MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Eighty-third Session
March 6, 2025

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:02 p.m. on Thursday, March 6, 2025, in Room 1214 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 6 of the Nevada Legislature Hearing Rooms, 7120 Amigo Street, Las Vegas, Nevada. Exhibit A is the agenda. Exhibit B is the attendance roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Melanie Scheible, Chair
Senator Edgar Flores, Vice Chair
Senator James Ohrenschall
Senator Roberta Lange
Senator Rochelle T. Nguyen
Senator Ira Hansen
Senator Lisa Krasner
Senator John Ellison

GUEST LEGISLATORS PRESENT:

Senator Julie Pazina, Senatorial District No. 12

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Michael Scully, Committee Counsel
Timothy Gibbs, Committee Secretary

OTHERS PRESENT:

Elliot Malin, Anti-Defamation League
Garrett Gordon, Community Association Institute
Michael DeLee
Matthew DeFalco, Olympia Companies

Tia Smith, ACLU of Nevada
Claudia Smith
Mike Kosor
Sharath Chandra, Administrator, Real Estate Division, Nevada Department of Business and Industry
Sonya Meriweather, Ombudsman, Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, Real Estate Division, Nevada Department of Business and Industry
Virginia Valentine, Nevada Resort Association
Marc Rubinstein, Nevada Resort Association
Michael Alonso, Caesars Entertainment
Scott Gilles, MGM Resorts International
Russell Rowe, Boyd Gaming Corporation

CHAIR SCHEIBLE:
We have two bills on our agenda for this afternoon, Senate Bill (S.B.) 201 and S.B. 203. I will now invite our presenters down here to speak on S.B. 201.

SENATE BILL 201: Prohibits certain restrictions on the display of religious items in common-interest communities. (BDR 10-122)

SENATE BILL 203: Provides immunity from civil liability for certain agencies, entities and persons relating to the pari-mutuel system of wagering. (BDR 41-608)

SENATOR JULIE PAZINA (Senatorial District No. 12):
I am presenting S.B. 201, which prohibits certain restrictions on the display of religious items in common-interest communities. Nevada's 3,711 homeowners associations (HOAs) regulate the appearance and maintenance of common areas within a community including things like landscaping, exterior, home aesthetics, property modifications, noise levels, pet restrictions and parking in order to maintain the overall value and character of the neighborhood.

Essentially, they control the aspects of a property that are visible from outside of the home as well as shared amenities like pools or parks. With oversight of roughly 624,000 housing units and about half of the State's 1.3 million homes, HOAs have a significant impact on how homeowners and renters in Nevada express their personal beliefs.

Senate Bill 201 aims to protect and balance residents' rights to freely express their religious beliefs and to exercise their First Amendment rights in HOA-regulated communities. This bill was brought forward to me by my good friend Elliot Malin who will be providing additional comments in just a moment. But to share the bill's summary, S.B. 201 restricts with certain exceptions an HOA or landlord from prohibiting an owner or occupant of a unit from displaying religious items on their door or doorframe.

Specific exceptions to this provision include any display that is larger than 36 by 12 square inches or that exceeds the size of the door or frame the display is affixed to; threatens the health, safety or welfare of the public; hinders the opening or closing of any entry door; violates any federal, state or local law; promotes discrimination or discriminatory beliefs; or contains graphics, language or any display that is obscene or otherwise illegal.

This bill does not preclude the creation of rules that reasonably restrict the placement and manner of the display of religious items by a unit's owner or occupants. In instances where a door or doorframe requires maintenance, an occupant may be requested to temporarily remove a display if given advance notice. The occupant must then be allowed to return the display once maintenance is complete. If a dispute arises due to the display of a religious item and an action is commenced, the prevailing party is entitled to recover reasonable attorney's fees and costs.

Finally, the bill voids any government document, rental agreement or policy that is contrary. However, we do have an amendment coming, and I believe that Elliot Malin will be speaking about that in a moment.

