

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

**Eighty-second Session
April 7, 2023**

The Senate Committee on Government Affairs was called to order by Chair Edgar Flores at 3:40 p.m. on Friday, April 7, 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 James Ohrenschall, Vice Chair
Senator Skip Daly
Senator Pete Goicoechea
Senator Lisa Krasner

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Joanna Jacob, Clark County
Haley Tanzman, Uniform Law Commission
Jenny Brekhus, Reno City Council
Tick Segerblom, Clark County Commissioner
David Gomez, President, Nevada Peace Alliance
Al Rojas
Anna Binder
Lisa Partee
Tonja Brown, Advocates for the Inmates and the Innocent
Christine Ivanoff
Annemarie Grant, Advocates for the Inmates and the Innocent
Leslie Quinn

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Betsy Strasburg
Richard Nagel
Casey Rogers
Timothy Galluzi, Chief Information Officer; Administrator, Enterprise Information
Technology Services Division, Nevada Department of Administration
Cyrus Hojjaty
Susan Proffitt, Nevada Republican Club
Lilith Baran, American Civil Liberties Union of Nevada
Egan Walker, District Judge, Department 7, Second Judicial District
Cynthia Lu, District Judge, Department 5, Second Judicial District
Erica Roth, Washoe County Public Defender's Office
Chastity Martinez, Faith in Action Nevada
Dane Fraley
Khalid Ali
Prince Saruhan, Faith in Action Nevada
Isheika Paisley, Faith in Action Nevada
Alexander Baraza, Faith in Action Nevada
Jennifer Peters, Faith in Action Nevada
Joshua Alex Miller, Faith in Action Nevada
Michael Tang, Faith in Action Nevada
Hue Truong, Faith in Action Nevada
John Solomon, Faith in Action Nevada
Willie Gomez
Adrian Lowry, Northern Nevada Democratic Socialists of America
Cindy Martinez
Matthew Wilkie
Dwight George
Erika Minaberry
Meagan O'Farrell
Alida Benson, Executive Director, Nevada Republican Party
Bruce Parks, Chairman, Washoe County Republican Party
Jennifer Noble, Nevada District Attorneys Association
Bob Russo
Janine Hansen, President, Nevada Families for Freedom
Lynn Chapman, Independent American Party
Chris Ries, Las Vegas Metropolitan Police Department
Warren Hardy, Urban Consortium; Nevada Chapter Associated Builders and
Contractors

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Jason Walker, Washoe County Sheriff's Office; Nevada Sheriffs' and Chiefs' Association

Kelly Quinn

Laura Hirsch

Carlos Hernandez, Nevada State AFL-CIO

Andy Donahue, Southern Nevada Laborers-Employers Cooperation and Education Trust

Tom Morley, Laborers' International Union Local 169; Laborers' International Union Local 872

Rob Benner, Building and Construction Trades Council of Northern Nevada

Liz Sorenson, Nevada State AFL-CIO

Jessica Ferrato, Lumen; Granite Construction

Marc Ellis, President, Communication Workers of America Local 9413

Alexis Motarex, Nevada Chapter Associated General Contractors

Steve Walker, Storey County; Douglas County; Lyon County; Eureka County Board of County Commissioners

Christine Hess, Executive Director, Nevada Housing Coalition

Kerrie Kramer, NAIOP, Northern Nevada Chapter

Glen Leavitt, Nevada Contractors Association

Brett Harris, Labor Commissioner, Nevada Department of Business and Industry

Amanda Brazeau, American Council of Engineering Companies, Nevada Chapter

CHAIR FLORES:

I begin our work session with Senate Bill (S.B.) 81.

SENATE BILL 81: Revises provisions governing regional planning. (BDR S-536)

JERED McDONALD (Policy Analyst):

I have a work session document ([Exhibit C](#)) describing S.B. 81 and its amendment.

SENATOR GOICOCHEA:

Expanding the regional planning group like this bill would puts more weight on large counties by giving them more votes than the rural counties. I am going to oppose S.B. 81.

SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED S.B. 81.

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SENATOR DALY SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS GOICOECHEA AND KRASNER VOTED NO.)

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CHAIR FLORES:
Next on the agenda is S.B. 115.

SENATE BILL 115: Revises provisions relating to the mitigation of certain projects. (BDR 20-679)

MR. McDONALD:
I have a work session document ([Exhibit D](#)) describing S.B. 115 and its amendment.

SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED S.B. 115.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR FLORES:
Next on the agenda is S.B. 165.

SENATE BILL 165: Revises provisions relating to businesses engaged in the development of emerging technologies. (BDR 18-878)

MR. McDONALD:
I have a work session document ([Exhibit E](#)) describing S.B. 165.

SENATOR OHRENSCHALL:
I like S.B. 165 but have some questions for the sponsor. I will support the bill out of Committee but reserve the right to change my vote on the Floor.

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SENATOR DALY MOVED TO DO PASS S.B. 165.

SENATOR OHRENSCHALL SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR FLORES:
Next on the agenda is S.B. 166.

SENATE BILL 166: Revises provisions relating to collective bargaining by public employees. (BDR 23-556)

MR. McDONALD:
I have a work session document (Exhibit F) describing S.B. 166 and its amendment.

SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED S.B. 166.

SENATOR KRASNER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR FLORES:
Next on the agenda is S.B. 169.

SENATE BILL 169: Revises provisions governing master plans. (BDR 22-346)

MR. McDONALD:
I have a work session document (Exhibit G) describing S.B. 169 and its amendments.

SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED S.B. 169.

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SENATOR DALY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR FLORES:
Next on the agenda is S.B. 208.

SENATE BILL 208: Authorizes counties and cities to enact certain ordinances relating to battery-charged fences. (BDR 20-853)

MR. McDONALD:
I have a work session document ([Exhibit H](#)) describing S.B. 208 and its amendments.

SENATOR GOICOCHEA MOVED TO AMEND AND DO PASS AS AMENDED S.B. 208.

SENATOR OHRENSCHALL SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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

SENATE BILL 210: Revises provisions governing state boards and commissions. (BDR 18-899)

MR. McDONALD:
I have a work session document ([Exhibit I](#)) describing S.B. 210.

SENATOR OHRENSCHALL MOVED TO DO PASS S.B. 210.

SENATOR GOICOCHEA SECONDED THE MOTION.

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THE MOTION CARRIED UNANIMOUSLY.

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CHAIR FLORES:
Next on the agenda is S.B. 261.

SENATE BILL 261: Revises provisions relating to local governments. (BDR 19-793)

MR. McDONALD:
I have a work session document (Exhibit J) describing S.B. 261 and its amendment.

SENATOR GOICOECHEA:
As I understand the amendment, it would only require a workshop if it was requested by two or more chambers or businesses trade associations. Is that correct?

JOANNA JACOB (Clark County):
Yes. The intent is to include both chambers of commerce and trade associations.

SENATOR GOICOECHEA:
Otherwise, they would not hold a workshop at all?

Ms. JACOB:
Correct.

SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED S.B. 261.

SENATOR DALY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR FLORES:
Next on the agenda is S.B. 264.

SENATE BILL 264: Revises provisions relating to collective bargaining. (BDR 23-932)

MR. McDONALD:
I have a work session document ([Exhibit K](#)) describing S.B. 264 and its amendment.

SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED S.B. 264.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR FLORES:
Next on the agenda is S.B. 319.

SENATE BILL 319: Revises provisions relating to public employees. (BDR 23-953)

MR. McDONALD:
I have a work session document ([Exhibit L](#)) describing S.B. 319.

SENATOR DALY MOVED TO DO PASS S.B. 319.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR FLORES:
Next on the agenda is S.B. 331.

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SENATE BILL 331: Revises provisions relating to state and local emergency management plans. (BDR 36-813)

MR. McDONALD:

I have a work session document ([Exhibit M](#)) describing S.B. 331.

SENATOR GOICOECHEA:

This is a great bill. I will talk to the bill sponsor about including some domestic animals that might be more troublesome in an emergency. What do you do with your horse?

SENATOR DALY MOVED TO DO PASS S.B. 331.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR FLORES:

I open the hearing on S.B. 156.

SENATE BILL 156: Revises the Open Meeting Law. (BDR 19-884)

SENATOR JAMES OHRENSCHALL (Senatorial District No. 21):

Senate Bill 156 comes out of the Uniform Law Commission (ULC), formed in 1892 when it was referred to as the National Conference of Commissioners on Uniform State Laws. In 1892, legislators and attorneys across state lines concluded certain areas of state statutes should be uniform; for example, the Uniform Commercial Code made it possible for checks and other negotiable instruments to be accepted across the Country. The idea for S.B. 156 comes from the Model Public Meetings During Emergencies Act. It is a bill which will protect our constituents if a situation prevents public bodies from having in-person meetings.

We had to pretty much invent new protocols for remote meetings during the COVID-19 pandemic. The goal of S.B. 156 is to create a statutory framework for online legislative hearings and meetings of other public bodies, boards and commissions during a declared emergency if something like COVID-19 ever

happens again. If a declared emergency prohibits or limits in-person meetings or if the presiding officer of a public body determines it is not practical to conduct an in-person meeting, S.B. 156 would allow for a public body to conduct a meeting using remote technology systems. To the extent possible, the technology system being used must be compatible with assistive technology used by people with disabilities. The remote technology system shall allow each member to see, hear, be seen and be heard by other members of the meeting. If the public body lacks the capacity to provide this service, it may conduct the meeting by audio only. If joining by audio only, this bill would ensure that everyone has equal access to participate as if the meeting were in person. The bill authorizes the Attorney General's Office to adopt regulations to carry out the provisions of the bill.

HALEY TANZMAN (Uniform Law Commission):

While most laws promulgated by the ULC are intended to be uniform laws adopted with no or minimal changes, the ULC periodically will draft a model law. These are acts which a state may tailor to fit its individual needs. Senate Bill 156 is based on one of those acts. The Model Public Meetings During Emergencies Act was promulgated by the ULC in 2022 after a multiyear drafting process sparked by the COVID-19 pandemic. Public bodies were scrambling to figure out how to meet remotely while still complying with state and local open meeting laws. Emergency orders were issued to permit such meetings and provide some guidance, but these orders were often inconsistent, insufficient and only applied to the specific emergency.

The model act addresses many of these issues by creating a framework for virtual or remote meetings by public bodies triggered by an emergency declaration which might render in-person meetings impossible or inadvisable. The act gives actions taken by a public body in such a meeting the same effect as an action taken in an in-person meeting. It also allows participants and observers the same privileges they would have in an in-person meeting and requires the requisite technology to exercise such privileges. Members of the public must be able to observe a meeting contemporaneously, and those authorized to speak must be seen and heard or, if the meeting is audio only, be heard. The act also includes provisions requiring a remote technology system, to the extent practicable, to be compatible with assistive technology. This was often omitted in emergency orders during the COVID-19 pandemic. The act is not intended to be overly burdensome upon public bodies, rather it is intended

to provide much-needed guidelines for conducting remote meetings during a declared state of emergency.

JENNY BREKHUS (Reno City Council):

I support Senator Ohrenschall's conceptual amendment ([Exhibit N](#)), items 2 and 3. My support derives from an experience I had in July 2022. I was told to leave the Reno City Council meeting held in conjunction with the Washoe County Board of Commissioners and the Sparks City Council on a topic of regional importance. When told to leave the meeting because it was an all-virtual meeting, I objected and pointed out that COVID-19 protocols had expired and an audience was present. I also expressed my understanding there was not a statutory allowance for an all-virtual meeting of a governing body. Nonetheless, the staff present told me to go home, which I did and logged in from my laptop. That evening, I filed an Open Meeting Law complaint with the Attorney General's Office, which remains unresolved. I am surprised the Office has not reached a conclusion over these many months; I think refined statutory language is warranted at the local level.

Local bodies meet year-round and are the government level closest to the people. They have a heavy workload involving decisions that often impact people at the neighborhood level. I appreciate the long-standing provision that allows for remote participation and have called in a few times. I choose to participate in person in recognition of the impactful decisions we make. I owe that to the voters I represent. The conceptual amendment specifies elected officials can decide to participate in person or remotely. This distinction is critical and necessary because, in Reno's example, the authority to prepare a meeting agenda is delegated to the city manager, who is unelected, in consultation with the mayor and another jurisdiction. The conceptual amendment ensures that a board's minority members are not confined to tiny screens but are able to speak freely in government buildings where the people's business is conducted.

Please support this change to the Open Meeting Law (OML) which would apply in nonemergency situations. Last Session, there was reasonable concern that in liberalizing remote participation, there may be abuse. The conceptual amendment requires a body's members who participate remotely to disclose their locations. The disclosure allows for a level of transparency and accountability for the public.

SENATOR OHRENSCHALL:

Item 1 of the conceptual amendment is a recommendation from Clark County Commissioner Tick Segerblom, asking that local government subcommittees be exempt from Open Meeting Law, unless any action taken by the subcommittee would be binding on the entire governing body. Any action taken by a subcommittee of the governing body must be referred to the entire governing body. For final action, the governing body must consider any action taken by the subcommittee in a meeting subject to *Nevada Revised Statutes (NRS) 241*. For purposes of this amendment, a subcommittee would be less than a quorum of the membership of the entire body. The concern Commissioner Segerblom represented to me was of subcommittees that needed to get information on certain issues, and the OML made it cumbersome for subcommittees to have such meetings.

SENATOR GOICOECHEA:

Does it take an emergency declaration before this bill would go into effect?

SENATOR OHRENSCHALL:

That is my understanding.

SENATOR GOICOECHEA:

Whether it be by the State or local government? A local government could declare a state of emergency, correct?

SENATOR OHRENSCHALL:

Correct.

SENATOR GOICOECHEA:

I want to make sure that we are not putting something in place that will make it easier to switch normal meetings to virtual down the road. It is more difficult to do public meetings online; they should be in person except in a declared emergency.

SENATOR OHRENSCHALL:

Certainly. Senate Bill 156 builds upon A.B. No. 70 of the 80th Session and A.B. No. 253 of the 81st Session allowing for remote technology to be used. It would only be during an emergency.

