

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

**Eighty-Second Session
March 30, 2023**

The Committee on Government Affairs was called to order by Chair Selena Torres at 9:07 a.m. on Thursday, March 30, 2023, in Room 3143 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.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Selena Torres, Chair
Assemblywoman Bea Duran, Vice Chair
Assemblyman Max Carter
Assemblyman Rich DeLong
Assemblyman Reuben D'Silva
Assemblywoman Cecelia González
Assemblyman Bert Gurr
Assemblyman Brian Hibbetts
Assemblyman Gregory Koenig
Assemblyman Richard McArthur
Assemblyman Duy Nguyen
Assemblywoman Angie Taylor
Assemblywoman Clara Thomas

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Shea Backus, Assembly District No.37



STAFF MEMBERS PRESENT:

Jennifer Ruedy, Committee Policy Analyst
Sarah Delap, Committee Counsel
Asher Killian, Committee Counsel
Judi Bishop, Committee Manager
Diane Abbott, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Maggie Salas Crespo, Deputy for Southern Nevada, Office of the Secretary of State
Rudy Pamintuan, Chief of Staff, Office of the Lieutenant Governor
Elida Amador, Private Citizen, Las Vegas, Nevada
Deanna Hua Tran, Coordinator, Nevada Immigrant Coalition
Bethany Khan, Director of Communications and Digital Strategy, Culinary Workers
Union Local 226
Martin Fitzgerald, President, Nevadans for Personal Privacy Right
Annette Magnus, Executive Director, Battle Born Progress
Marlene Lockard, representing Service Employees International Union 1107
Wiz Rouzard, Deputy State Director, Americans for Prosperity-Nevada
Eric Jeng, Acting Executive Director, One APIA Nevada
Kerry Durmick, Nevada State Director, All Voting is Local
Melissa Clement, Executive Director, Nevada Right to Life
Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada
Jessica Munger, Program Manager, Silver State Equality
Janine Hansen, State President, Nevada Families for Freedom
David Cherry, Government Affairs Manager, City of Henderson; and representing
City of Reno.
Stephen Wood, representing Nevada League of Cities and Municipalities
Mendy Elliott, representing City of Fernley
Ross E. Armstrong, Esq., Executive Director, Commission on Ethics
Kami Dempsey-Goudie, representing Nevada Press Association

Chair Torres:

Welcome to the hardest working Committee, the Assembly Committee on Government Affairs.

[Roll call was taken and Committee protocols were explained.]

We are going to take the agenda out of order today. We will open up the hearing on Assembly Bill 366, a Committee bill that will be presented today by Assemblyman D'Silva.

Assembly Bill 366: Revises provisions governing the Keep Nevada Working Task Force. (BDR 18-1056)

Assemblyman Reuben D'Silva, Assembly District No. 28:

Thank you for the opportunity to present Assembly Bill 366, which revises provisions governing the Keep Nevada Working Task Force. I am going to start with some background before providing an overview of the bill before the Committee today. During the 81st Session, Chair Torres requested Assembly Bill 376 of the 81st Session, which was cosponsored by several other legislators, including three members of this Committee: Assemblywomen Duran, González, and Thomas. Assembly Bill 376 of the 81st Session was a comprehensive bill to support the immigrant community. For the purposes of this bill presentation today, I will focus on the provisions of the 2021 legislation that created the Keep Nevada Working Task Force within the Office of the Lieutenant Governor.

The task force was charged with developing strategies to support current and future industries across Nevada and conducting research on ways to strengthen career pathways for immigrants. The task force was further charged with supporting the efforts of business and others to provide workforce stability and recommending approaches to attract and retain immigrant business owners. One of the provisions of the 2021 legislation required the task force to submit a written report to the director of the Legislative Counsel Bureau for submission to the Legislative Commission on or before July 1, 2022. While the task force is currently required to meet at least once each quarter, it held five meetings in 2022: March 15, May 2, June 29, September 30, and December 14. The task force held its first meeting of 2023 on March 27. The task force set forth various recommendations in its annual report dated July 1, 2022. During my short time as a legislator, I have learned that it often takes several sessions to build upon the foundation provided by our predecessors and in this case, our Chair. Assembly Bill 366 moves the Keep Nevada Working Task Force from the Office of the Lieutenant Governor to the Office of the Secretary of State and revises the membership of the task force. The bill increases the number of members on the task force from nine to ten. Currently, the nine members of the task force consist of the Lieutenant Governor or their designee, seven members appointed by the Lieutenant Governor, and one member appointed jointly by the Governor and the Governor's Office for New Americans.

The bill reconstitutes the task force with one member being the Secretary of State or their designee, eight members appointed by the Secretary of State, and one member appointed by the Lieutenant Governor. The bill also changes the criteria for appointment to the task force, as indicated on the table we provided to help visualize the changes proposed. [Table not provided.] Section 9 of the bill allows the members of the task force who are serving on July 1, 2023, to continue serving until the Secretary of State appoints members. There is nothing to prohibit the Secretary of State from appointing an existing member if the person meets the qualifications for appointment set forth in A.B. 366. The duties of the task force remain the same; however, section 6, subsection 2, authorizes the task force to create subcommittees for any purpose that is consistent with the duties of the task force. This would be a new authority for the task force. In closing, I would like to thank Chair Torres

and members of the Committee for hearing this bill today, and I urge your support of Assembly Bill 366.

At this time, I will pass it over to my copresenter, Ms. Salas Crespo, Deputy Secretary of State for Southern Nevada.

Maggie Salas Crespo, Deputy for Southern Nevada, Office of the Secretary of State:

I would like to thank Assemblyman D'Silva for inviting the Secretary of State's Office to copresent Assembly Bill 366, along with the Office of the Lieutenant Governor who are joining us from Las Vegas. Our office is in full support of moving the Keep Nevada Working Task Force, and we have been working closely with the Office of the Lieutenant Governor and Assemblyman D'Silva to ensure a smooth transition. As stated by Assemblyman D'Silva, the task force was charged with developing strategies to support current and future industries across Nevada and supporting the efforts of businesses and others to provide work for stability in recommending approaches to attract and retain immigrant business owners.