ELLIOT MALIN (Anti-Defamation League):
First, I would like to thank you for hearing S.B. 201 to help protect Nevadans' religious liberties at the most important place to them—their home. I would also like to thank Senator Pazina for being a champion on this issue and working with us through the interim to address it. This is our second session bringing this forward, and I am thankful to be here today. You might be wondering why this conversation is even necessary or what this is even about. A few years ago, we started hearing from Jewish Nevadans that they were being told that they had to remove their mezuzah from their doorposts, their common-interest communities and apartment complexes. For those of you that do not know, a mezuzah is a small box that is placed on the doorposts of Jewish homes at an

angle and is required by Jewish law for Jewish homes. Common-interest communities or homeowner associations operate often as a quasi-governmental entity. These typically are required to abide by constitutional protections and law. However, when an HOA makes a prohibition that is content-neutral, such as no items at all on the doorframe, that would be facially legal.

Further conversation we have had has been centered around the federal Fair Housing Act (FHA) which prohibits discrimination by direct providers of housing such as landlords and real estate companies as well as other entities such as municipalities, banks or other lending institutions, and homeowners' insurance companies whose discriminatory practices make housing unavailable to persons because of race; color; religious, sexual and national origin; familial status; or disability. The FHA also applies to HOAs and rental units and can apply to the application of religious items on doorframes when there is a clear discriminatory lens of the action. The Seventh Circuit in *Bloch v. Frischholz* determined that residents of HOAs may file suit against their HOAs if the HOA enacts a discriminatory policy after the purchase of the property, even if it appears to be facially neutral. The district court in *Black v. Friedrichsen*, citing *Bloch*, stated that the FHA provisions apply to the post-acquisition discriminatory conduct that makes a dwelling unavailable to the owner or tenant. Somewhat like a constructive eviction, in order to show that constructive eviction, a plaintiff must show their residence is unfit for occupancy often to the point that they are compelled to leave. When a religious Jewish resident is prohibited from affixing a mezuzah to their doorpost, it would preclude them from their ability to live in that community and in that home.

However, there has also been some confusion when seemingly content-neutral prohibitions occur prior to a resident having moved into a unit, which in turn may lead to very expensive litigation. Further, this may cause differences in regulations for residents who were in a unit prior to the enactment of a facially neutral prohibition to post-enactment. What we aim to do here is provide for clear guidelines and protections in Nevada for residents, HOAs, rental units and others.

We are presenting this bill with conceptual amendments (Exhibit C), which I hope you all received. I am going to go through those briefly. The first under section 1, subsection 1 inserts new language. It would read: … a rental agreement must not "enforce or adopt a restrictive covenant or otherwise" prohibit a unit's owner or an occupant of a unit from engaging in the display of

religious items ... . That suggestion ensures restrictive covenants are not in violation of the statute and everything is, for lack of a better term here, kosher.

Under section 1, subsection 3 in the last sentence, we insert the word "written" so that way the bill would read to "provide written notice" instead of just providing notice. Providing written notice avoids ambiguity and is a protection for both the HOA, the interests of the community and the resident. We would like to expand under amendment 3—making this applicable to *Nevada Revised Statutes* (NRS) 118A as well, which covers landlord tenant law. We want to do this because we know that this is happening in more than just HOAs. We have heard this from Nevadans, and this is also happening in apartment complexes and other rental units.

In section 2, subsection 2, we delete the requirements to review and amend as necessary the bylaws and instead refer to NRS 116.1206, subsection 1. From the reading—LCB [Legislative Counsel Bureau], you can tell me if I am wrong—of this section of NRS, it would permit the common-interest community to conform their bylaws and governing documents to NRS instead of requiring them to go through the full process to amend their bylaws; if you live in an HOA, you know that this costs residents money, and it can be hard to get all of the residents to vote. This would allow the HOA to immediately amend the bylaws.

This bill does not permit a free-for-all on doorframes and doorposts. Instead, it requires residents be permitted to have their religious items on their property that they have exclusive right to occupy. It does not apply to the display of religious items that are greater than 36 by 12 square inches or that exceed the size of the doorframe. It does not apply to items that threaten the health, safety or welfare of the public; hinder the opening or closing of an any entry door; violate any federal, state or local law; promote discrimination or discriminatory beliefs; or contain graphics, language or any display that is obscene or otherwise illegal.