TICK SEGERBLOM (Clark County Commissioner):

I asked Senator Ohrenschall to propose the conceptual amendment to deal with a specific issue I have encountered here in Clark County. A lot of other local governments are encountering the same issue, and we are not allowed to have subcommittees without complying with the OML. The Open Meeting Law makes utilizing subcommittees untenable. The conceptual amendment would allow subcommittees to meet, evaluate things, conduct budget hearings and be more involved in local government without having to worry about OML compliance. But if a subcommittee made any recommendation or took any vote that would potentially bind the entire entity, then it would have to go to the full body, and that body would have to hold the public hearing. Nothing would automatically be approved.

Staff makes all kinds of decisions, presents at our meetings and puts items on the consent agenda. County commissioners just vote up or down, often without full knowledge of what we are voting for. The conceptual amendment would allow county commissioners to form subcommittees to get involved in the details of specific issues. At the Legislature, if somebody wants to buy a trash can, the Legislature looks at every penny spent. County commissioners look at millions of dollars and approve it randomly because we do not have time to get more involved. County commissioners also do a lot of interagency work on issues. We only meet once a month and do not have time to get involved as a full body. But if we had a subcommittee, we could get involved in and learn the details. The conceptual amendment was prompted when the Clark County Commission had created subcommittees of the Housing Authority to analyze what the Authority does and its day-to-day business, and somebody filed the complaint. We had to shut down those meetings, even though we were not making any decisions, because of OML. The conceptual amendment would make life so much easier and mimic the Legislature.

SENATOR DALY:

I have concerns with item 1 of the conceptual amendment. You said the situation became untenable. My concern with this subcommittee provision is that less and less would be done in the public body and more and more would be done in an exempt subcommittee. What type of things are going to be done in the subcommittee that cannot be done in a public meeting? If you have questions, go to your staff and ask the questions or do not pass things until you have all the information you need. There is no requirement for you to vote for

anything in the open meeting. I am concerned about the potential abuse of this provision, because it might create a problem worse than the one it would solve.

MR. SEGERBLOM:

When I was in the Legislature, that is exactly what I would have thought. But let me give you an example. The Clark County Commission is entering the budget cycle. We have the budget of the police department, the district attorney, the airport, the water authority, the water reclamation, and more, billions of dollars' worth of money. The district attorney will present a budget to my staff, my staff will work with district attorney staff members to come up with what they think is reasonable and put it on our agenda. We have a 20-page-long agenda. We do not have the ability to get seven people to ask all kinds of important questions. What was his budget last year? What is the budget this year? How many positions does he want? Did he spend that money wisely? How many death penalty cases did he do?

If we have a subcommittee of three while the OML applies, then we have to put notice on the meeting a week ahead of time. We must have a court reporter and public comment. All we are going to do is hear from the district attorney about why he or she wants to do what the office wants to do. Then the subcommittees pass that along to the full body. That process basically puts us in the same position as our staff, the people who really run things since they can get into the weeds in a way elected officials cannot.

I can sit down with my fellow commissioners and call the district attorney for a meeting and grill that office. But doing it in a formal way does not make a lot of sense logistically. It is a disservice to how we do government. Allowing us to form subcommittees on certain issues would make county commissioners more involved in the process.

SENATOR GOICOCHEA:

Since the Clark County Commission has seven members, you can have three members discussing an issue and not be in violation, correct?

MR. SEGERBLOM:

That is correct. But if we make it a formal discussion, it becomes a scheduled meeting, and then it is an open meeting violation. If I informally called up the district attorney and a pair of my colleagues to ask the district attorney some

questions, that is not a violation. We could do it; it is just more cumbersome to make allowances for the OML.

SENATOR GOICOECHEA:

It looks to me like if you did schedule a subcommittee with staff, it would have to comply with the OML. That is already legal, I do not see the need for item 1 of the conceptual amendment.

DAVID GOMEZ (President, Nevada Peace Alliance):

I wanted to share my support for S.B. 156 and Commissioner Segerblom.

AL ROJAS:

I support S.B. 156. Doing things virtually or making it more efficient to run our government will get more done for the community.

ANNA BINDER:

I support S.B. 156. I sit on three Governor's councils and a couple of local committees, and virtual meetings have been a lifesaver for gathering lots of people. Every entity in Nevada is capable of broadcasting and allowing virtual participation, which increases participation.

LISA PARTEE:

I oppose S.B. 156. I am glad Senator Ohrenschall is concerned that if there is an emergency, then we need to have audio-video access for legislative staff as well as constituents. More reasonable steps should be taken to notify the public. The Legislative Body needs to include itself in this law. Many bills were announced to the public with 24 hours or less notice this Session. I appreciate Senator Goicoechea questioning the Legislative Body so as not to abuse the emergency powers to push for online hearings. The emergency declaration was abused during last Session, and the public was left out.

TONJA BROWN (Advocates for the Inmates and the Innocent):

We oppose S.B. 156, and echo the comments made by Ms. Partee. We have a concern dealing with S.B. 156, sections 10 and 11. We would like to see language included about the minutes. Some of the board meetings we attend, particularly the pardons board, do not reflect public comment in the minutes.

CHRISTINE IVANOFF:

I oppose S.B. 156. Mr. Segerblom said several times that the county commissioners did not have time to meet. If they do not have time to meet, do not run for that office. Leave it for someone who has time to meet and do things. If you need more time, then you should hold more meetings under existing law instead of opening a can of worms. The commissioners can announce an emergency anytime they want to and start enacting this law.

ANNEMARIE GRANT (Advocates for the Inmates and the Innocent):

I oppose S.B. 156. It leaves the public out, even though the public should be the top priority. It was appalling what happened to Councilwoman Brekhus. And County Commissioner Kitty Jung stayed away after COVID-19 was over and abused the remote access.

LESLIE QUINN:

I oppose S.B. 156. I was in support when Senator Ohrenschall and Ms. Tanzman explained the bill, but when Mr. Segerblom explained the way it would be used moved me to oppose. If this was only used in an emergency, then it would make sense.

BEPSY STRASBURG:

The subcommittee discussion reminded me of a meeting I attended in Reno with the audit committee. The majority of the members were remote. The audit company presented the results with one significant deficiency. Not one of the remote committee members asked a question. I was not even sure if they understood. Remote performance is not as good as being there in person. The declared emergency must be a true emergency. Public officers are essential workers, and they need to be there in person when possible. Remote is not always the most effective way to handle meetings, and we should not have private subcommittees where you discuss solutions without public input.

RICHARD NAGEL:

I concur with Betsy Strasburg. The supervisors in Carson City get around Mr. Segerblom's problem by having workshops where they all get together and go in depth on issues and still have public comment. Then they can get down to brass tacks and bring it back to a real meeting. Workshops follow the OML; they do not circumvent the citizens' right to give testimony.

CASEY ROGERS:

This bill is getting rid of the good old town hall. This is the place where we come give testimony on what we think and believe. Elected officials should be holding meetings in person. I oppose S.B. 156.

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

I am neutral on S.B. 156. Enterprise IT Services supports providing public entities more tools to ensure Nevadans have access to decision makers and public bodies. Unfortunately, the Executive Branch does not have a unit like Legislative Counsel Bureau's Broadcast Services. As such, we do not have an Enterprise-level platform that could support the requirements of open meetings across the Executive Branch included in S.B. 156. In recent years, agencies have taken a piecemeal approach on virtual public meetings. Different technology platforms have caused disparate experiences for the members of public bodies and their constituents. Often well-funded, large agencies have mature meeting platforms, and smaller entities must make do with what they can scrounge up. We understand that no matter the size of the entity, members of these boards and commissions are making decisions that impact Nevadans, and Nevadans should have equal access to them. That is why our fiscal note contemplates the introduction of an enterprise-wide platform that would leverage a Statewide licensing model to provide these services as needed to public bodies.

