

**MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

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

The Senate Committee on Government Affairs was called to order by Chair Edgar Flores at 3:23 p.m. on Wednesday, May 17, 2023, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, 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 Edgar Flores, Chair
Senator Skip Daly
Senator Pete Goicoechea
Senator Lisa Krasner

COMMITTEE MEMBERS ABSENT:

Senator James Ohrenschall (Excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Venicia Considine, Assembly District No. 18
Assemblywoman Bea Duran, Assembly District No. 11
Assemblyman Ken Gray, Assembly District No. 39
Assemblywoman Sabra Newby, Assembly District No. 10

STAFF MEMBERS PRESENT:

Jered McDonald, Policy Analyst
Heidi Chlarson, Counsel
Spencer Jones, Committee Secretary

OTHERS PRESENT:

Timothy Galluzi, Administrator, Division of Enterprise Information Technology Services, Nevada Department of Administration

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Gabriel Di Chiara, Chief Deputy, Office of the Secretary of State
Rick McCann, Nevada Association of Public Safety Officers; Nevada Law Enforcement Coalition
Morgan Biaselli, Las Vegas City Employees Association
Marc Ellis, President, Communication Workers of America Local 9413
Susie Martinez, Nevada State AFL-CIO
Christine McDermott, National Judicial College
Larry Sage
Greg Esposito, Nevada State Pipe Trades
Sarah Collins, National Electrical Contractors Association, Northern Nevada Chapter
Aodhan Downey, National Electrical Contractors Association, Southern Nevada Chapter
Dionne Klug, United Food and Commercial Workers Union Local 711
Robert Sumlin, International Association of Machinists and Aerospace Workers
Ann Barnett, Nevada Contractors Association
Alexis Motarex, Associated General Contractors, Nevada Chapter
Mac Bybee, Association of Builders and Contractors, Nevada Chapter
Jarrett Rosenau, Clark/Sullivan Construction
Jennifer Berthiaume, Nevada Association of Counties
Nic Ciccone, City of Reno
Jessica Ferrato, Granite Construction
Stephen Wood, Nevada League of Cities and Municipalities
Michael Hillerby, Regional Transportation Commission of Washoe County
Isaac Hardy, Urban Consortium
Darcy Carpenter, Sierra Nevada Construction

CHAIR FLORES:

I open the hearing with Senate Bill (S.B.) 446.

SENATE BILL 446: Revises provisions related to the Division of Enterprise Information Technology Services of the Department of Administration. (BDR 19-1076)

TIMOTHY GALLUZI (Administrator, Division of Enterprise Information Technology Services, Nevada Department of Administration):

I submit testimony ([Exhibit C](#)) explaining why S.B. 446 is necessary.

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CHAIR FLORES:

I close the hearing on S.B. 446. Assembly Bill (A.B.) 225 will be the next bill on the agenda.

ASSEMBLY BILL 225 (1st Reprint): Revises provisions concerning the confidentiality of personal information of certain persons. (BDR 20-944)

ASSEMBLYWOMAN SABRA NEWBY (Assembly District No. 10):

This bill originated from request by one of my constituents whose name was published as a result of a military action he undertook while on active duty. His information was published by ISIS. This is part of an ongoing campaign it is waging against our military members.

This Legislative Session, there are many confidentiality bills for various individuals. Rather than add all kinds of categories of persons to existing statute, A.B. 225 instead creates a fail-safe provision for those not covered if there is a recent threat against them. The bill was heavily amended in the Assembly. It now allows a person with a threat against him or her to petition the court and through a preponderance of evidence, the court may decide if keeping that individual's information confidential would be of benefit in addressing the threat. It also allows a government employee to petition on behalf of other governmental employees to get this exemption because the Secretary of State's Office had a concern about election workers. The bill makes some conforming changes based on the Secretary of State's request that the petition be uniform because previously there was different petition for each of the various groups.