I know that we have received quite a few questions about the size limitations, and some of you have spoken to me about that—I thank you for that. I want to put on the record what that is referring to. We as Jews are not the only ones that have items that go on the doors or doorframes for their religious observances. So, while I have a mezuzah, we want to make sure we are protecting all religious beliefs. This also refers to the smallest possible size for

Hindu Nevadans to accommodate what is called a toran. Toran are colorful door hangings, customarily made of mango leaves and marigolds or materials resembling them. They represent cleanliness, clarity and passion, and are said to attract Lakshmi, the goddess of wealth and prosperity. Our intent with that size requirement was to encompass and make sure that we protect Hindu Nevadans' rights, and that was the smallest size we could find. This is what they went with in the California statute to do the same thing.

When looking at bringing these protections, it was important to us that we not exclude any groups while offering HOAs and landlords the flexibility to regulate certain items that would not conform within the context of this language. Finally, this morning, and this is not in the amendment language, but I want to put this on the record that we found out another little thing. I want to let you know of our intent under section 1, subsection 3 to add language to permit temporary removal of an item with notice and no response from the tenant or homeowner while requiring replacement of the religious item after the maintenance for common-interest communities such as condominiums that actually maintain the doors, doorframes and paint of the outside of the units. Then, require them, if they remove the item, to replace it.

SENATOR ELLISON:
I approve of this bill, and I think it is great. I think that people have the right for religious freedoms without being restricted to that. I am not talking about billboards, I am talking about something small on the door. You see a lot of that during Christmas time with HOAs—that the people put up Christmas lights and they [HOAs] come and make them take them down or they rip them down. I think this will help address a lot of this—the fact that you can't violate somebody's right. I do have one problem on this bill though, and it is that I did not get asked to sign on to it.

SENATOR PAZINA:
We would love to add you to the bill.

SENATOR OHRENSCHALL:
I just want to thank Senator Pazina for bringing the bill and Mr. Malin for working on it. Until this bill was brought last session, I did not realize this was an issue, and thank you for bringing it to all of our attention.

CHAIR SCHEIBLE:
Regarding the amendment, I think section 1 is duplicative in that we already have a law prohibiting the enforcement of a legally disallowable restrictive covenant. Is there a reason this was included, and can you tell us a little bit about it?

MR. MALIN:
That actually came from Senator Lori Rogich when she read the bill and wanted to sign on. If it is duplicative, then we do not need it.

CHAIR SCHEIBLE:
Please weigh in here, legal counsel.

BRAD WILKINSON (Committee Counsel):
Yes, it is in fact duplicative of the section 1, subsection 1 provision which already prohibits that.

CHAIR SCHEIBLE:
I had a similar question about proposal number 4 and the changes to NRS 116.1206, subsection 1. Maybe I am just not understanding the process by which bylaws get changed, but wouldn't this make it harder to update the bylaws and make them conform with the new law?

MR. MALIN:
This actually came from the HOAs who said this would make it easier for them. I am more than happy to discuss that with them further. The way they read that and the way that I read that, and I could be wrong, was that it would allow them to automatically update the bylaws if they are not up to code with or up to par with what NRS says.

CHAIR SCHEIBLE:
I would like Legal's opinion again.

MR. WILKINSON:
What that provision does is it says that when the Legislature amends chapter 116 of NRS by operation of law, those requirements—whatever they may be and if something is prohibited—become unenforceable. However, it is still going to exist in the actual governing documents until such a time as it is removed. So, if for example property is sold, in the resale package it will still

have the offensive provision in there. That is why that transitory provision is included in the bill—to make sure that those things are actually removed and do not continue to exist even though they are unenforceable if the law is passed.

CHAIR SCHEIBLE:
With the suggestion offered in part 4 of the amendment, does that still maintain the offensive provisions in the governing documents, or does that allow those offensive provisions to be removed from the governing documents?

MR. WILKINSON:
I am sorry, I am not sure I understood that question.

CHAIR SCHEIBLE:
Would we want to make this change suggested in section 4 or not make the change in order to have the offensive provisions removed from the governing documents?

MR. WILKINSON:
In order to have them removed, you would need to not include this amendment marked as 4 and just keep the bill the way it is.

CHAIR SCHEIBLE:
This is certainly something we can follow up offline about and get some more clarity because I do appreciate all the hard work that has gone into this. I know there are a lot of stakeholders who have weighed in, and I feel confident in saying that we will be able to get to a place where everyone is comfortable with the language. I appreciate the hard work you have already done. We will now go into support testimony.