CYRUS HOJJATY:

I am neutral on S.B. 156. Everybody on all sides made good points.

SUSAN PROFFITT (Nevada Republican Club):

Nevada Republican Club opposes S.B. 156. While the bill sounds like a great idea, it is full of holes. It is not appropriate to make life easier for the commissioners when we vote for them to do a job, not stay at home. This bill will disenfranchise a huge portion of our population due to language difficulties, age, dexterity or disabilities. I am disabled. I have difficulties using Zoom. We are supposed to be able to meet with our elected officials face-to-face, to have our grievances with the government heard. This bill takes that away from us; we have no way to hold officials accountable if they do not have to face their constituents. This bill protects the commissioners, not the citizens.

SENATOR OHRENSCHALL:

This bill would only go into effect if there is a declared emergency. Nothing in OML is changed. If anything, there are more robust provisions for notice if a meeting must be conducted using remote technology as laid out in S.B. 156, section 11. Section 8 of the bill adds a more robust process for keeping minutes. Nothing in S.B. 156 would bridge the public's right to observe and participate in public meetings.

MS. TANZMAN:

The goal of S.B. 156 is to facilitate and to increase public access. The bill applies only in instances of a declared emergency that prohibits or limits in-person meetings. As written, the public is given access to remote meetings, and an additional notice requirement delineates the technology. Per section 9 of the bill, members of the public must be able to observe the meeting contemporaneously and speak if authorized. Frankly, some of the testimony in opposition is not relevant to situations in which an emergency declaration is in effect.

CHAIR FLORES:

I close the hearing on S.B. 156 and open the hearing on S.B. 155.

SENATE BILL 155: Revises provisions relating to homeless persons. (BDR 20-244)

SENATOR JAMES OHRENSCHALL (Senatorial District No. 21):

Senate Bill 155 addresses ordinances that would allow homeless individuals to be cited or arrested for being homeless. This does not help people land back on their feet or find housing. I understand such cases are rare, but we should be finding ways to help the homeless.

LILITH BARAN (American Civil Liberties Union of Nevada):

Homelessness is a policy choice we all are complicit in making when we do not take the time to think about this complex issue. I will run through our presentation ([Exhibit O](#) contains copyrighted material. Original is available upon request of the Research Library.) on homelessness. One thing not displayed is the number of homeless people who died in 2022 of exposure or overdose. In Nevada, the rate of homelessness is 22.5 people per 10,000. The national average is 17.7 per 10,000. According to the 2020 Annual Homeless Assessment Report to Congress, there were an estimated 7,586 homeless

people on a given night in January 2020. January temperatures got in the teens this year, and community members froze to death on our streets because of an inability to pass sensible policy around homelessness in Nevada.

The National Coalition for the Homeless reports that one in three homeless individuals have been fined, arrested or criminally charged for sleeping in public. According to the federal Interagency Council on Homelessness, it is three times more expensive to address the homeless as a criminal manner rather than as a public health issue. Some municipalities are issuing up to \$500 fines or jail time for homeless people existing in public spaces, perpetuating the cycle of homelessness.

All of us could agree that this is a bipartisan issue we would like to see handled better. In fact, former President George W. Bush is one of the first people to enact housing-first methods in our Country. Many homeless individuals do not have the means to pay these fines. The report from the Interagency Council on Homelessness states some cities have seen up to \$25 million in savings by enacting sensible policies around dealing with the homeless.

Diversion courts are some of the best tools we have to deal with homeless individuals before they end up in an endless cycle of poverty. A study published in the *Journal of Substance Abuse Treatment* in 2017 found that veterans who participated in veteran treatment courts had lower rates of recidivism and were more likely to complete treatment programs compared to veterans who went through traditional court processes. A report by the National Drug Court Institute found that adult drug courts had an average graduation rate of 60 percent and that graduates of drug courts were less likely to reoffend.

In 2015, a study by the Urban Institute found that diversion programs offering alternatives to incarceration for low-level offenders can reduce recidivism rates and save costs for criminal justice systems. These diversion programs can reduce the likelihood of reoffending by up to 17 percent. The National Association of Drug Court Professionals reports that family drug courts, which focus on helping parents with substance abuse, can reunite them with their children and have high success rates. Nevada has several such courts available.

The proposed amendment ([Exhibit P](#)) exempts homeless people convicted of misdemeanors commonly associated with being homeless from paying related fines and fees. The proposed amendment forces the powers that be to make

solution-based decisions to help these people. Ticketing individuals is not going to help them get housed or stop doing drugs. The crimes the exemption would include are misdemeanors, public nuisances, unlawful entry of occupancy of a vacant dwelling cart used in retail stores and laundries, destruction of property, vagrancy, trespassing and sleeping on a park or park bench after hours. Homeless people who are convicted of these offenses would be offered diversion programs and sentenced to the lowest fine or administrative assessment possible. The exemption would not apply to anyone claiming to be homeless, the individual must be unhoused and 200 percent below the federal poverty.

It is illogical to fine someone who does not have money. It is a financial burden on the court, State and the homeless people who are being fined. Charging these folks with petty crimes prevents them from getting a job and taking steps to improve their condition. It traps them in a cycle of poverty, and they deteriorate quickly. If we want to solve this problem, we need to do it differently. If we do not do it this Session, there will be ten more bills about it next Session.

EGAN WALKER (District Judge, Department 7, Second Judicial District):

This question we need to ask as a state is, "How are we going to assess fines and fees to change behavior?" Presumably, the purpose for fining people when they get a ticket is to punish and dissuade them from engaging in future activity. But fining homeless people does not change their behavior or solve their problems. We pay more to collect these fines and fees than we actually collect. In the Second Judicial District Court, we are starting up a mental Competency Court to deal with every individual in the county accused of a crime who is not competent or, allegedly, not competent to answer criminal allegations. It will involve a high percentage of the homeless population, given an almost one-to-one correlation between homelessness and mental health or substance abuse issues. People languishing for months in jail before getting to a treatment facility for purposes of assessment or a return to mental competency is resulting in the dismissal of cases. So we are stuck in this cycle; we catch homeless people, we cite them, we fine them, they cannot pay the fines, we issue a warrant, we catch them and they spend thousands of days in the Washoe County Detention Facility at hundreds of thousands of dollars of cost to all of us.

A homeless person accused of a misdemeanor will be offered diversionary programs. This will facilitate a change in behavior that can help get the offender out of homelessness. The Second District Judicial Court has a Mental Health Court and Veterans Court. I am the Veterans Court judge. A high proportion of the veterans who come into my court have a qualifying mental health diagnosis and are homeless. We owe these veterans for their service, and we should do what we can to help them.

CYNTHIA LU (District Judge, Department 5, Second Judicial District):

The assisted outpatient treatment (AOT) program is a civil, court-ordered outpatient mental health program where we target and help the severely mentally ill in our community. They are ordered to comply with their mental health treatment plan and receive intensive case management services, including a psychiatric caseworker who sees them three times a week. The program in Washoe County is through Northern Nevada Adult Mental Health Services. But the AOT program is available in any county, so long as it has a willing provider and judge willing to hear those cases.