The Office of the Secretary of State is the first stop for business registration, which is a responsibility we take seriously. Secretary of State Francisco Aguilar has directed us to provide any support that we can to Nevada small businesses, especially those coming from underserved populations. We believe housing the task force within our office will allow us to learn more about the needs of the immigrant workforce and business community to better serve them and guide them through the process of starting or growing their business. We hope to earn your support of this bill, and I stand ready to answer any questions.

Chair Torres:

Committee members, do you have any questions?

Assemblyman Koenig:

This is changing the makeup of the task force from nine members to ten. Is that correct? I know that this is more of an advisory board, but I have a little bit of concern with an even number. I have a bill right now that I am working on with another advisory group that has an even number of members and they are split, half and half. It is making it a little bit difficult for me to go forward because I am not sure how to represent that group when they are split. I do not know; I would recommend potentially adding another member to get to 11 or leave it at 9. With that size group and what they are doing, it probably is not going to be an issue, but there is the potential down the line that a split could happen and that would make things complicated.

Maggie Salas Crespo:

The tenth additional member is to ensure that we continue the partnership with the Office of the Lieutenant Governor, and we have a member appointed by their office—either the Lieutenant Governor or their designee and the Secretary of State or their designee. We do hope to continue to have this bipartisan effort between both offices. That way, if there is a tie, I am hoping both of our heads of agencies can help figure that out.

Assemblyman D'Silva:

That was the real premise here. We wanted to make sure there was some continuity and a sense of copartnership between the two offices as we move forward. That was a recommendation that was made, and we wanted to have that voice still present there and the ability for the Lieutenant Governor to appoint their designee to this task force.

Assemblywoman Thomas:

I do appreciate this premise in A.B. 366. I wanted to make sure that my name is still attached to it and if we could do a friendly amendment to have me cosponsor again.

Chair Torres:

Because it is a Committee bill, we are unable to add sponsors, but because we are all part of the Committee, we all get to take responsibility for it. It is good work.

Assemblywoman Taylor:

I am wondering if you can share the perspective from the Office of the Lieutenant Governor. I do not know if anyone is here from that office, and I am hopeful we can get that perspective as well.

Rudy Pamintuan, Chief of Staff, Office of the Lieutenant Governor:

Assembly Bill 366 would move the Keep Nevada Working Task Force from our office to the Office of the Secretary of State. The Lieutenant Governor and Secretary of State have a great friendship and working relationship and have discussed this issue at great length. As Nevada is now open for business with growth and opportunity, the Lieutenant Governor and Secretary of State agree that we need to make sure that all Nevada residents participate, especially immigrants and new Americans, in ensuring that no Nevadan is left behind. As the Office of the Secretary of State has more resources and personnel to dedicate to this important work of the task force, the Lieutenant Governor supports A.B. 366, and our office looks forward to supporting the transition of the office of the task force to the Office of the Secretary of State. Our office and the Office of the Lieutenant Governor strongly support this bill.

Assemblywoman Taylor:

I appreciate those comments. That certainly makes a difference for me that this is a collaboration, and it is good to see that.

Assemblyman Hibbetts:

In section 6, subsection 5, it says, "The Office of the Secretary of State shall provide personnel, facilities, equipment, funding and supplies as required by the Task Force to carry out its duties." Yet, the fiscal note from your agency says zero dollars. Can you explain how we are getting into that with this policy?

Maggie Salas Crespo:

For context, the Secretary of State's Office has more staff capacity to ensure the needs of the task force. Just to paint a picture of this, in my role as Deputy Secretary of State for

Southern Nevada, I oversee four programs and I have nine staff members directly under my supervision, which is greater than what is available at the Lieutenant Governor's Office. The Lieutenant Governor's Office is quite small, and I see some of the smallest programs within the Secretary of State's Office and I have more staff under me that can help with this. My staff includes several administrative assistants, as well as me, ensuring that the duties of the task force are met quickly.

Assemblyman Hibbetts:

If I am understanding you, you do not anticipate having to add any more staff, equipment, or anything like that in order to take this over.

Maggie Salas Crespo:

That is correct.

Chair Torres:

If I remember correctly from the 81st Session, the Office of the Lieutenant Governor did not put a fiscal note on that work either. This would be consistent with what was passed with Assembly Bill 376 of the 81st Session.

Committee members, do you have any additional questions?

Assemblyman Gurr:

This is not so much a question as a comment. My definition of task force is a little different than what I am seeing here, and I do not think we need to put task force into law, maybe program. Task force, to me, is you are specifically tasked to go do one thing or two, and then it disappears. This one does not disappear. In my mind, maybe a word change from task force to workforce program. I do not know, but it sticks in my mind as a funny way to put a task force into law.

Assemblyman D'Silva:

Thank you for that comment. We will take that into consideration. As it stands, we are looking at this as a task force avenue going forward because of the fact that there is an issue to be addressed here and there will be some continuity, but I think that is something we can take into consideration.

Chair Torres:

Are there additional questions, Committee members? [There were none.]

We will go ahead and invite anyone wishing to testify in support of A.B. 366.

Elida Amador, Private Citizen, Las Vegas, Nevada:

My name is Elida Amador. I am a guest room attendant on the Las Vegas Strip and have been a proud Culinary Workers Union member for eight years. I am here today in support of A.B. 366. I am originally from Tijuana, Mexico, and I immigrated to the United States in 1993 with my two daughters in search of a better life. My parents worked as field workers and eventually were able to become U.S. citizens. I moved to Las Vegas because I heard there were good union jobs where workers were treated with dignity, had job security, and who were paid well.

Now I have a good job and I am a U.S. citizen. In fact, 13 of my siblings are also U.S. citizens. We work hard. We love this country, and we want to create a better future for our family. As an immigrant, our voices are important to Nevada, and I am proud that my union helped to create the Keep Nevada Families Working Task Force. I support A.B. 366 and ask the Nevada Legislature to support this bill.

Deanna Hua Tran, Coordinator, Nevada Immigrant Coalition:

I am the coalition coordinator for the Nevada Immigrant Coalition and am here on behalf of the coalition. We are grateful for the Keep Nevada Working Task Force's diligence towards promotion, research, and creation of policies that continue to protect and support our immigrant, refugee, and asylum communities. We look forward to continuing support of the prospective efforts of the Keep Nevada Working Task Force and support the transition of the task force to the Secretary of State's Office in order to continue the success of integration and economic development for our immigrant communities.