GARRETT GORDON (Community Association Institute):
I just want to thank the sponsor and Elliot Malin for working with us on these amendments. We are now in support of the bill with the amendments. Let me focus on section 4 to address the chair's question. That specific amendment came from my client because the bill currently requires that if there is this language in covenants, conditions, and restrictions (CC&Rs), it needs to be removed or clarified before October 1, 2025. I do not know how many CC&Rs this language may be in. There are 3,700 HOAs in this State, and trying to get any of them to amend any CC&RS with 75 percent of the vote is expensive for HOAs. Also, what happens if it is not accomplished, is there a penalty? That is

why years ago we put in the statute that if the Legislature changes the law and the CC&Rs are contrary to that law, the CC&Rs are automatically amended to be in conformance with the law. To avoid the cost and time of trying to amend perhaps thousands of CC&Rs, we thought this was the better route; I did work with Mr. Malin, and his client agreed. Hopefully, that background helps.

MICHAEL DELEE:
I represent a client who hopefully has a little bit of a story to share. I thought what I would do is just give you an excerpt from the response that she was given when she asked to put a mezuzah on her door. The excerpt read:

> Respectfully stated, while we understand that the symbol is a religious symbol, please note that your request is denied pursuant to the agreement. If your home is accessed by an interior hall, no items are allowed in that common space. This includes entry to your dwelling unit. Please note that these items include but are not limited to doormats, wreaths, decorations or postings of any sort. Of relevance, management expends a great deal of time and resources into the overall aesthetics of the community and does not plan to permit postings at this time. Please be aware that management enforces this policy equally throughout the community for all residents.

This sounds fair enough, but we see what the problem is, and that is what this bill is designed to fix. We look forward to your support.

MATTHEW DEFALCO (Olympia Companies):
Olympia Companies strongly support S.B. 201 which ensures that homeowners, tenants and common-interest communities have the right to display religious items on their private property.

As developers of communities that emphasize inclusivity and respect for diverse backgrounds, we believe this bill strikes an important balance; this bill is protecting religious expression while allowing reasonable community standards to be maintained. Senate Bill 201 includes appropriate safeguards to ensure that displays do not oppose safety hazards, violate laws or promote discrimination. Importantly, it allows for reasonable restrictions on placement and size, ensuring that the integrity of our communities is preserved while honoring individual rights. At Olympia Companies, we strive to create communities where residents

feel at home and feel free to express themselves within reasonable guidelines; this bill aligns with that philosophy. We urge the committee to support the bill to reinforce Nevada's commitment to both religious freedom and well-managed communities.

TIA SMITH (ACLU of Nevada):
We support this bill, and we urge the committee to support it as well.

CLAUDIA SMITH:
I am here to testify on behalf of what Michael DeLee has stated. I was a resident at one of the apartment complexes, and I was told to take down my mezuzah. This really affected me in many ways. I also had to leave my apartment because they were not allowing me to keep this up. This is a religious symbol for me which I must have on my door, and I actually got past my first lease with no issues. However, going into my second lease, it all of a sudden created an issue, and it was not hurting anybody. I was not offending anybody. I was just practicing my belief. It is on my door. It is a little stick and … [unintelligible statement] … this bill, and you guys will support it as well.

CHAIR SCHEIBLE:
The committee has received two letters in support for this bill (Exhibit D). We now have opposition testimony.

MIKE KOSOR:
I am speaking in opposition, and I want to make it clear that my opposition is not to the underlying policy of what is intended here. I am supportive of that policy. I am concerned with two items. You have addressed one of them in conversation, and that is the structure and the language of the bill. It is extremely difficult—when I sat down and read it, having spent multiple times on multiple boards—to really understand what the statute was trying to say. I say reluctantly because I am going to point to a California statute, and I rarely look there for guidance, but California has some statutes—1940 of their code where they take this exact bill, and they word it such that it is extremely easy to understand and read, and that would be useful. It basically states what a board may prohibit as opposed to the way this language is structured, which is rather convoluted with double negatives and so forth.