SENATOR DALY:

In section 4, subsection 1, line 12 of the bill, you should remove the "a" from "Any such a petition." In section 8, subsection 1, paragraph (g) of the bill, is "prosecutor" solely reserved for government employees? I just wanted to be clear that we are talking about public prosecutors.

ASSEMBLYWOMAN NEWBY:

I believe that is conforming language with other sections in the NRS, but that is a question for the Legal Division.

HEIDI CHLARSON (Counsel):

The term “prosecutors” has the meaning ascribed to it in NRS 241A.030. In that section of NRS, “prosecutor” means the Attorney General, the district attorney of a county, the city attorney of an incorporated city or any deputy attorney or other attorney or person employed by the Attorney General or a district attorney or city attorney. It only includes attorneys who work in the public sector.

GABRIEL DI CHIARA (Chief Deputy, Office of the Secretary of State):

We have spoken many times about the threats and harassment election workers have faced. This kind of protection would be important. Being able to cover so many groups in a single bill instead of drawing the statute out further and further is a great advantage of A.B. 225. The provision allowing an employee's information to be protected in advance of threats being received is important because these employees will continue to be targeted. We support this bill.

RICK MCCANN (Nevada Association of Public Safety Officers; Nevada Law Enforcement Coalition):

We support A.B. 225 and want to make an amendment to add in an equivalent to S.B. 83, which passed out of this Committee. After it passed out of the Senate, we saw Assemblywoman Newby's bill which would capture the same thing we wanted to accomplish with S.B. 83. Both S.B. 83 and A.B. 225 passed unanimously out of their respective Chambers, which reflects how good these bills are.

SENATE BILL 83: Revises provisions governing the confidentiality of the personal information of certain civilian employees of law enforcement agencies. (BDR 20-666)

MORGAN BIASSELLI (Las Vegas City Employees Association):

We ditto the prior comments and support A.B. 225.

MARC ELLIS (President, Communication Workers of America Local 9413):

We support A.B. 225.

SUSIE MARTINEZ (Nevada State AFL-CIO):

We support A.B. 225. No employee should be unsafe on the job.

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CHRISTINE McDERMOTT (National Judicial College):

We support A.B. 225. We applaud including judicial officers in this bill as they are under increasing threat. We would like them to have the same protections that federal judges do.

LARRY SAGE:

I was elected as a judge on a Thursday in June and was sworn in on the following Monday. Between those dates with just my name and number in the phone book, my home telephone message machine got all kinds of disgusting messages for my children and wife to hear from supporters of the incumbent I defeated. This was before the Internet made digging up a person's information easier. I support A.B. 225 to prevent other people from going through what my family did.

CHAIR FLORES:

Why did you choose a preponderance of evidence versus clear and convincing as the legal standard to trigger the confidentiality protections of the bill?

ASSEMBLYWOMAN NEWBY:

That language was suggested to me by the Eighth Judicial District Court as the standard best for its judges.

CHAIR FLORES:

I close the hearing on A.B. 225 and open the hearing on A.B. 171.

[ASSEMBLY BILL 171 \(1st Reprint\)](#): Revises provisions governing public works.
(BDR 28-179)

ASSEMBLYWOMAN BEA DURAN (Assembly District No. 11):

Assembly Bill 171 authorizes a public body or authorized representatives to award a contract for a public work project to the responsive and responsible bidder offering the best value bid. The measure sets forth the criteria for a public body or its authorized representatives to consider in selecting the responsive and responsible bidder offering the best value bid. The criteria would include whether the contractor provides health insurance coverage to employees and the dependents of such employees, the history of the contractor in complying with certain laws and regulations governing public works and prevailing wage, the history of the contractor in complying with certain laws

and regulations governing industrial insurance and whether the contractor offers any workforce training on education programs.