Bethany Khan, Director of Communications and Digital Strategy, Culinary Workers Union Local 226:

I am proudly the first-generation daughter of immigrants who sacrificed immensely so that I could have the opportunities that I have today. I am a member of the Keep Nevada Working Task Force, and I am proud to be here today representing the Culinary Workers Union in support of A.B. 366. We thank the sponsor and Assemblyman D'Silva for shepherding this bill. The Culinary Union is Nevada's largest immigrant organization and union. We represent 60,000 workers who come from 178 countries and speak over 40 different languages. Our members work as guest room attendants, like Ms. Amador, cocktail and food servers, porters, bellmen, cooks, bartenders, and more. Thousands of hospitality workers we represent have temporary protected status or are dreamers, and our union will not stop fighting until there is comprehensive worker-centered immigration reform.

Our union has been fighting and winning for working families for 88 years, and we are proud to have helped over 18,000 immigrants become U.S. citizens since 2001 through the citizenship project. Since the task force was created last session, we have been working to protect and advocate for immigrants in Nevada. Looking forward, the task force is committed to study and provide recommendations on how Nevada can better support workforce development of our immigrant communities. The Culinary Union, which is

a founding member of the Nevada Immigrant Coalition, fully supports this bill, and we urge the Legislature to pass A.B. 366.

Chair Torres:

Is there anyone else in Las Vegas wishing to testify in support A.B. 366? [There was no one.] Is there anyone on the phone line wishing to testify in support of A.B. 366? [There was no one.] Is there anyone here in Carson City wishing to testify in opposition to A.B. 366? [There was no one.] Is there anyone in Las Vegas wishing to testify in opposition to A.B. 366? [There was no one.] Is there anyone on the phone line wishing to testify in opposition to A.B. 366? [There was no one.] Is there anyone wishing to testify neutral in Carson City or in Las Vegas to A.B. 366? [There was no one.] Is there anyone on the phone line wishing to testify neutral to A.B. 366? [There was no one.]

Assemblyman D'Silva, do you have any closing remarks?

Assemblyman D'Silva:

I want to thank you for listening to this presentation and hearing us out. I urge your support for this bill.

Chair Torres:

We will go ahead and close the hearing on A.B. 366, and we will open the hearing on Assembly Bill 258.

Assembly Bill 258: Enacts certain provisions governing the confidentiality of certain personal information of a donor, member or volunteer of a nonprofit organization. (BDR 19-605)

Assemblywoman Shea Backus, Assembly District No. 37:

Thank you for the opportunity to allow me to present Assembly Bill 258, which seeks to find the appropriate balance between government power and people's right to privacy. Specifically, A.B. 258 would require state agencies to keep 501(c) nonprofit information confidential, including donor, member, and volunteer data, except information which is already required by law to be made public as part of annual filings or other disclosures. Additionally, A.B. 258 would prohibit state agencies from collecting sensitive information related to 501(c) nonprofit's membership, volunteer lists, or donor records unless there is a legitimate reason to do so as outlined in section 2, subsection 3 of the bill, as well as the amendments on the Nevada Electronic Legislative Information System (NELIS) [[Exhibit C](#) and [Exhibit D](#)].

As the bill is fairly short, I will quickly walk the Committee through it. Section 1 adds certain information described in section 2 to the list of information that is not a public record. Section 2 requires, with certain exceptions, a governmental agency to keep confidential any personal information in the records of the government agency that identifies a person as a donor, member, or volunteer of a nonprofit organization.

The bill further prohibits with certain exceptions, a governmental agency from:

1. Requiring that any person or nonprofit organization provide the agency with personal information that identifies a donor, member, or volunteer of a nonprofit organization.
2. Releasing, publicizing, or otherwise publicly disclosing personal information that identifies a donor, member, or volunteer of a nonprofit organization.
3. Requesting or requiring a current or prospective contractor or grantee to provide a list of nonprofit organizations to which the contractor or grantee has provided support.

The personal information that identifies a donor, member, or volunteer of a nonprofit organization includes any list, record, register, roster, or other data of any kind that includes a donation, name, address, or telephone number that directly or indirectly identifies a person as a donor of financial or nonfinancial support, member, or volunteer of any nonprofit organization.

The bill provides that a person who believes that a governmental agency or an officer or employee of a governmental agency has violated these provisions may bring a civil action to obtain certain relief including:

1. Injunctive relief as the court deems appropriate.
2. Costs incurred in bringing the action including without limitation, reasonable attorney's fees.
3. Damages in the amount of not less than \$2,500 for a violation, unless the court determines it was an intentional violation, then damages of not less than \$7,500.

Any officer or employee of a governmental agency who knowingly and willfully violates these provisions is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for not more than 90 days, by a fine of not more than \$1,000, or by both fine and imprisonment.

Section 3 of this bill makes a conforming change to prohibit the Secretary of State from collecting or disclosing any information that directly identifies a person as a donor of financial support to a nonprofit organization. Importantly, this measure does not change or weaken any current disclosures required by state campaign finance, nonprofit, or corporate registration laws. Assembly Bill 258 explicitly permits any other legally required disclosure from nonprofits. Instead, the proactive privacy protections in A.B. 258 are intended to prohibit rogue officeholders and agencies from operating outside their legal jurisdiction and weaponizing the powers of the office against people or organizations that they may otherwise dislike.

I want to emphasize that this bill is a proactive and preventive measure, and to put on the record that the Secretary of State has relayed that the office does not currently engage in the practices that [A.B. 258](#) is prohibiting. I also want to note that nothing in this bill limits, nor is it intended of this bill, to limit public information on state employees that nonprofits currently have access to, whether it be American Federation of State, County and Municipal Employees or Nevada Policy Research Institute (NPRI).