My other point of concern that has not been raised is with section 4 of the bill which allows for and permits prevailing party language in the recovery of

attorney's fees. My concern is I see no reason why if this bill is adopted in NRS 116 that it should not be provided by the provisions already in NRS 116 for addressing a violation of this law. A violation of NRS 116 should first be raised with the regulator—that's the Real Estate Division. There is a low-cost and expedient system already in place that alleged violations of NRS would be addressed, and NRS 116.4117 addresses that. This bill would provide special treatment for this particular rule. I just do not see why there ought to be special treatment for this rule over the other rules that are in NRS 116 already. That is where my primary objective is. I am afraid that this rule, if it is a special rule, would be used to weaponize against homeowners or a homeowner against the association. I am sure that is not what the intent of the bill was all about. I would ask, why are we having special rules? That would be my biggest objection to section 4. If it was simply eliminated, I would be very happy with this bill.

CHAIR SCHEIBLE:
We will now move to neutral testimony.

SHARATH CHANDRA (Administrator, Real Estate Division, Nevada Department of Business and Industry):
I have Sonya Merriweather with me.

SONYA MERIWEATHER (Ombudsman, Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, Real Estate Division, Nevada Department of Business and Industry):
I am here for common-interest communities.

MR. CHANDRA:
The Division is here to answer any questions if members of the committee have any. If not, we just wanted to let you folks know that we are here and available.

CHAIR SCHEIBLE:
We have our sponsor here to make closing remarks.

MR. MALIN:
I want to mention that I just spoke with Mr. Gordon who testified earlier to clarify that fourth amendment. If there is no restrictive language in the CC&Rs and governing docs, then we are not really concerned about prohibitions. We're

really concerned about language that does prohibit. It should actually allow them the ease of not enforcing them if we were to go with the fourth amendment. Furthermore, I did have the opportunity to speak with Mr. Kosor. I do not have the same reading of the statute as him; I do not think that this is duplicative, and a few of us went through this. Also, I want to mention that the language from California is actually what we used to draft this one when it was sent to LCB.

SENATOR PAZINA:
I just wanted to thank you again for hearing Senate Bill 201. This was legislation I had desperately wanted to cosponsor last session. Unfortunately, the bill never got a hearing. I am incredibly grateful for Chair Scheible for the opportunity to present this to the Committee on Judiciary today. As you can hear, there are real Nevadans affected by this, and we thank you for your commitment to helping everyone in the State.

CHAIR SCHEIBLE:
I will now close the bill hearing on S.B. 201 and open the bill hearing on S.B. 203.

SENATOR JULIE PAZINA (Senatorial District No. 12):
I am presenting S.B. 203, which provides immunity from civil liability for certain agencies, entities and persons relating to the pari-mutuel system of wagering. The question of "what is pari-mutuel wagering?" is a question I would imagine I am going to get a fair bit with this bill. It is a betting system typically employed for offsite betting on horse racing where all bets of a particular type are placed together in a pool. Taxes and the house take are deducted, and payoff odds are calculated by sharing the pool among all winning bets. Pari-mutuel wagering works by aggregating all wagers into a common pool and then using that money to pay the winners. Unlike fixed odds betting, pari-mutuel wagering involves frequent odds changes as the action flows toward or away from individual horses.

In Nevada, off-track pari-mutuel wagering is governed by *Nevada Revised Statutes* 464 and Nevada Gaming Control Board Regulations 26A and 26C. The Nevada Gaming Commission appoints the Off-Track Pari-Mutuel Wagering Committee, and it consists of 11 people who are licensed to engage in off-track pari-mutuel wagering. Upon their appointment, the Committee is granted the exclusive right to negotiate agreements that relate to off-track pari-mutuel

wagering with persons licensed or otherwise permitted to operate a wagering pool in another state where the race occurs in addition to people licensed in Nevada as an operator of a system. Senate Bill 203 aims to provide civil liability immunity for specific government entities and personnel involved in regulating the pari-mutuel wagering system, essentially shielding them from lawsuits related to their actions and overseeing this type of gambling activity within the State.

