Paslov-Thomas, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is the Work Session Document for [Senate Bill 131](#), presented by Marjorie Paslov-Thomas, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is the Work Session Document for [Senate Bill 214](#), presented by Marjorie Paslov-Thomas, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit F](#) is the Work Session Document for [Senate Bill 259 \(1st Reprint\)](#), presented by Marjorie Paslov-Thomas, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit G](#) is the Work Session Document for [Senate Bill 330 \(1st Reprint\)](#), presented by Marjorie Paslov-Thomas, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit H](#) is proposed amendments to [Senate Bill 370 \(1st Reprint\)](#), dated May 11, 2023, submitted and presented by Senator Nicole Cannizzaro, Senate District No. 6.

[Exhibit I](#) is a copy of a PowerPoint presentation titled, "SB 370," submitted and presented by David Goldwater, representing FaceTec, Inc.

[Exhibit J](#) is a proposed amendment to [Senate Bill 370 \(1st Reprint\)](#), submitted and presented by David Cherry, Government Affairs Manager, City of Henderson.

[Exhibit K](#) is written testimony dated May 11, 2023, submitted and presented by Tepring Piquado, Senior Director, State and Local Government Relations, Western Region, Chamber of Progress, regarding [Senate Bill 370 \(1st Reprint\)](#).

[Exhibit L](#) is a proposed amendment to [Senate Bill 370 \(1st Reprint\)](#), submitted and presented by Misty Grimmer, representing Cox Communications.

[Exhibit M](#) is proposed amendments to [Senate Bill 370 \(1st Reprint\)](#), dated May 15, 2023, submitted and presented by Lia Nitake, Deputy Executive Director for the Southwest, TechNet.

[Exhibit N](#) is written testimony dated May 17, 2023, submitted and presented by Carl Szabo, Vice President and General Counsel, NetChoice, regarding [Senate Bill 370 \(1st Reprint\)](#).

[Exhibit O](#) is a letter dated May 17, 2023, signed by Colby Williams, Associate Director, Government Relations, Security Industry Association, in opposition to [Senate Bill 370 \(1st Reprint\)](#).

[Exhibit P](#) is written testimony dated May 17, 2023, submitted and presented by Khara Boender, State Policy Director, Computer and Communications Industry Association, in opposition to [Senate Bill 370 \(1st Reprint\)](#).

[Exhibit Q](#) is a letter dated May 17, 2023, signed by Emily Osterberg, Director of Government Affairs, Henderson Chamber of Commerce; and Aviva Gordon, Chair, Legislative Committee, Henderson Chamber of Commerce, in opposition to [Senate Bill 370 \(1st Reprint\)](#).

[Exhibit R](#) is a proposed amendment to [Senate Bill 370 \(1st Reprint\)](#), submitted by Bobby Patrick, Vice President, State Government and Regional Affairs, and Executive Director, State Medical Technology Alliance.

[Exhibit S](#) is a letter submitted by Hannah Grauso, Private Citizen, Reno, Nevada; and presented by Paige Barnes, representing National Psoriasis Foundation; and Crohn's and Colitis Foundation, in support of [Senate Bill 194 \(2nd Reprint\)](#).

[Exhibit T](#) is a proposed amendment to [Senate Bill 194 \(2nd Reprint\)](#), submitted by Paul Young, representing Pharmaceutical Care Management Association.

[Exhibit U](#) is written testimony dated May 16, 2023, submitted and presented by Cari Herington, Executive Director, Nevada Cancer Coalition, regarding [Senate Bill 194 \(2nd Reprint\)](#).

[Exhibit V](#) is written testimony dated May 8, 2023, submitted by Lucy Laube, Field Operations Coordinator, National Psoriasis Foundation, in support of [Senate Bill 194 \(2nd Reprint\)](#).

[Exhibit W](#) is a letter dated May 9, 2023, signed by Annabel Barber, President, Nevada Oncology Society; and Lori J. Pierce, Chair of the Board, Association for Clinical Oncology, in support of [Senate Bill 194 \(2nd Reprint\)](#).

[Exhibit X](#) is a letter dated May 16, 2023, signed by Andrew Cohen, President, Comprehensive Cancer Centers, in support of [Senate Bill 194 \(2nd Reprint\)](#).