Forty-seven states have enacted AOT programs, Nevada was the forty-fifth. Clark County's State-funded program started in 2013 and had up to 75 participants at any given time. Washoe County began our program in December 2016, which I had the privilege to initiate with a Substance Abuse and Mental Health Services Administration grant. Because of the Washoe County program's success, we became State-funded in 2020 with up to 50 participants at any given time.

We do not have enough inpatient hospital beds for the homeless. The AOT program would ease that burden and keep the homeless out of hospitals. They do not need to be in a hospital as long as they have resources to meet their basic needs. There is already a criminal diversion process for the AOT program in NRS 433A.343. Gross misdemeanor and felony charges can be diverted to AOT. This bill would allow low-level offenses to also be diverted to the AOT program. The AOT treatment program offers psychiatric caseworkers, case management, medication management, individual and group therapy, and vocational training.

For the severely mentally ill who will not be able to hold a job, we have them volunteer at animal shelters or repairing bicycles. The AOT program also offers social gatherings that include extended family members. Many severely mentally

ill individuals have strained their relationships with family members, and we try to bridge that gap and provide support. We have successfully integrated some severely mentally ill individuals back into their family homes by supporting their family members as well. Anyone can refer a homeless person to the AOT program.

In 2019, we compared 75 AOT program participants regarding their incarceration and hospital days the year prior to program and the year they started the program. Incarceration days were reduced by 73 percent in a single year. Hospital days were reduced by 61 percent. One year of the AOT program saved taxpayers over \$1 million through reduced hospital and jail days.

DISTRICT JUDGE WALKER:

By reducing the number of hospital and jail days, the State saves \$3 for every \$1 spent on diversionary courts. The Second Judicial District Mental Health Court, for example, is designed to treat those who have a mental illness or intellectual disability. Two-thirds of such cases have co-occurring substance abuse disorders. The idea is to get people off the street and out of patterns of behavior that get them captured in a cycle of citations and arrests.

I would suggest to all of you that we do not have a crime problem in the U.S., we have a mental health problem. Several medical associations agree, and every special congressional commission that has looked at homelessness concludes the way to treat mental health is not by fines but by interventions. Diversionary courts offer such interventions. In the Second Judicial District Veterans Court, for instance, 92 percent of graduates from treatment programs do not recidivate in the next three years, and 88 percent do not recidivate at all.

SENATOR DALY:

I like the proposed amendment's approach to the problem. I assume some refinement to the language will say "they will be offered." You are telling them to go into these programs. Is it still an option? If they do not take the option, where do they go?

DISTRICT JUDGE WALKER:

Anybody convicted of a misdemeanor is still subject to up to six months in the county jail. As a judge, I can ask people convicted of, say, loitering or sleeping on a park bench if they want a referral to a diversionary court. It is fine if they refuse, but then they will have to spend 20 days in the county jail. People do

not choose or volunteer for homelessness. They live that way because they have no other choices. Many of them have co-occurring substance abuse or mental health disorders. Unless we address those issues, we are not going to solve the problem. Judges I know across the State who have jurisdiction over homeless people will ensure that the offer of diversion is a meaningful path out.

SENATOR KRASNER:

I have received some concerns of people able to expose themselves or urinate in public and then avoid punishment by claiming homelessness. Would S.B. 155 allow that?

DISTRICT JUDGE WALKER:

If you are at a public park with your children and a homeless person exposes him or herself, whether it is for using the bathroom or not, that would be upsetting. I would suggest to the concerned folks that if I fine the hypothetical homeless person \$500, who would not be able to pay, it will not change behavior. However, if I suggest the offender can avoid the fine and any jail time by joining the AOT intervention programs, then that person would not expose him or herself again. To anyone concerned that punishment is a slap on the wrist, how is hitting them with a fine they will not pay any better? An uncollected fine will not make a community any safer or healthier. If cited, homeless people are not released, and I am not suggesting to just let them go. I am not even suggesting we take them out of jail immediately if jailed. I am suggesting to put them in a treatment program to change their behavior over time.

SENATOR KRASNER:

So, the homeless people who exposed themselves, whether for urinating or not, would be taken to jail and then entered into the diversion program. Is that correct?

DISTRICT JUDGE WALKER:

Yes. Nothing changes about the criminal dynamic of the scenario. If an officer makes a probable cause determination that a crime has been committed, that official, using his or her discretion, can arrest or cite the person. Frequently, it is a citation, but if the officer determines the person needs to be arrested, he or she follows the normal criminal process. The only difference in this whole process is the judge would require that the homeless person undertake

treatment and interventions to change behavior or face the fine, which the offender will not pay.

SENATOR KRASNER:

I understand that a fine does not help here because homeless people have no money to pay the fine. But unless you put them in jail, how can you guarantee their return? They probably do not have a daily planner or an email where you can reach them to ensure they attend the program every Monday.

DISTRICT JUDGE LU:

Our AOT program offers them housing and daily group activities. We see them every day and make sure they have their medication and basic needs met. You would be amazed how homeless people turn their lives around by having needs met. Then they have no need to engage in criminal behavior.

SENATOR GOICOECHEA:

It sounds to me like S.B. 155 will allow for an exemption for the homeless but not give them a free pass because there is a criminal element to some homeless activity like destruction of property and unlawful entry.

DISTRICT JUDGE WALKER:

A homeless person who damages property is still obligated to provide restitution. A homeless person can get fines and fees waived under S.B. 155 but is still subject to six months in the county jail and all the other punishments the court can impose. For example, a judge could make community service part of the intervention program.

SENATOR GOICOECHEA:

Thank you. A lot of people are saying this is a blanket exemption for the homeless, but a judge still can put them in jail.

ERICA ROTH (Washoe County Public Defender's Office):

To quote civil rights attorney Bryan Stevenson,

proximity has taught me some basic and humbling truths, including this vital lesson: each of us is more than the worst thing we've ever done. My work with the poor and the incarcerated has persuaded me that the opposite of poverty is not wealth; the opposite of poverty is justice. The true measure of our commitment

to justice, the character of our society, our commitment to the rule of law, fairness and equality cannot be measured by how we treat the rich, the powerful, the privileged ... The true measure of our character is how we treat the poor, the disfavored, the accused, the incarcerated and the condemned.

This bill brings us one step closer to justice for the homeless. It does not make sense to fine someone for crimes related to homelessness. Imposing a \$500 fine for trespassing when a homeless person seeks shelter in an empty building or camps in public serves neither justice nor logic. This bill is not a get out of jail free card. Penalties other than the fines and fees remain the same. All this bill does is waive the fines or fees because they do not make sense. I support S.B. 155 and urge the Committee to as well.

CHASTITY MARTINEZ (Faith in Action Nevada):

I support S.B. 155. Faith in Action Nevada works with the homeless. Our organization believes that those closest to the pain or the problem should really be at the heart of defining the solution. Criminalization and adding fines and fees to folks is not the answer; we need far more humanizing solutions. I urge your support on this bill.

DANE FRALEY:

I am homeless. When you are out on the streets without a dollar, you are not going to pay. There is nothing to pay the fine; putting us in jail is just going irritate us. In my experience, homeless people who are not criminals have to become criminals to survive. I do not want to be out there. Once you get to that point, you do not care. I support S.B. 155.