This bill is necessary to provide protection to individuals making decisions within the system, and it encourages effective regulation without fear of personal legal repercussions. To provide a quick summary, it provides that the State; the Nevada Gaming Commission and any of its members, employees, attorneys and other personnel; the Nevada Gaming Control Board and any of its members, employees, attorneys or other personnel; and the Off-Track Pari-Mutuel Wagering Committee are immune from civil liability for any decision or action taken in good faith without malicious intent and carrying out the provisions of law relating to the pari-mutuel system of wagering. For more information on Senate Bill 203, I am now going to hand it over to Virginia Valentine and then Marc Rubinstein to provide additional comments.

VIRGINIA VALENTINE (Nevada Resort Association):
I would like to start by thanking Senator Pazina for bringing this bill which provides narrow liability protections for members of the Off-Track Pari-Mutuel Association Wagering Committee when they are performing their duties. Several members of the Nevada Resort Association (NRA) serve as uncompensated members of the Committee, which negotiates rates. The tracks charge the race books to telecast and place wages on races on behalf of all of Nevada's race books. Several NRA member companies are represented on the Committee. Without the Pari-Mutuel Association's work, there would not be uniform races, a level playing field for books in the State or fair rates for the books. Race books are a favorite pastime and a traditional element of sports wagering in sports books. Racing is a niche following, and you would find people watching and placing wagers on almost any day in Nevada's race books.

This bill does nothing with regard to consumers. It simply provides protection for members of the Off-Track Pari-Mutuel Wagering Committee while they are performing their essential functions prescribed in state law and gaming regulation.

MARC RUBINSTEIN (Nevada Resort Association):
I am appearing today on behalf of the Nevada Resort Association and the Nevada Pari-Mutuel Association. I would like to thank Senator Pazina for the introduction and expand a little on our opening remarks by providing some history and context. In 1991, the Legislature created the Off-Track Pari-Mutuel Wagering Committee which was appointed and overseen by the Nevada Gaming Commission and given the exclusive right to negotiate agreements on behalf of Nevada race books with out-of-state racetracks in order to determine the fees that the tracks could charge Nevada books to include their wagers placed in Nevada into the track's pari-mutuel pools. The Commission was also given the right to negotiate agreements with the Nevada Off-Track Pari-Mutuel Systems Operator, which is commonly known as the Nevada Hub, and which directly accepts, aggregates and accounts for all the wagers taken by the Nevada books and accomplishes the technical feat of including all those wagers in the track's pari-mutuel pools.

The purpose of creating the Committee as an instrument of the Commission was twofold. One reason was to provide a mechanism for all books—large and small—to negotiate a single rate that each of them would pay to a specific track. The second reason was to protect the books from the threat of an antitrust action by the tracks under the state agency exemption to the antitrust laws. At the time of passage, there were only 17 off-track pari-mutuel wagering race books in the State in 1991. That number quickly grew to 55 books, which made a committee of all the books impractical and unwieldy.

In 1997, the Legislature wisely amended its statute and created a nine-member committee to be appointed by the Commission with the categories that you see in the law today, which were designed to provide for a reasonable cross section of race books, both large and small. In 2005, the statute was again amended to expand the [Off-Track Pari-Mutuel Wagering] Committee from 9 to 11 where it stands today. Now, it is important to note as Virginia said, that the Committee does not have any function or duties beyond those two just described. Most important to note is that nothing the Committee does impacts bettors or their relationships or interactions with Nevada race books.

The Committee is important for at least two reasons. First, it puts Nevada race books on a more equal footing when negotiating fees with out-of-state racetracks, which have the exclusive control over their products, as well as with the systems operator or hub, which effectively has a monopoly over what it

does. The Committee also serves to put the smaller race books on the same footing as the larger books, as the law requires there be a single rate or fee charged to all Nevada books for being part of the Nevada system that gets included in the tracks' pools and for accepting wages under the agreements with each specific track.

The Committee is comprised strictly of volunteers who typically are employed by a Nevada gaming licensee in the position of racebook director or some other position in casino operations that is responsible for the race book. There's no compensation paid for this position, and the Committee does not receive any funding. Most pertinent to this bill is that there currently are no protections afforded to Committee members of the nature one would see where a person is asked to serve on a corporate or charitable board or organization committee. That is, there's no indemnification and there's no insurance, nor do we foresee either of these things being afforded to the Committee by the State. However, because of certain events that occurred over the past several years and the very real threat of litigation by the owners of several major racetracks, the Committee members are now seeking this protection. Even if an antitrust action could be defeated by eliminating the state action exemption, the cost of defending such a suit would be enormous and entirely unfair for Committee members to have to bear.