GREG ESPOSITO (Nevada State Pipe Trades):

For many years, the only way a public body could bid out a public works project was the lowest bid. Nobody in this room would build a house based on the lowest bid. They would take a look at the contractors' qualifications, their references and other houses they had built. It has hurt public bodies sometimes to have to take the lowest bid. The Legislature gave public bodies the ability to start using design bid and Construction Manager at Risk (CMAR) as opposed to just low bid. That is great for large projects and large municipalities. This bill would add another bid project delivery method to its toolbox. It could take a look at a contractor's qualifications and history to see whether or not the contractor would be the right fit for constructing a public works project. This bill is purely permissive; a public body can choose to use this or not. They can keep going with low bid. This bill just gives it the option to use a tool. The first revision to the bill reads, "the local government shall consider the following criteria" which enables it to pick and choose what matters to it from this list.

In section 1, subsection 6, paragraph (a) of the bill, I modified the language to address some of the concerns brought up during the Assembly hearing regarding the legal definition of bona fide fringe benefits that contractors felt would be too difficult to comply with. Section 1, subsection 10, paragraphs (e), (f) and (g) were added to give the local bodies more tools. The final amendment modifies NRS 338.1385, subsection 9 so public bodies can use these tools.

SENATOR DALY:

Would this bill still work in compliance with the 5 percent bidder preference?

MR. ESPOSITO:

It would not make any difference. The 5 percent bidder preference is separate from the bidding method.

SENATOR GOICOECHEA:

I appreciate the new language. The bill as originally drafted was quite cumbersome.

MS. MARTINEZ:

Nevada State AFL-CIO supports A.B. 171.

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MR. ELLIS:

Communication Workers of America Local 9413 supports A.B. 171.

SARAH COLLINS (National Electrical Contractors Association, Northern Nevada Chapter):

We support A.B. 171.

AODHAN DOWNEY (National Electrical Contractors Association, Southern Nevada Chapter):

We support A.B. 171.

DIONNE KLUG (United Food and Commercial Workers Union Local 711):

We support A.B. 171.

ROBERT SUMLIN (International Association of Machinists and Aerospace Workers):
We support A.B. 171 because it will ensure the State has full transparency of a contractor's history including how it has treated past workers on public work projects.

ANN BARNETT (Nevada Contractors Association):

We oppose A.B. 171. The bill creates a new style of bidding for public work projects with subjective and unclear criteria. It is unclear how past compliance with certain laws, such as prevailing wage and whether the contractor offers the training program, will be used to judge the value of the contractor's bid. The current three methods are sufficient to cover all projects.

ALEXIS MOTAREX (Associated General Contractors, Nevada Chapter):

We oppose A.B. 171. While we appreciate the proponents' efforts to address our concerns, we are fundamentally opposed to best value bidding. Nevada already has a delivery method to address complicated and complex projects that need to take more than just cost into consideration. Existing statute for every delivery method has been carefully crafted to ensure that taxpayers get the best price in the most fair, transparent and objective way. Best value bidding is too subjective. This could lead to bid protests and costly delays. Nothing in this bill would prevent a public owner from awarding a contract to whomever it wants regardless of price. Under A.B. 171, the bidding process is not transparent and does not protect the taxpayer.

MAC BYBEE (Association of Builders and Contractors, Nevada Chapter):

I oppose A.B. 171 for the reasons my colleagues mentioned. Under Nevada law, the Labor Commissioner has the authority to disqualify any contractor that does not follow prevailing wage laws, rules or regulations. A repeat offender cannot bid those public works, the bill is duplicative on that front.

JARRETT ROSENAU (Clark/Sullivan Construction):

We oppose A.B. 171. I mirror the testimonies of the last three presenters. This bill would allow public bodies to introduce vague and subjective requirements into the bidding process.

MR. ESPOSITO:

Ms. Joanna Jacob from Clark County gave me permission to say that Clark County is neutral on A.B. 171. She feels it is a decent bid delivery system if approved. The opposition mentioned that Nevada already has a bidding process for more complex projects, CMAR. Construction Manager at Risk is a complicated process and best value bidding would be a simpler approach. This bill would give public bodies the ability to create their own criteria for a public works project.