[Exhibit Y](#) is a letter dated May 9, 2023, signed by Terrence A. Cronin, Jr., President, American Academy of Dermatology Association; and Jennifer DePry, President, Nevada Society for Dermatology and Dermatologic Surgery, in support of [Senate Bill 194 \(2nd Reprint\)](#).

[Exhibit Z](#) is a letter dated May 15, 2023, signed by Allison DeBattista, Executive Director, Derma Care Access Network, in support of [Senate Bill 194 \(2nd Reprint\)](#).

[Exhibit AA](#) is a letter dated May 16, 2023, signed by Kimberly Serota, Program Director, Vision Health Advocacy Coalition, in support of [Senate Bill 194 \(2nd Reprint\)](#).

[Exhibit BB](#) is a letter dated May 15, 2023, signed by Lindsay Videnieks, Executive Director, Headache and Migraine Policy Forum, in support of [Senate Bill 194 \(2nd Reprint\)](#).

[Exhibit CC](#) is a letter dated May 9, 2023, signed by Christianne M. Yung, Private Citizen, Henderson, Nevada, in support of [Senate Bill 194 \(2nd Reprint\)](#).

[Exhibit DD](#) is a letter dated May 16, 2023, signed by Josie Cooper, Executive Director, Alliance for Patient Access, in support of [Senate Bill 194 \(2nd Reprint\)](#).

[Exhibit EE](#) is a letter dated May 16, 2023, signed by Josie Cooper, Executive Director, Movement Disorders Policy Coalition, in support of [Senate Bill 194 \(2nd Reprint\)](#).

[Exhibit FF](#) is written testimony, submitted and presented by Sy Bernabei, Executive Director, Gender Justice Nevada, regarding [Senate Bill 302 \(1st Reprint\)](#).

[Exhibit GG](#) is written testimony, submitted by Elizabeth Sterns, Private Citizen, Las Vegas, Nevada, in support of [Senate Bill 302 \(1st Reprint\)](#).

[Exhibit HH](#) is a letter dated May 16, 2023, signed and presented by Leann D. McAllister, Executive Director, Nevada Chapter, American Academy of Pediatrics, in support of [Senate Bill 302 \(1st Reprint\)](#).

[Exhibit II](#) is written testimony dated May 17, 2023, submitted and presented by Rob Phoenix, Private Citizen, Las Vegas, Nevada, in support of [Senate Bill 302 \(1st Reprint\)](#).

[Exhibit JJ](#) is a list of online articles submitted by Rob Phoenix, Private Citizen, Las Vegas, Nevada, regarding [Senate Bill 302 \(1st Reprint\)](#).

[Exhibit KK](#) is written testimony submitted by Hunter Sterns, Private Citizen, Las Vegas, Nevada, in support of [Senate Bill 302 \(1st Reprint\)](#).

[Exhibit LL](#) is a letter dated May 17, 2023, signed by Claudia Mejia, President, Nevada Psychological Association, in support of [Senate Bill 302 \(1st Reprint\)](#).

[Exhibit MM](#) is a copy of an email dated May 8, 2023, submitted by David Hartwig, Private Citizen, in opposition to [Senate Bill 302 \(1st Reprint\)](#).

[Exhibit NN](#) is a copy of an email submitted by Deborah Moll, Private Citizen, in opposition to [Senate Bill 302 \(1st Reprint\)](#).

[Exhibit OO](#) is a copy of an email submitted by Kathleen Evans, Private Citizen, in opposition to [Senate Bill 302 \(1st Reprint\)](#).

[Exhibit PP](#) is a copy of an email submitted by Kerri Cimino, Private Citizen, Las Vegas, Nevada, in opposition to [Senate Bill 302 \(1st Reprint\)](#).

[Exhibit QQ](#) is a copy of an email submitted by Linda Reyes, Private Citizen, in opposition to [Senate Bill 302 \(1st Reprint\)](#).

[Exhibit RR](#) is a proposed amendment to [Senate Bill 78 \(1st Reprint\)](#), submitted and presented by Senator Fabian Doñate, Senate District No. 10.

[Exhibit SS](#) is written testimony submitted by Humberto Sandoval, Private Citizen, Las Vegas, Nevada; and presented by Manuel Ayala, Digital Content Manager, For Our Future Nevada, in support of [Senate Bill 78 \(1st Reprint\)](#).