What you have before you in S.B. 203 is proposed legislation that would provide the Committee—as well as the state regulators who oversee the Committee—with immunity from lawsuit. That is the bill in its entirety, but it is not without precedent. The language of S.B. 203 is taken almost verbatim from the chapter on charitable lotteries, which is chapter 462 of NRS. The only difference between the language in NRS 462 and the language of S.B. 203 is the inclusion of the Off-Track Pari-Mutuel Wagering Committee.

CHAIR SCHEIBLE:
I am still not sure I understand the definition of pari-mutuel wagering. Could you provide a wrap-up one more time?

MR. RUBINSTEIN:
Pari-mutuel wagering is a mechanism of wagering that allows the race or the track to not engage in any risk. Wagers are placed on various horses, and all of those wagers are pooled with wagers at the track. The track and the books get to deduct a certain percentage of those wagers as their revenue. There are also

certain expenses allowed to be taken out, such as expenses to pay the tote operators and disseminators and taxes. What is left, which is usually somewhere around 70 percent or 80 percent, goes back to the bettors who won their bets.

SENATOR FLORES:
I appreciate the comments, and I understand that there may be pending litigation that could create a nightmare. But could you walk us through hypotheticals so that I can wrap my mind around exactly what some of these losses look like and what some of these concerns are? It would be helpful to me so we can get to exactly what we are concerned could potentially happen down the road or has been happening. I think you mentioned that for some years now there have been some conversations that we are concerned about.

MR. RUBINSTEIN:
There is no pending litigation at the moment. Otherwise, I think this would be somewhat awkward and possibly inappropriate. There has been threatened litigation, and the litigation that was threatened most recently was an antitrust litigation accusing the industry of being an illegal cartel because they negotiate a single rate with the tracks and do not allow the tracks to go to each of the casinos and negotiate separate rates that might vary. But there's an exception under antitrust law for state agencies to do things such as what the Committee is doing as a group on behalf of the entire industry when it becomes an arm of a state regulatory body or a state agency.

SENATOR FLORES:
You mentioned that this is something we are copying verbatim already when we talk about our charitable arm of some of the things that happen at the Vegas Golden Knights Game. In that scenario, when we implemented those protections there, were the concerns the same or were they different?

MR. RUBINSTEIN:
I do not know; I did not do the research underlying the adoption of that bill. I am happy to do so and furnish it to the committee as to what the legislative history was behind that immunity legislation. The language is verbatim, except that we added onto the list. In NRS 462 you have the same list of bodies and personnel who receive immunity; the only difference is in this bill, we add the Off-Track Pari-Mutuel Wagering Committee because that is a separate entity which was created, and that is the specific entity we are looking to protect.

SENATOR FLORES:
For purposes of transparency, if that is the concern that we are trying to avoid, can we talk about how the Committee now engages in these conversations? Is there transparency there now? I understand that some are saying they are a cartel or something, and that sounds crazy because obviously they are not, but I would like to just put the question on the record: Why is this bill adding all these protections? Are we still going to have transparency? Are we still going to make sure that none of the fears that are out there lingering can ever actually come into fruition?

MR. RUBINSTEIN:
There will be transparency to a point. The Committee is an arm of the Nevada Gaming Commission, and all of its minutes and so forth are shared, and all of its actions are shared with the Commission. So, there's oversight of the Committee by the Nevada Gaming Commission. Now, whether those records are open to the public, I do not believe so given the policy that the Legislature has adopted over the years of keeping gaming records confidential. But there definitely is oversight by the body that you would be most comfortable having oversight.

SENATOR NGUYEN:
You had talked about the civil immunity, and you kind of got into this next point. The intent of our current system with this 11-member committee is that they can negotiate, and it really protects some of these smaller sports books. Is my understanding correct?

MR. RUBINSTEIN:
The fundamental reason for the creation of the Committee—originally, it was a committee of the whole when there were 17 books—was to ensure that all books pay the same rate regardless of their size.

SENATOR NGUYEN:
Is it fair to say that some of the larger books would be able to negotiate, if they were individually negotiating, with a pretty famous racetrack that controls a lot of this? Is that correct?