SENATOR GOICOECHEA:

I appreciate the enabling language in A.B. 171, but I can see where the opposition is concerned. The bill could allow a public body to disqualify the lowest responsive bidder because of a personal preference in a way that body currently cannot.

CHAIR FLORES:

I close the hearing on A.B. 171 and open the hearing on A.B. 173.

ASSEMBLY BILL 173 (1st Reprint): Revises provisions governing public works.
(BDR 28-735)

ASSEMBLYMAN KEN GRAY (Assembly District No. 39):

Alexis Motarex will take us through the bill.

MS. MOTAREX:

The purpose of this bill is to standardize the way every public owner requires the listing of subcontractors for public works. Statute is confusing, contains seldom used provisions and is inconsistent on when smaller subcontractors are

required to be listed. Our goal is to make it easier for both contractors and public bodies to comply with the law, maintain transparency and minimize the number of bid protests or bids being deemed nonresponsive because they did not get the numbers right in the formula.

Provisions in the bill maintain that contractors must submit a listing for any first-tier subcontractor on a public work bid for a scope of work exceeding 5 percent of the total bid price at the time of bid opening. The bill deletes a public owner from requiring a 3 percent listing option. The 3 percent option is seldom used and often used incorrectly. It is confusing for both contractors and public owners, leading to bids being disputed or deemed nonresponsive for accidentally listing subcontractors incorrectly.

Additionally, A.B. 173 eliminates requiring the listing of subcontractors that will complete work greater than \$250,000, but if not greater than \$250,000, then \$50,000 or 1 percent of the total bid price, whichever is greater. This language is confusing, requires the 1 percent list only on contracts larger than \$1 million and standardizes subcontractors listing only after \$25 million. This bill would simply require contractors that submit bids to still provide their 5 percent list at the time and mandate that after bid opening, the three lowest bidders submit a list of first-tier subcontractors providing any work totaling \$100,000 or more within two hours of completion of the opening of bids. The \$50,000 limit for the 1 percent language was put into statute in 1993. When adjusted for inflation, that represents \$104,000 today. This bill makes the process of bidding on public works easier and more transparent for everyone involved.

MR. ROSENAU:

Clark/Sullivan Construction has been a builder in northern Nevada for almost 50 years with extensive public works and bidding experience. I will describe a day in the bid room. It is quite chaotic. We organize our team around bid scopes and assign scoping spreadsheets for the project. For example, one person will communicate throughout the day with all bidding subcontractors for electrical, another for structural steel, another for mechanical and so on. Our goal is to have one point of contact responsible to ensure bidding all the scope of work necessary based on plans. We typically see initial scope letters from subcontractors without proposal values because they are still finalizing their proposals and waiting for supplier pricing, which may come late. This sometimes makes the last 15 minutes of the bid both exciting and stressful. Throughout the day, we are constantly confirming our estimated value of the

project to ensure our team understands the cutoff for the 5 percent listing, especially if we think the project is within the \$5 million to \$25 million range. For the reasons Ms. Motarex described, that calculation is constantly changing based on value changes throughout the day, which increases the opportunity for a mistake to be made in the 5 percent listing.

Once our proposal is submitted and bids are opened, we learn if we are to submit a 1 percent listing to the public owner. Multiple scenarios in statute determine how this calculation is made. If three bidding contractors have qualified for the two-hour 1 percent listing, they will all have different bid values. And if the project value is between \$5 million and \$25 million, each contractor will have a different 1 percent calculation on the two-hour listing. Additionally, subcontractors provide different pricing to different general contractors, based on history and experience with the general contractors. This information could also vary in the names provided in either the 5 percent or the 1 percent two-hour listings.