KHALID ALI:

As a former motel owner, I can assure you that homelessness is created by the City of Reno. The city code enforcement, health department and The Occupational Safety and Health Administration—all these agencies declared that motel owners like me were slumlords and had no right to be in the business. I ended up losing all my motels. When I started the business, there were 24,000 rooms in Reno. Now there are no cheap motels for poor people because of these Jim Crow laws, so many people became homeless and now you are punishing them because they have no place to go. Big developers from California are coming here and pushing small motels out, creating more

homelessness. Brown and Black folk like me cannot survive if the rich and famous put us out of business. I support S.B. 155.

PRINCE SARUHAN (Faith in Action Nevada):

I support S.B. 155. Housing is a human right. We should not criminalize being homeless. We need to support these people.

ISHEIKA PAISLEY (Faith in Action Nevada):

I support S.B. 155. I would like it if the community could guarantee any homeless person liberty to use and move freely in public places, including without limitation, public sidewalks, government buildings, public parks and public transportation vehicles. The bill can help people find more affordable housing by directing people to the right programs and not giving them jail time.

ALEXANDER BARAZA (Faith in Action Nevada):

I support S.B. 155. If this bill passes, it would make more room for people and organizations to help the underlying issues with homelessness. It would give homeless people more clarity and protection instead of being criminalized.

JENNIFER PETERS (Faith in Action Nevada):

I support S.B. 155. It is wrong to discriminate against people who experience homelessness. If this bill were to pass, it would help people I care about, giving them clarity and peace of mind.

JOSHUA ALEX MILLER (Faith in Action Nevada):

I support S.B. 155. This bill prevents the unethical punishment of homeless people. If this bill were to pass, it would help me, my friends and acquaintances.

MICHAEL TANG (Faith in Action Nevada):

I have been providing food to homeless members of our community. They keep coming back to key locations even after their tents have been taken or parks closed. You cannot beat down survival instincts with a law or a stick. Reno lost 98 homeless people last year, I do not want that to happen again. I support S.B. 155.

HUE TRUONG (Faith in Action Nevada):

Widespread homelessness is a mental health issue. We need to find a way to combat that because we know the Nevada Cares Campus is not working.

I support S.B. 155 because it is bad enough that these people are homeless; for them to be discriminated on is unjust.

JOHN SOLOMON (Faith in Action Nevada):

I support S.B. 155. I help feed the homeless in Reno. Every one of them has been severely traumatized by the nature of their living conditions. The homeless are not the problem but a symptom of the problem, and we need to start treating them as citizens. One phoned-in complaint can cause an entire group of homeless people to be displaced and all their possessions stolen by law enforcement. It happens so often that Reno law enforcement hires subcontractors to do the dirty work. The solution to the homelessness crisis is homes, not heavy-handed law enforcement.

WILLIE GOMEZ:

I support S.B. 155. I have become homeless not by choice but because of someone's wrongdoing. How can I get out of this situation with no money? I do not want to steal; I want to work and have a good life. But I cannot find any resources to help me. This bill could help me and people like me recover.

ADRIAN LOWRY (Northern Nevada Democratic Socialists of America):

I support S.B. 155. We are talking about people who have fallen on bad times. How can we talk about punishing these people for doing the things they need to survive? How can we take those who are living in distress and then make them into criminals because they have nowhere to sleep? To get these people out of their situation, they need safer environments to live in, not criminal sentences.

CINDY MARTINEZ:

I am a Marine Corps veteran and retired Nevada State peace officer. I was opposed to S.B. 155 as originally written, but with the conceptual amendment, I support the bill. When I was active duty law enforcement, the revolving door of cite, release, fail to appear, fail to comply, rearrest, convict and fine not collectable never made sense to me. I have met with countless disadvantaged citizens who were able to break the cycle of crime and homelessness and began to become productive by participating in diversion courts. Please vote yes on S.B. 155.

MATTHEW WILKIE:

I strongly support S.B. 155. Homeless individuals are often subjected to discrimination and harassment simply for existing in public spaces. They are

often criminalized for engaging in life-sustaining activities such as sheltering from the elements and eating. This legislation is crucial in protecting the basic rights of homeless individuals.

DWIGHT GEORGE:

I support S.B. 155. This is a commonsense bill. It does not make sense to punish someone when it does nothing good to help them. A lot of us are dealing with rent way too high and are on the verge of being homeless ourselves.

Ms. BROWN:

We support S.B. 155. We echo the comments made by other supporters of the bill.

Ms. GRANT:

I concur with the other testimony and support S.B. 155. Homelessness should not be a crime.

ERIKA MINABERRY:

I support S.B. 155 and echo the comments made by other supporters of the bill.

MEAGAN O'FARRELL:

I support S.B. 155 and echo the comments made by other supporters of the bill. As someone who works in food equity, I recognize that housing security is a human right, and food justice is in line with housing justice. I recognize the homeless need access to quality health care, including mental health care. That is a right that we all deserve.

Ms. IVANOFF:

I oppose S.B. 155. I feel for the plight of the homeless, but this bill is not going to help. This bill makes it legal for them to urinate and defecate in public. This could make our parks dirty and full of disease like San Francisco. That is not a good thing and does not protect Nevadans. Furthermore, this bill would impose a Statewide solution on local jurisdictions. If a community wants to adopt a policy like this, it should be handled at the local level where the elected officials are most responsive and accountable to their voters.

ALIDA BENSON (Executive Director, Nevada Republican Party):

The Nevada Republican Party opposes S.B. 155, and I submit written testimony ([Exhibit Q](#)) explaining our reasoning.

BRUCE PARKS (Chairman, Washoe County Republican Party):

I strongly oppose S.B. 155. I have spent thousands of hours in homeless camps all over the Country. We are not criminalizing homelessness; we are criminalizing behavior. This bill enables people suffering the consequences of their poor life choices. From my time in homeless camps, I assure you the majority of those people are vagrants by choice. They do not want to have rules or responsibility. As taxpayers, we have a reasonable expectation to use our public spaces without feeling unsafe. Most parks in Washoe County cannot be used by the average citizen because of the homeless situation. We all expect equal protection under the law. Nobody is above the law, and I am adamantly opposed to creating a protected class of people. Many of the people who have recovered from homelessness that I have spoken to got clean because they lost access to their drugs while in jail. Taking a softer approach to the homeless does them no favors.

MS. PARTEE:

I oppose S.B. 155 and urge the Committee to vote no on the bill. This bill prohibits county and city governments from enacting and enforcing any ordinance protecting public health and safety if it is viewed as discriminating against the homeless. This bill embraces the failed ideas that ruined San Francisco and Los Angeles. We should do what Houston did. It helped the homeless to get treatment and banned public camping, which successfully decreased the homeless population. Drug addiction is the leading cause of homelessness; we need to help them with rehab and breaking their addictions. The proposed amendment is a great start but needs more work.

MR. HOJJATY:

I oppose S.B. 155 and ditto the comments made by others.

JENNIFER NOBLE (Nevada District Attorneys Association):

Nevada District Attorneys Association primary concern lies in any provision that would mandate diversion for housebreaking, unlawful occupancy and unlawful reentry. If diversion for those crimes becomes mandatory rather than permissive, we might be inadvertently encouraging folks to commit these crimes. People staying in buildings without the owner's knowledge or permission presents legitimate safety concerns both for property owners and for homeless squatters. In Washoe and Clark Counties, folks who have occupied a building without permission have been shot and even killed when the building owner returns and is startled to find an intruder.