Finally, I want to go over one of the proposed conceptual amendments that has been uploaded to NELIS [\[Exhibit C\]](#). First, we are adding Assemblywoman Heidi Kasama as a cosponsor to this bill. Second, in section 2, subsection 7, paragraph (a) the word "court" will be added to the definition of government agency. Third, at the request of the Commission on Ethics, we are adding section 2, subsection 3, paragraph (o) to include a requirement to disclose—I am going to go through a litany of exceptions that are going to be added to the bill and most of it is through our conversations with multiple agencies well before this bill has been in the works. We have worked hard to come to agreements with different agencies to provide exceptions to avoid any unintended consequences. Referring back, section 2, subsection 3, paragraph (o) would add a requirement to disclose a relationship between a person and a nonprofit organization pursuant to *Nevada Revised Statutes* (NRS) 281A.420 or as a response to a lawful request or subpoena in an investigation or advisory request conducted pursuant to NRS 281A.670 through to NRS 281A.790.

At the request of the Nevada Gaming Commission, we are adding section 2, subsection 3, paragraph (p) to include an exception for a request from the Nevada Gaming Control Board pursuant to NRS 462.160 for the purposes of licensing or regulation of a charity, charitable lottery, or charitable game, provided that any information so collected shall remain subject to the confidentiality provisions of NRS 463.120.

At the request of the Secretary of State's Office, we are adding additional language to the end of section 2, subsection 3, paragraph (n) which would extend, in addition to the federal law cited there, to include the licensing, registration, examination, investigation, and enforcement authority of the Secretary of State as set forth in NRS Chapters 90 through 91 and *Nevada Administrative Code* Chapter 90.

At the request of the Attorney General's Office, we are striking section 2, subsection 7, paragraph (b), subparagraph (3) and rewriting section 2, subsection 3, paragraph (f), subparagraph (1) to be that the relevant and probative value of the information requested outweighs its prejudicial effect. Additionally, at the request of the Attorney General's Office, we will be adding section 2, subsection 3, paragraph (q) so that it has two parts. Paragraph (q), subparagraph (1) will include additional information required for an audit, examination, review, or investigation pursuant to NRS 82.536, provided that such information is only to be used in connection with the specific audit, examination, review, or investigation to which the request relates and for any related proceedings provided further that any information so collected shall otherwise remain subject to the provisions of this chapter unless expressly required to publicly disclose. Or, the other option is paragraph (q), subparagraph (2) for information required relating to the authority to act and exercise the

power of the Attorney General in the areas of consumer protection, including without limitation as *parens patriae*, which is regarded as a legal protector of citizens unable to protect themselves or a person residing in the state pursuant to NRS 228.380 and enforcement of NRS Chapters 90—there is a list there that you can look at on the amendment—provided that any information so collected shall otherwise remain subject to the provisions of this chapter unless expressly required to be publicly disclosed.

At the request of the public sector, unions, and state and local agencies, we are adding section 2, subsection 3, paragraph (r) to provide the provision of names of members of labor organizations and amounts of dues collected provided to a labor organization as defined under Chapter 288 of the *Nevada Revised Statutes* by a local government employer for purposes of collection and reporting of remittance of dues to labor organizations from its members pursuant to a valid dues checkoff authorization.

Finally, we are adding a severability clause to section 4 to provide if any provision of this act or its application to any person or circumstance is held invalid, then the invalidity shall not affect other provisions of the applications of the act that can be given effect without the invalid provision or application, and to the end the provisions of this act shall be solvable.

In closing, I would like to thank Chair Torres and the members of the Committee for hearing this bill today, and I would ask for your support of Assembly Bill 258. I have today with me Martin Fitzgerald and Eric Roberts, who have been working diligently with several stakeholders to make this a good bipartisan bill. We are all three ready to answer any questions.

[\[Exhibit E\]](#) was submitted but not discussed and will become part of the record.]

Chair Torres:

Thank you. Committee members, do you have any questions?

Assemblyman DeLong:

This Committee has either heard or will potentially be hearing a number of bills that relate to keeping people's information private, and in the other bills that I have read, none of them have these provisions for suing with fines and jail time. Why is that needed in this one versus all the other bills we have heard or will be hearing?

Assemblywoman Backus:

One is to put some meat into it, but I will allow the other folks with me to elaborate further.

Martin Fitzgerald, President, Nevadans for Personal Privacy Right:

It is to put meat into it. I will also note that versions of this bill have passed in 15 other states in the last five years with these provisions and so far, no lawsuits have come forward. Again, these are proactive, preventive measures intended to memorialize how things currently operate and to put a fence around the power of the State so that they are not weaponized by an unscrupulous officeholder or agency to go after somebody. The intent here is to make

sure that there is some ability for people to protect themselves from an agency or an agent of government that may otherwise try and use their office in an unethical manner. I note the provision, if it is unintentional up to a \$2,500 compensation, and if it is intentional, and you have to prove intent and willfulness, only then is there an increase to \$7,500 in penalty and a potential for a misdemeanor criminal offense.

Assemblywoman González:

You said in the 15 other states no one has brought a lawsuit. Has anyone been charged criminally?

Martin Fitzgerald:

No. So far, this law has not been used, and the intent here is for the law hopefully to never have to be used. It is there to say if someone is feeling they are being victimized by the State, they can come and bring a cause of action, but so far, agencies know that there is meat behind it if they act outside the bounds of law, and so they are acting within the laws in these other states.

Assemblywoman González:

I do not know if I am just not educated on this issue, but are there situations that have arisen for this?

Martin Fitzgerald:

We have seen in this state and in other states where there have been people who have run for office or been in office who have threatened and attempted to use their office to go after their political opponents. Even thinking broader than that, there can be personal relationships where people can use their office to go after someone that they dislike. We have seen some examples. One case example is in the state of New York, members of the Attorney General's Office intentionally released information related to a nonprofit in order to weaponize it. In that case, it was a conservative organization. We have seen conservative politicians threaten to do the same thing to liberal organizations. The intent that we have done here is to try and make this a nonpartisan approach so that everyone is treated equally. No matter what you are advocating for, you have a constitutionally protected right so that you are not victimized by government just because whoever is in office may not like you.

Assemblywoman González:

To understand what you are saying, you have had politicians threaten nonprofit organizations. I am a little nervous about jail time and throwing people in jail, and I know you said no one has used it, but that makes me a little nervous. I think we can talk more offline, but thank you.