There are a lot of moving parts. Because of variations in the 1 percent listing calculations, many unintended consequences can and have occurred. No contractor wants to spend the time and resources necessary to bid a project only to lose it based on a misunderstanding or technicality in statute, and no public owner wants to spend the time and resources to advertise and procure a project only to have to restart the process or be mired down in a messy bid protest. Public owners that advertise projects want to move forward with the projects. Assembly Bill 173 will achieve this by simplifying and standardizing listing requirements.

ASSEMBLYMAN GRAY:

As you can see, the bidding process is clear as mud right now. This bill, A.B. 173, will add more confidence in the bids provided on public projects and will allow for a more expeditious process.

SENATOR DALY:

The \$250,000 reporting threshold is something I put in previous sessions to solve a problem. This bill will eliminate that problem. I agree with eliminating the 3 percent listing option. I have only seen it used two or three times and never properly; it resulted in litigation each time. The listing requirements laid out in A.B. 173 will capture both subcontractors that do \$100,000 or more worth of work on a project, and those that do 5 percent or more of the work on smaller

public works projects. These requirements are also easier to calculate and fit into the bidding process.

Ms. MOTAREX:
Correct.

JENNIFER BERTHIAUME (Nevada Association of Counties):
We support A.B. 173 as it brings clarity and simplification to the public works bidding process and lowers the administrative burden for all public agencies.

NIC CICCONE (City of Reno):
We support A.B. 173 because it makes things easier on cities.

JESSICA FERRATO (Granite Construction):
We support A.B. 173.

STEPHEN WOOD (Nevada League of Cities and Municipalities):
I echo the comments of my colleagues and support A.B. 173.

Ms. BARNETT:
The Nevada Contractors Association supports A.B. 173. Subcontractor listing statutes have been challenging, and this bill brings much needed clarity for our members.

MICHAEL HILLERBY (Regional Transportation Commission of Washoe County):
We support A.B. 173 for the reasons laid out by prior testifiers.

ISAAC HARDY (Urban Consortium):
We support A.B. 173 and echo the comments of prior testifiers.

DARCY CARPENTER (Sierra Nevada Construction):
I support A.B. 173. This bill cleans up bidding the process.

CHAIR FLORES:
I close out the hearing on Assembly Bill 173 and begin the work session with A.B. 3.

ASSEMBLY BILL 3: Revises provisions governing financial reports of the State Permanent School Fund. (BDR 34-304)

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JERED McDONALD (Policy Analyst):

I have a work session document ([Exhibit D](#)) describing A.B. 3.

SENATOR KRASNER MOVED TO DO PASS A.B. 3.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR FLORES:

Next on the agenda is A.B. 18.

ASSEMBLY BILL 18: Revises provisions relating to the Division of Enterprise Information Technology Services of the Department of Administration. (BDR 19-218)

MR. McDONALD:

I have a work session document ([Exhibit E](#)) describing A.B. 18.

SENATOR DALY MOVED TO DO PASS A.B. 18.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR FLORES:

Next on the agenda is A.B. 36.

ASSEMBLY BILL 36: Revises provisions relating to veterans. (BDR 37-242)

MR. McDONALD:

I have a work session document ([Exhibit F](#)) describing A.B. 36.

SENATOR KRASNER MOVED TO DO PASS A.B. 36.

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SENATOR DALY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR FLORES:
Next on the agenda is A.B. 44.

ASSEMBLY BILL 44 (1st Reprint): Revises provisions relating to services for veterans. (BDR 37-243)

MR. McDONALD:
I have a work session document ([Exhibit G](#)) describing A.B. 44.

SENATOR KRASNER MOVED TO DO PASS A.B. 44.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR FLORES:
Next on the agenda is A.B. 60.

ASSEMBLY BILL 60 (1st Reprint): Revises provisions governing local improvements. (BDR 22-372)

MR. McDONALD:
I will summarize the work session document ([Exhibit H](#)) describing A.B. 60 and one amendment.