BOB RUSSO:

I oppose S.B. 155. I am concerned that this bill could turn our city and county areas, parks, city streets and so on into homeless camps, turning our communities into undesirable places to live and visit.

JANINE HANSEN (President, Nevada Families for Freedom):

We were opposed to the original bill but happy with the proposed amendment. In the amendment, a person may still be charged with a misdemeanor and must prove homelessness. But after a conviction, the offender is encouraged to get treatment in the diversionary courts. We all want the homeless to renew their lives and start over. We support S.B. 155 as amended.

LYNN CHAPMAN (Independent American Party):

The proposed amendment makes all the difference in the world. I would like to thank the judges for explaining criminals would still be responsible for their crime. People I have been speaking with are frustrated about all the money spent to help the homeless that does not seem to be helping. We need to change the hearts of the homeless, and that is what the proposed amendment would do. We support S.B. 155 as amended.

CHRIS RIES (Las Vegas Metropolitan Police Department):

We are opposed to S.B. 155 and the amendment. I echo the concerns from my colleague at the Nevada District Attorneys Association.

WARREN HARDY (Urban Consortium):

The Urban Consortium opposes S.B. 155 as written. We have not had a chance to review the proposed amendment, but it may move us to neutral.

JASON WALKER (Washoe County Sheriff's Office; Nevada Sheriffs' and Chiefs' Association):

The Washoe County Sheriff's Office and Nevada Sheriffs' and Chiefs' Association oppose S.B. 155. The list of offenses affected by the bill is overinclusive.

MR. ROJAS:

I oppose S.B. 155. Six percent of the population has mental health problems. We need to provide mental health solutions for 180,000 people by charging the casinos and businesses the appropriate fee to pay for these solutions. I come from Irvine, and there are no homeless people on the street. The legislature and

the city leaders are charging businesses to put these people in mental institutions. The problem is we are going too fast. People making money in Las Vegas, the Entertainment Capital of the World, are not paying their fair share.

Ms. QUINN:

I oppose S.B. 155 as written. I believe in helping people. I grew up poor. My mother worked three to four jobs to keep food on the table. She always taught us that you can give a man a fish, or you could teach a man to fish. We need to help the homeless with their mental health and drug issues, but allowing them to go camp anywhere they want is not safe.

MR. GOMEZ:

I am confused about some of this verbiage on nonobstructive manner. A homeless person camping out in a nonobstructive manner can be on a property that no one owns. But there have been instances of homeless people causing massive fires on such properties. Senator Flores, you are my neighbor, and I am pretty sure you would not appreciate a bunch of homeless people going to your building to defecate or urinate there in a nonobstructive manner. As a commissioner for the school district, I am constantly confronting the homeless. I do not want people exposing themselves and urinating or defecating in front of middle school kids just because they are in an empty field and considered nonobtrusive. I agree the fines and fees on homeless criminals do not make sense. But this bill needs some work. I oppose S.B. 155.

KELLY QUINN:

I oppose S.B. 155. I agree that fines are not the solution to address homelessness. My concern is the language that says the city council or other governing body shall not enact or enforce any ordinance. But the needs in Ely or Fernley are different than those in Las Vegas or Reno. To restrict them from implementing their own measures to combat homelessness is wrong. This bill just put a bandage on the symptoms of homelessness and restricts local government from managing its own communities, and we should not be doing that.

LAURA HIRSCH:

I support S.B. 155 as amended. No one should be criminalized or discriminated against for being homeless. It is extremely wasteful in time and resources for cities to issue fines to people who have no means of paying them.

MS. ROGERS:

I was originally opposed to this bill. But the amendment is a good solution to the problem of homelessness. I support S.B. 155 as amended.

MS. BARAN:

I hope we never have to hear someone come here to testify that they are human beings ever again. We hope that every Nevadan gets to live in a prosperous way. We can do better. We have the program Built for Zero, which Bakersfield used to get to net-zero homelessness in six years, but we do not implement it correctly. We can end homelessness in Nevada.

CHAIR FLORES:

We close out the hearing on S.B. 155 and open the hearing on S.B. 384.

SENATE BILL 384: Establishes certain provisions relating to the award of grants of federal money by a state agency for the development of broadband services and infrastructure. (BDR 18-1035)

SENATOR SKIP DALY (Senatorial District No. 13):

I was asked to bring S.B. 384 by the Communication Workers of America (CWA). The Infrastructure Investment and Jobs Act and the American Rescue Plan Act included grant money allocated to states to build broadband infrastructure. Both acts came with strong recommendations from the Biden Administration for states to apply strong labor standards. When allocating the grant funds, the standards recommended including the payment of prevailing wage, the use of project labor agreements, family-sustaining wages and health benefits.

This bill directs the Governor's Office of Science, Innovation and Technology (OSIT), the State agency in charge of distributing broadband grant funds allocated for Nevada, to assign a relative weight of 30 percent to an applicant for grant funds who submits a signed certificate attesting the applicant will adhere to labor standards described in the bill for work it performs, as will any subcontractors the applicant uses to perform work. The signed certificates will be public and binding on the applicant as a condition of the grant. The 30 percent relative weight would also be applied to applicants who have signed a collective bargaining agreement.

Section 3, subsection 2, paragraph (b) of the bill requires the payment of prevailing wage for any construction work performed by a contractor licensed under NRS 624. The reason for the distinction stems from the way broadband infrastructure is typically built. Generally, the broadband service provider will perform the work with CWA workers, or workers meeting the labor standards of this bill, for what is called the first mile and the last mile. The middle mile, which can be relatively short or several hundred miles long, is typically performed by a contractor licensed under NRS 624. We want to ensure a contractor performing construction work on the middle mile is subject to prevailing wage, same as the broadband provider's work. The language is meant to apply the labor standards to every entity that might perform work on a project under an OSIT grant.

CARLOS HERNANDEZ (Nevada State AFL-CIO):
The Nevada State AFL-CIO supports S.B. 384.

ANDY DONAHUE (Southern Nevada Laborers-Employers Cooperation and Education Trust):
Southern Nevada Laborers-Employers Cooperation and Education Trust supports S.B. 384.

TOM MORLEY (Laborers' International Union Local 169; Laborers' International Union Local 872):
We support S.B. 384.

ROB BENNER (Building and Construction Trades Council of Northern Nevada):
We support S.B. 384.

LIZ SORENSON (Nevada State AFL-CIO):
I support S.B. 384.

WARREN HARDY (Nevada Chapter Associated Builders and Contractors):
We agree with the legislative declaration contained in S.B. 384. Our concern with the bill is that it provides a bidder's preference for union contractors only, even though union shops make up only 15 percent of the construction industry. Language in the bill excludes the nonunion sector from being able to qualify for these grants. The bill broadens the applicability of prevailing wages. I am also unsure how you would define "robust training" or "high quality wages and

benefits.” For these reasons, the Nevada Chapter Associated Builders and Contractors is opposed to S.B. 384.

JESSICA FERRATO (Lumen):

Lumen opposes S.B. 384. Our goal is to get broadband into the ground quickly for consumers, and this bill could cause some issues and delays. For example, we have certain work crews we like to use on our projects, and this bill could make us hire different crews for some projects.