Assemblyman Gurr:

In section 2, subsection 4, you say that any person who believes that a government agency has violated subsections 1 or 2 may bring a civil action. Correct me if I am wrong, but this seems to open the door for absolutely anyone to file suit and collect damages even if their information was not the information being used. Why is it not restricted to the personal

organization whose information was released? The second part of that question is, it sounds to me like you have worked with state agencies. Have you talked to any municipalities, cities, or counties about this?

Assemblywoman Backus:

I will answer part, and then I will have Mr. Fitzgerald answer the other part. You are correct. It does allow any person who believes that a government agency or an officer or an employee of a government agency has violated the provisions of subsections 1 or 2 to bring a civil action in a court. You are correct. Anybody who becomes knowledgeable about this could bring this action pursuant to subsection 4.

Martin Fitzgerald:

We have engaged a number of stakeholders, and with Chair Torres' diligence, she gave us space to have these conversations, and agencies have reached out to us. We did not go directly to municipalities, but I will say it has been out there and agencies and individuals have come to us specifically about this. I would say we have had dozens of conversations on this. I think I will leave it to that.

Assemblywoman Backus:

I do want to add, Assemblyman Gurr, this bill was filed on March 7, 2023, and in this legislative world we are gracious for the time Chair Torres gave us to do our presentation, so it has been out there for three weeks now.

Assemblyman Gurr:

If I hear a rumor down the street that somebody did something to somebody in the government and I bring a suit and win on that rumor, I get the damages, not the person who was damaged in the process. Is that true?

Assemblywoman Backus:

I think it is hard with rumor. I would caution against that just as an attorney understanding what the rules of procedure under Nevada Rules of Civil Procedure Rule 11 provide. You have to have knowledge of something to bring a case, or good faith belief. In your situation, where if you did have knowledge of it, there is a penalty. The whole point of it is that there would be damages, and it provides that it is not less than \$2,500. That does not mean that a judge is automatically going to provide the \$2,500 in damages. It simply allows that as an option. The whole goal behind this is to add meat to deter the conduct from happening anyway. I want to add that we have put a long, long list, as you probably have read, in this provision as to exceptions of when it is okay for such information to be released. We are hoping that no one goes and does this, but the threats that have been made around the country to exploit such information are the reason why we brought this bill.

Assemblywoman Taylor:

Just because I am not an attorney, nor do I play one on TV, if you can put in layman's terms, if you will, on the conceptual amendment number 3 and especially number 6 for me.

Chair Torres:

For the record and clarification, which amendment are we going off? I have two different ones and I am not sure which we are referring to.

Assemblywoman Backus:

We are going off the one that is not on my letterhead where I believe number 3 is the Commission on Ethics portion [page 1, [Exhibit C](#)]. The executive director, Ross Armstrong, reached out to us about concerns over doing an investigation and being precluded from such information, so we made an exception. For an example, in layperson's terms, if I were a part of a nonprofit and I was on the list and came up for an ethics investigation, that would allow the Commission on Ethics to go to another agency to get that information if they had it. In other words, it permits them to dive into a list to do their ethics investigation.

Martin Fitzgerald:

Number 6 on the list of conceptual amendments [[Exhibit D](#)] is related to the Office of the Attorney General and their criminal and civil investigations. In conversations with their office, they let us know that the original language was too restrictive, so we have been working with them to allow their offices to have the ability to engage in the related investigations, both civilly and criminally, and in oversight and regulations of nonprofits as part of their duties under *Nevada Revised Statutes*.

Assemblyman DeLong:

I wanted to follow up on one of my colleagues' comments with regard to who can sue. To me this seems overly broad. I think that the party who is harmed could sue. I understand that, but can anyone sue? It starts to sound like citizens suit provisions under the Clean Air Act.

Assemblywoman Backus:

I agree with you. Obviously, there is a constitutional standard that one must have. There must be judicial ability for a suit to be brought, and part of that is to have standing, and to have standing you are an injured party. However, our Nevada Supreme Court has recently expanded some entities such as NPRI to have proper standing when they may not necessarily be injured because they are looking out for the public. With that, we would have to rely on that standing but if, as an attorney, I were defending a state agency or an individual who may have released intended private information from a nonprofit list, in that situation, that would be an argument. You could always challenge the standing, and I should have made that clearer.

Chair Torres:

Committee members, do you have any additional questions? [There were none.]

I think something that would be helpful for the Committee is if you could break it down a little bit more. Assemblywoman Backus, you are a phenomenal legislator, and I know that you understand this work at a super high level, but I am hoping you can break it down and

explain this bill at a bit more basic, fifth-grade level. Can you explain exactly what this bill is doing, why we need it, and how that process would work?

Assemblywoman Backus:

In a nutshell, lately in our country we are seeing people who may want to serve in elected positions and utilize their elected position to exploit information they could secure in their position. That is why this is a nonpartisan bill. For example, let us look at nonprofits such as both Planned Parenthood and Right to Life. If you are on the opposite side and you want to exploit those lists and utilize your office, that is what we are trying to prevent. There have been threats made by candidates as well as people sitting in office who may try to do that. That is what this bill, in the big picture, is trying to prevent.

Then, there are always unintended consequences with bills that sometimes we create. We have been trying to work diligently to provide exceptions from that. If a person intentionally wants to take information, such as a list of people, through an investigation, let us say, and they want to release it to the public, that is where that meat comes in. I am not one who wants to put people in jail either, but it is there to be more of a threat so people think twice before they move forward. The other thing is the civil remedies. Sometimes those civil remedies might be a light punishment for an agency. They might say, What is \$2,500. But I hope they would not do that.

Hopefully, Chair, I broke that down. I hope you do not want me to go through each of the exceptions, but hopefully that gives you an idea of what the purposes are.

Chair Torres:

Is this only applicable to the nonprofit organizations, or is this also applicable to government agencies? A government agency that has donors, members, or volunteers, would this be applicable to them, or no? Is it only applicable to the nonprofit? I guess I am confused then on that, and how a government or an elected official would be able to use that information or even obtain that information.