SENATOR DALY MOVED TO AMEND AND DO PASS AS AMENDED A.B. 60.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR FLORES:
Next on the agenda is A.B. 82.

ASSEMBLY BILL 82: Designates World Esports Day as a day of observance in this State. (BDR 19-695)

MR. McDONALD:
I have a work session document ([Exhibit I](#)) describing A.B. 82.

SENATOR KRASNER MOVED TO DO PASS A.B. 82.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR FLORES:
Next on the agenda is A.B. 189.

ASSEMBLY BILL 189 (1st Reprint): Revises provisions governing construction start times in certain counties and cities. (BDR 20-232)

MR. McDONALD:
I have a work session document ([Exhibit J](#)) describing A.B. 189.

SENATOR GOICOECHEA:
I wish you could get a waiver for these on a particular project. There are projects you need to start earlier than 5 a.m.

SENATOR DALY MOVED TO DO PASS A.B. 189.

SENATOR KRASNER SECONDED THE MOTION.

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THE MOTION CARRIED UNANIMOUSLY.

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CHAIR FLORES:
Next on the agenda is A.B. 210.

ASSEMBLY BILL 210 (1st Reprint): Revises provisions governing public works.
(BDR 28-832)

MR. McDONALD:
I have a work session document ([Exhibit K](#)) describing A.B. 210 and Proposed Amendment 3643.

SENATOR GOICOECHEA:
I thank the proponents of the bill for limiting the provisions of the bill to once, at the time of hire. I have been assured everyone is agreeable to that.

SENATOR DALY MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 210.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR FLORES:
Next on the agenda is A.B. 219.

ASSEMBLY BILL 219 (1st Reprint): Makes various changes to the Open Meeting Law. (BDR 19-781)

MR. McDONALD:
I have a work session document ([Exhibit L](#)) describing A.B. 219.

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SENATOR GOICOECHEA:

As I understand the bill, a public body must have public comment at the start and end of the meeting. The bill enables the public body to take public comment prior to any action item.

ASSEMBLYWOMAN VENICIA CONSIDINE (Assembly District No. 18):

A public body has the option to do one or the other.

MS. CHLARSON:

Section 1, subsection 1 of the bill, says that comments by the general public must be taken by a public body at the beginning of the meeting before any items on which action may be taken or heard and again before the adjournment of the meeting or after each item on the agenda. The public body does not have to take public comment at the beginning if it takes public comment after each action item.

SENATOR DALY MOVED TO DO PASS A.B. 219.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR FLORES:

Next on the agenda is A.B. 366.

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

MR. McDONALD:

I will summarize the work session document ([Exhibit M](#)) describing A.B. 366 and one amendment.

SENATOR KRASNER MOVED TO AMEND AND DO PASS AS AMENDED A.B. 366.

SENATOR GOICOECHEA SECONDED THE MOTION.

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THE MOTION CARRIED UNANIMOUSLY.

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CHAIR FLORES:

I close the work session, and the Senate Committee on Government Affairs adjourns at 4:41 p.m.

RESPECTFULLY SUBMITTED:

Spencer Jones,
Committee Secretary

APPROVED BY:

Senator Edgar Flores, 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. 446	C	2	Timothy Galluzi / Division of Enterprise Information Technology Services, Nevada Department of Administration	Testimony
A.B. 3	D	11	Jered McDonald	Work Session Document
A.B. 18	E	12	Jered McDonald	Work Session Document
A.B. 36	F	12	Jered McDonald	Work Session Document
A.B. 44	G	13	Jered McDonald	Work Session Document
A.B. 60	H	13	Jered McDonald	Work Session Document
A.B. 82	I	14	Jered McDonald	Work Session Document
A.B. 189	J	14	Jered McDonald	Work Session Document
A.B. 210	K	15	Jered McDonald	Work Session Document
A.B. 219	L	15	Jered McDonald	Work Session Document
A.B. 366	M	16	Jered McDonald	Work Session Document