MR. RUBINSTEIN:
That is correct, and there is some history there. It is my understanding that Caesars Palace back in the 1980s tried to negotiate an exclusive deal with New York Racing Association (NYRA) to bring the live broadcasts of NYRA races into

Nevada. That was appropriately frowned upon, and so there were a whole bunch of laws enacted in the 1980s and 1990s to bring about the fair situation that we have today.

SENATOR NGUYEN:
Is it fair to say that this larger racetrack would prefer to negotiate individually so they could perhaps take advantage of some of these smaller books who would not be able to compete?

MR. RUBINSTEIN:
Yes, that is correct. They would prefer to negotiate separate agreements so they could leverage each of the books. One of the ironies was that one of the tracks who was threatening litigation operates more than one racetrack. As a condition of agreeing to a rate on its largest racetrack, it required the books enter into agreements on all of its racetracks or there would be no deal. I am not an antitrust expert, but on its face this kind of smells like an illegal tying arrangement. Yet they had the gall to suggest that somehow Nevada was breaking the antitrust laws which I found ironic and somewhat offensive.

SENATOR NGUYEN:
I tend to agree with you. We only have two tracks, so this mostly applies to the off-track setting. We only have the Winnemucca Mule Races and the Elko [Man-] Mule Races, right? I think those are the two tracks that are also governed under this law.

MR. RUBINSTEIN:
I guess they technically are, but really this law is intended for the NYRAs, the Churchill Downs and the Santa Anitas of the world.

SENATOR NGUYEN:
So, they are not having trouble negotiating with the Winnemucca Mule Races?

MR. RUBINSTEIN:
I am not sure they take action in Las Vegas on the Winnemucca Mule Races, but I do not want to say they do not.

SENATOR ELLISON:
I am just trying to get clarification on the record. The immunity in this bill will only be strictly for sports betting, not for anything else relating to the Gaming Commission, is that correct?

MR. RUBINSTEIN:
Even more narrowly than that, it only goes to off-track pari-mutuel wagering. There's a whole giant field of sports wagering and some race wagering that is not pari-mutuel which this committee has no involvement in. The immunity only goes to the Committee and the regulators if they get sued.

SENATOR ELLISON:
That is the way I understood what you said, but I would just like to get it on the record.

CHAIR SCHEIBLE:
We'll now move into testimony for S.B. 203.

MICHAEL ALONSO (Caesars Entertainment):
I am here on behalf of Caesars Entertainment. I would like to take a second to thank Senator Pazina for sponsoring the legislation, which we believe is very important. Caesars Entertainment is represented on the Committee. It is represented from a vantage point of representing Las Vegas. It also owns William Hill, which has race books all over the State. It is represented on that Committee, and we believe this is an important piece of legislation and hope you will support it.

SCOTT GILLES (MGM Resorts International):
I want to thank Senator Pazina for the bill. I just want to echo the comments by Ms. Valentine and the Resort Association. We are in support of this bill.
RUSSELL ROWE (Boyd Gaming Corporation):
We wish to put our support on the record for this bill as well.

CHAIR SCHEIBLE:
I will close the hearing on S.B. 203. With that, we will move into the second-to-last item on our agenda for today, which is a bill draft request (BDR) introduction of BDR 3-1021.

BILL DRAFT REQUEST 3-1021: Revises provisions relating to civil liability to persons using certain premises for recreational activity under certain circumstances. (Later introduced as Senate Bill 303.)

SENATOR FLORES MOVED TO INTRODUCE BDR 3-1021.

SENATOR OHRENSCHALL SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR LANGE WAS EXCUSED FOR THE VOTE.)

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CHAIR SCHEIBLE:
Seeing no one here for public comment, we are adjourned at 1:58 pm.

RESPECTFULLY SUBMITTED:

_____
Timothy Gibbs,
Committee Secretary

APPROVED BY:

_____
Senator Melanie Scheible, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	**Exhibit Letter**	**Introduced on Minute Report Page No.**	**Witness / Entity**	**Description**
	A	1		Agenda
	B	1		Attendance Roster
S.B. 201	C	4	Elliot Malin / Anti-Defamation League	Conceptual Amendment
S.B. 201	D	10	Senator Melanie Scheible	Two Letters in Support