Martin Fitzgerald:

Again, this is proactive and there are always hypotheticals. You must think of how would a government agency otherwise interact with a nonprofit? Through those interactions, they may get a volunteer list or a donor list. It would just depend on different agencies. Again, this is not trying to change current practices. This is trying to prohibit unscrupulous actions. The good news is that we should not be thinking of how governments currently act because they should not be doing anything. The Secretary of State's Office said that they specifically do not do the stuff that is in this bill, so we are trying to prohibit a future officeholder, or future government agent from being able to do the types of things that are in this. This is a measure to put a fence around the government's power.

Assemblyman Nguyen:

I am in the nonprofit world, so this really speaks to me and the things that I got to do every day before I joined this body. In terms of section 501(c) of the Internal Revenue Code,

I know a lot of the time, the members of the public are not very familiar with all those sections. I know this is the federal tax code and we can spend all day with this, but I am going to just go on the state level. In terms of the 501(c) section, is this bill's intent to cover all types of the 501(c)? Most members of the public are familiar with 501(c)(3), which is the typical nonprofit, charitable organization, but we have 501(c)(6), which are membership organizations, and 501(c)(5), which are labor organizations. Would this particular bill cover all of the section 501(c) entities?

Martin Fitzgerald:

Yes, exactly. We typically think of the 501(c)(3) and 501(c)(4), which are nonprofit groups such as the Humane Society or advocacy organizations, but you are exactly correct. Labor unions fall into this, and membership organizations, which I believe include the chambers of commerce, are an example of this. The idea is to make this comprehensive and to not favor anyone, whether it is ideological or the 501(c)-type of organization. We are trying to say, everyone can be protected here.

To Chair Torres' previous question, that might be an example of, from a democratic perspective, if a government agency regulator interacts with unions and they get ahold of their membership list or their dues payers, they could then attempt to weaponize that against the union. Then to the Assemblywoman's example, on the other side, if there is a democratic or progressive officeholder who gets information related to a conservative organization, like Right to Life, if they get their membership list, volunteer list, or donor list, they could attempt to weaponize that against them. The purpose of this bill is to protect everyone and protect everyone equally, regardless of their cause or type of organization. That is the intent.

Assemblywoman Backus:

If you do not mind, I may go back up to the Ways and Means Committee meeting and allow my colleagues to hear out the support and opposition testimony. If anyone needs me offline, I am available and I will let my colleagues do the closing for me.

Chair Torres:

At this time, we will invite up anyone wishing to testify in support of A.B. 258.

Annette Magnus, Executive Director, Battle Born Progress:

We are here this morning to show our support for A.B. 258. As executive director of a nonprofit organization, I can speak to the need for privacy and the work we do. Our job is to hold all of you elected leaders accountable and support communities in Nevada on the issues that matter most. This work does not come without its share of struggles, and sometimes we desperately need privacy to protect our employees, our donors, and our volunteers. I personally have received death threats doing this work. I personally have had people come to my house doing this work. I do not want that for my employees. Assembly Bill 258 puts in place protections that are necessary for us to do our jobs. You know our brand, and many of you have seen our work. It is no shock, given what we do, that we are often a target. We must protect privacy for nonprofits so they can continue doing the work that they need to do, whether we agree with their politics, or not. This is an issue of

safety for many of us who do this work, and it is truly a nonpartisan issue. Thank you, and please support this important bill [[Exhibit F](#)].

Marlene Lockard, representing Service Employees International Union 1107:

With this amendment, we are in complete support of this bill. On a personal note, I would like to add that I am the past chair and on the board of the Domestic Violence Resource Center. This is an important bill to protect our information there, which is confidential in some places already.

Wiz Rouzard, Deputy State Director, Americans for Prosperity-Nevada:

We definitely support this bill. One thing I do want to add on the record is the case of our sister organization, *Americans for Prosperity Foundation v. Bonta, Attorney General of California*. It is a very interesting case that the Supreme Court actually ruled that solidifies the First Amendment and what this bill is really trying to reinforce and that is the right to privacy when it comes to an individual donating to a 501(c)(3), which is very important. I walk around with this every single day because the First Amendment is exactly what helps create this type of environment in this chamber for individuals to not only express themselves, but also to contribute to organizations.

There are many reasons people value their privacy. One, of course, is to avoid the kind of harassment and threats that are increasingly likely in this polarized environment. Forcing people who join causes to reveal their personal information to those in political power puts them at risk for retaliation and harassment. I would encourage you to look at that case, because you are talking about a government official and office being utilized to then squander a 501(c)(3). As a result, the Americans for Prosperity Foundation was unable to contribute to the community. That is why legitimate concerns about accountability should be addressed by increasing transparency for government.

Privacy for the people and their membership and support of organizations that represent issues that they are passionate about enables citizens to actually stand up for their values without fear of persecution and hold those in power accountable. That was to address the question regarding why the fines and fees and the criminal prosecution process. We need to make sure we create that framework around the institute of government to say you are not going to be an elected official and abuse your power and not see consequences to that. This is not a Republican or a Democrat issue. It is truly, fundamentally an American issue. We urge you to support [A.B. 258](#), and I stand proudly with all these organizations, regardless of political affiliation, to really stand with the First Amendment and by voting yes, you solidify that [[Exhibit G](#)].

Eric Jeng, Acting Executive Director, One APIA Nevada:

We are a nonprofit organizing and advocating for the well-being and empowerment of the fast-growing Asian Pacific Islander community here in Nevada. We also work with a slew of 501(c)(3) nonprofits that serve our community in different ways. We did not do it alone. We did not just shimmy our way to get a seat at the table. We are able to gain true representation and win justice and equity because of the leadership, the board, the volunteers, and donors to

help us get stuff done. Many, if not all, of the Committee members here have funded, run, worked for, volunteered, and donated to many of the nonprofits here in our great state. I like to say it is a diverse tapestry that weaves together which makes Nevada strong. At the end of the day, the privacy of nonprofit staff members, volunteers, and donors should be respected and protected. I want to thank Assemblywoman Backus, who is also my Assemblywoman, for A.B. 258. It strengthens what is already in our *Constitution*, the freedom of association, the freedom of speech, and the right to privacy. As the sponsors mentioned, it is a preventive, proactive, and mostly a peace-of-mind safety for all of us that call this great state home and do all we can to make it great.

Chair Torres:

It looks like we have someone in Las Vegas wishing to testify in support of A.B. 258.

Kerry Durmick, Nevada State Director, All Voting is Local:

We are an organization that exists to expose and dismantle threats to voter freedom to make voting safe, fair, and accessible to build a democracy for all of us. We support A.B. 258, a bill that strikes a balance between both responsibility and power and puts a fence around state power and protects all Nevadans from overzealous state action. Essentially, A.B. 258 would protect Nevadans' First Amendment rights to come together and associate as they see fit. This is a needed protection for the robust community of nonprofits in Nevada, like All Voting is Local and several of the nonprofits that testified in support today, and this legislation will help defend the First Amendment rights of all Nevadans. Thank you for your time, and please support A.B. 258.

Chair Torres:

It looks like there is somebody else here in Carson City. Go ahead.

Melissa Clement, Executive Director, Nevada Right to Life:

I strongly urge support of this measure. I am sad that I missed the opportunity to sit next to some of the people I am never sitting next to. This is one of those bipartisan bills. You have heard of several before, but I would add our organization to the list of the organizations that deals with this. We have to be able to protect our donors and our volunteers. I appreciate the opportunity to be in support of the bill in front of you today, and I urge your support of A.B. 258 [[Exhibit H](#)].

Chair Torres:

Is there anyone else wishing to testify in support in A.B. 258 here in Carson City or in Las Vegas? [There was no one.] Is there anyone on the phone line wishing to testify in support of A.B. 258?

Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada:

For nearly 30 years the Progressive Leadership Alliance of Nevada has led the fight with Nevada activist organizations, frontline communities, and directly impacted leaders for policy changes and community investments that improve the lives of Nevadans, regardless of whether or not politicians find those ideas popular. We are testifying in support of A.B. 258

because our First Amendment rights to raise our voice and build a community of change should not subject us to harassment and intimidation. Assembly Bill 258 puts into place appropriate guardrails that will protect nonprofits from that type of harassment and intimidation and restrain potentially unethical office holders from engaging in unethical actions. By putting in these balanced protections, organizations like ours can continue to engage in their protected constitutional rights and the government can continue to engage in their legitimate enactment of public policy. This is a sound policy that treats all nonprofits, regardless of ideology, equally and makes Nevada's government a better actor. We urge your support.

Jessica Munger, Program Manager, Silver State Equality:

We are in support of A.B. 258.

Janine Hansen, State President, Nevada Families for Freedom:

We fully support this measure, A.B. 258, and thank Assemblywoman Backus for bringing it forward. During the 2021 Session there was a bill, Senate Bill 62 of the 81st Session, which would have forced nonprofits to register with the Secretary of State as the first move toward exposing their donors. This was along the lines of what California did, forcing nonprofits to expose who their donors were. It was mentioned earlier, but the U.S. Supreme Court by a 6 to 3 vote struck down California's law requiring nonprofits to file a list of their large donors with the state. The court said the law subjected donors to potential harassment, chilling their speech in violation of the First Amendment. We are significantly concerned about exposing donors of nonprofits to harassment not only by the government but by individuals who may disagree with them.

We are in favor of protecting freedom of speech and freedom of association. We think that this bill provides some excellent protections as preemptive and presumptive and sets a standard in which government is expected to respect freedom of speech. That includes the donors of individual organizations, for without money, without donors, there is no free speech unless you are standing on the corner and want to just yell at people. It is critical to be able to raise money to exercise free speech in a modern society. We are very thankful for this, and we are in full support.

[\[Exhibit I\]](#) was submitted but not discussed and will become part of the record.]

Chair Torres:

We will now invite anyone wishing to testify in opposition to A.B. 258. We will go ahead and begin here in Carson City.

David Cherry, Government Affairs Manager, City of Henderson; and representing City of Reno:

I have also been asked today by the City of Reno to speak on behalf of their legislative relations staff. I want to thank the bill sponsor for allowing me to briefly outline the cities' concerns with A.B. 258 via email prior to today's hearing which addresses the bill as introduced, not the amendments offered. These include the section 2 requirements to

maintain certain information as confidential that could potentially interfere with the ability for local officials to comply with ethics requirements and with local governments' ability to vet businesses and organizations that may seek contracts or funding or just want to participate in civic events. An example would be if we needed to determine if a city council member or mayor has a potential conflict of interest due to their involvement with a nonprofit entity or other 501(c) entity. The bill would restrict the ability for staff to ask businesses or contractors about their donations or nonfinancial contributions to nonprofits and would further prohibit disclosure of this information even in a public meeting where the elected official would be asked to take action that would warrant a disclosure statement. Even more concerning are sections 4 and 5 of the bill which are invitations to litigation. Section 4 allows any party to sue a government or an individual officer or employee of that entity personally, even when the person suing has no connection to the information released.

This could create a bounty system where suits are filed seeking a payday and further risk becoming a tool for harassment against governments and their workers. Employees would be on the hook personally for court costs, attorneys' fees, and damages that they would be forced to pay out of pocket even when they were just following the orders of a supervisor who directed them to share information. Section 5 is even more concerning in that it would subject individual employees to criminal penalties including up to 90 days in jail or a \$1,000 fine. That is on top of the thousands of dollars they could already owe from a civil case involving the same release of information. This threat could lead to employees asking to be removed from duties where they would face this liability, making it harder to fill jobs.

Finally, the definitions in the bill are so broad that they seemingly could make an email where a coworker said they wanted to buy a box of Girl Scout cookies or give \$10 for a high school band trip a confidential record, or they were participating in a contest fundraiser and that email was shared or provided as part of a public records request in the city, its employees could be sued. That is because the bill makes confidential, without limitation, any data of any kind that directly or indirectly identifies a person as a donor of financial or nonfinancial support, or as a member or volunteer. Does that mean if city staff posts a photo of someone marching in a parade with a nonprofit, that they could now be sued in violation of A.B. 258, or for sending out an email thanking volunteers from a local nonprofit organization who helped in the neighborhood cleanup effort? This bill is too broad. Its language is too vague, and its penalties are too severe. It places local governments in a catch-22, caught between the requirement to provide public records under penalty of law while also risking being sued for releasing that same information.

We need to guard against unintended consequences given that these are public records. This is the *Nevada Revised Statutes* chapter on public records that we are talking about amending. Our reading is that this bill is going to require litigation to sort it out at the end of the day. While attempting to solve a problem that the proponents have acknowledged does not yet exist in Nevada, you are opening up a public records Pandora's box.

Stephen Wood, representing Nevada League of Cities and Municipalities:

First, I would like to say that we, of course, appreciate the intent of this bill and all the work that the sponsor has done. However, I do need to echo the concerns that Mr. Cherry just brought up to the Committee. We have real concerns about the broadness of the language especially as was brought up during the hearing with section 2, subsection 4 and the potential for endless litigation. We support the idea of protecting privacy, of course, but we have concerns about implementation and the unintended consequences of this bill. This bill also has the potential to be especially burdensome for local governments and small communities who have limited staff and resources. We look forward to continued work and bringing local governments to the table for the conversations.

Mendy Elliott, representing City of Fernley:

For many of you who know me, I am involved in a lot of nonprofit organizations—a lot, and I could appreciate the robust conversation as it relates to this bill. I think that from the perspective of the City of Fernley there is concern as they are involved in a lot of nonprofits, and they use their government email address to communicate with groups and constituents. There are certainly provisions of this bill where we do not want unforeseen consequences. I am curious as to some of the penalties as it relates to this bill. We have an ethics commission process. Why is that not part of this discussion as it relates to elected officials? We do have a process already in place. We appreciate the intent of the bill, and we certainly appreciate Assemblywoman Backus and Assemblywoman Kasama bringing this bill forward. We look forward to further robust conversations with the bill sponsors.

Chair Torres:

Is there anyone else wishing to testify in opposition to A.B. 258 here in Carson City? [There was no one.] Is there anyone in Las Vegas wishing to testify in opposition to A.B. 258? [There was no one.] Is there anyone on the phone line wishing to testify in opposition to A.B. 258? [There was no one.] Is there anyone in Carson City wishing to testify neutral to A.B. 258? [There was no one.] Is there anyone in Las Vegas wishing to testify neutral to A.B. 258?

Ross E. Armstrong, Esq., Executive Director, Commission on Ethics:

We are neutral on the bill. I did want to thank Assemblywoman Backus for listening to some of the parts about the ethics law that has been commented on a lot today. The Nevada ethics law currently requires public officers and employees to disclose, in certain circumstances, their private interests when it collides with their public duties. In addition, public officers and employees are not allowed to benefit in an unwarranted way from their own private interests, which can include membership or being on the board of a nonprofit. The Nevada Ethics Commission has found that in prior cases, so we appreciate the language of the amendment that allows ethics law to still operate so we have transparency in government.

Kami Dempsey-Goudie, representing Nevada Press Association:

I too want to reiterate the support of not only Assemblywoman Backus, but also of Mr. Fitzgerald and Mr. Roberts, whom we have had many discussions with in terms of trying to address some of the ideas that we want to protect in this bill. We want to be sure that there are not unintended consequences, which I think has been mentioned several times, even Mr. Cherry just mentioned in his testimony. As governments lean on more nonprofit organizations providing them with taxpayer dollars to provide needed services that maybe the agencies themselves cannot provide, we want to be sure that the public information that should be public remains public. There have been certain circumstances in the past where if there have been elected officials who are part of a board and money has been going to that organization, basically the media has been cut off from accessing the information that would normally be public. I know that there is a provision where we can challenge it legally to gain access, but that could be really expensive for a lot of research investigations and also newspaper publications providing information to the public. Thank you, and I look forward to working with them more on settling the concerns.

Chair Torres:

Is there anyone else wishing to testify neutral to A.B. 258? I am not seeing anyone here in Carson City or in Las Vegas. Is there anyone on the phone line wishing to testify neutral to A.B. 258? [There was no one.]

At this time, we will go ahead and invite the bill sponsors up for any closing remarks.

Martin Fitzgerald:

I want to thank everyone for the Committee's time today and look forward to working with everyone offline to continue to address any questions related to the bill, including the opposition, to hear productive feedback on what exactly they are interested in changing. I will say, as we have heard from the supporters, it is important to protect people's fundamental constitutional rights to both free speech and privacy. I think the penalties are important because without penalties, the law is a fig leaf, so working to make sure that there are not any unintended consequences and we are more memorializing current practices is important, but I do think we need to have penalties for unscrupulous officeholders. With that, we thank the Committee for their time.

Chair Torres:

Thank you. At this time, we will go ahead and close the hearing on A.B. 258. Next on our agenda is public comment. Is there anyone here in Carson City wishing to testify in public comment? [There was no one.] Is there anyone in Las Vegas wishing to testify in public comment? [There was no one.] Is there anyone on the phone line wishing to testify in public comment? [There was no one.]

[Committee reminders were given.] At this time the meeting is adjourned [at 10:28 a.m.].

RESPECTFULLY SUBMITTED:

Diane Abbott
Committee Secretary

APPROVED BY:

Assemblywoman Selena Torres, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is proposed amendments to [Assembly Bill 258](#), dated March 30, 2023, submitted by Martin Fitzgerald, representing Nevadans for Personal Privacy.

[Exhibit D](#) is proposed conceptual amendment to [Assembly Bill 258](#), submitted by Assemblywoman Shea Backus, Assembly District No. 37.

[Exhibit E](#) is a document dated March 30, 2023, titled "Nevadans for Personal Privacy Rights," submitted by Assemblywoman Shea Backus, Assembly District No. 37, in support of [Assembly Bill 258](#).

[Exhibit F](#) is written testimony dated March 30, 2023, presented by Annette Magnus, Executive Director, Battle Born Progress in support of [Assembly Bill 258](#).

[Exhibit G](#) is written testimony dated March 30, 2023, signed by Ronnie Najarro, State Director, Americans for Prosperity-Nevada and presented by Wiz Rouzard, Deputy State Director, Americans for Prosperity-Nevada, in support of [Assembly Bill 258](#).

[Exhibit H](#) is a letter dated March 29, 2023, submitted by Melissa Clement, Executive Director, Nevada Right to Life, in support of [Assembly Bill 258](#).

[Exhibit I](#) is written testimony, dated March 30, 2023, submitted by Katie Robbins, Planned Parenthood, in support of [Assembly Bill 258](#).