SENATOR DALY:

Nobody would be excluded from OSIT grants so long as they certify that they will meet the standards. We can work to clarify concerns over some definitions, like “robust.” This bill would only apply to future grants. It is not going to interfere with any current projects. I think both arguments made against S.B. 384 are false.

CHAIR FLORES:

We close out the hearing on S.B. 384 and open the hearing on S.B. 433.

SENATE BILL 433: Revises provisions relating to prevailing wages. (BDR 28-541)

SENATOR SKIP DALY (Senatorial District No. 13):

When I was the business manager for Laborers’ International Union Local 169, I witnessed many instances where public bodies spending public money found creative ways to incentivize or subsidize private development and evade prevailing wage. Sometimes, the evasion was within the law; many times, it was not. As a result, we tried to strengthen prevailing wage laws in many circumstances. This bill takes a different approach. Rather than trying to attach prevailing wage to 50 different areas of the law, as we have been doing, I based it on the circumstances of the project. Is the project on public land or for public use? Is there a public-private partnership agreement? Was the land or other public assets provided at less than fair market value? And most importantly, was public money or equivalent public money spent on the project?

Section 3 subsection 6 of the bill defines what public money or financing includes. Section 3, subsection 2 states that “the Labor Commissioner is not bound by any determination or finding of a public body” trying to evade prevailing wage. Section 3, subsection 4 makes the Labor Commissioner

determination regarding the application of prevailing wage a final order for purposes of judicial review. Section 4 of the bill changes the definition of a public work to include projects intended for a public purpose that may or may not have public money involvement. For instance, Western Nevada Community College built an \$8 million expansion wing with funds from its Foundation, private money. But it is on public property for public use, and clearly prevailing wage should apply.

SENATOR OHRENSCHALL:

My question has to do with S.B. 433, section 3, subsection 2, the language about “the Labor Commissioner is not bound by any determination or finding of a public body relating the applicability of NRS 338.013 to 338.090, inclusive.” Would that language give the Labor Commissioner power regardless of a city charter that would give a city leeway to skirt prevailing wage?

SENATOR DALY:

Yes. Currently, if the City of Sparks or Henderson gives away property at less than fair market value, that does not trigger prevailing wage. If this bill passes and Henderson gives land at less than fair market value to a developer, that counts as an incentive and would trigger prevailing wage. The language in S.B. 433, section 3, subsection 2 prevents a deadlock if a city attorney rules that the city charter allows the city to give away land at less than fair market value because the Labor Commissioner’s ruling is the final determination.

MR. DONAHUE:

Southern Nevada Laborers-Employers Cooperation and Education Trust supports S.B. 433.

MR. MORLEY:

Laborers' International Union Local 169 and Laborers' International Union Local 872 support S.B. 433.

MARC ELLIS (President, Communication Workers of America Local 9413):
We support S.B. 433.

MR. BENNER:

The Building and Construction Trades Council of Northern Nevada is in support of S.B. 433.

MR. HARDY:

I do not disagree with the idea that legitimate public works projects should be paid prevailing wages. Unfortunately, this bill is too broad. It has terms like “careful scrutiny” or “novel financing” with unclear meanings. Section 3, subsection 1, paragraph (d) of the bill would use “whether the construction of the project is subject to inspection by a public body” as a factor for the Labor Commissioner to determine if a project is public work. I am unaware of any construction project not subject to the inspection of a public body.

The expanded definition of public financing incentives in S.B. 433, section 3, subsection 6 would mean a waived credit card fee on a project would qualify the project as a public work. The bill also expands the definition of a public work to projects financed without public money. These new definitions are too broad an expansion of public works. The Urban Consortium and Nevada Chapter Associated Builders and Contractors oppose S.B. 433.

ALEXIS MOTAREX (Nevada Chapter Associated General Contractors):

Nobody has advocated for the preservation of prevailing wage more than Nevada Chapter Associated General Contractors. But the laws of prevailing wage should be well defined, protect the taxpayers from exorbitant spending, be easily understood and enforceable. This bill fails that test. It would not only significantly increase the cost of public works but significantly expand the definition of a public work projects. Additionally, the vague language and references would lead to costly and lengthy investigations which would then lead to litigation. For these reasons, we oppose S.B. 433.

STEVE WALKER (Storey County; Douglas County; Lyon County; Eureka County Board of County Commissioners):

My clients are all in opposition to S.B. 433. The expanded definition of public work as laid out in this bill would include every building in a county, and that is an issue.

CHRISTINE HESS (Executive Director, Nevada Housing Coalition):

I oppose S.B. 433 and submit written testimony explaining my reasoning.

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JESSICA FERRATO (Granite Construction):

I echo the comments made by the Nevada Chapter Associated General Contractors. I oppose S.B. 433.

KERRIE KRAMER (NAIOP, Northern Nevada Chapter):

I would like to echo the sentiments of those who testified before me. I oppose S.B. 433.

GLEN LEAVITT (Nevada Contractors Association):

The Nevada Contractors Association opposes S.B. 433.

BRETT HARRIS (Labor Commissioner, Nevada Department of Business and Industry):

I am neutral on S.B. 433 and here to answer any questions.

AMANDA BRAZEAU (American Council of Engineering Companies, Nevada Chapter):

The American Council of Engineering Companies, Nevada Chapter, opposes S.B. 433. It broadly expands prevailing wage to projects currently not subject to these requirements and could cause problems for project financing.

SENATOR DALY:

I am not trying to make all projects public works. I am saying that NRS 338.010 applies. I am going to work on the housing issue. But if a developer does not need or want public money, do not ask for it unless you are willing to pay prevailing wage on your construction projects. If you take the money, you should expect to pay prevailing wage. Prevailing wage does not increase costs.

CHAIR FLORES:

We close the hearing on S.B. 433 and open the floor to public comment.

Ms. L. QUINN:

Thank you, Senator Flores and Senator Ohrenschall, for representing both supporters and opposition equally during your public hearings. On April 6, Assemblyman Ken Gray was silenced by Assemblywoman Brittney Miller during a gun control hearing in violation of the First Amendment. Assemblyman Gray was doing his job representing his constituents by being their voice.

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Ms. GRANT:

My brother Thomas Purdy was murdered by Reno Police during a mental health crisis. But we were unable to prosecute because of qualified immunity. Qualified immunity stifles many cases against police officers, preventing accountability. It must be removed to deter police violence.

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CHAIR FLORES:

Having no further business, the Senate Committee on Government Affairs adjourns at 7:35 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. 81	C	3	Jered McDonald	Work Session Document
S.B. 115	D	4	Jered McDonald	Work Session Document
S.B. 165	E	4	Jered McDonald	Work Session Document
S.B. 166	F	5	Jered McDonald	Work Session Document
S.B. 169	G	5	Jered McDonald	Work Session Document
S.B. 208	H	6	Jered McDonald	Work Session Document
S.B. 210	I	6	Jered McDonald	Work Session Document
S.B. 261	J	7	Jered McDonald	Work Session Document
S.B. 264	K	8	Jered McDonald	Work Session Document
S.B. 319	L	8	Jered McDonald	Work Session Document
S.B. 331	M	9	Jered McDonald	Work Session Document
S.B. 156	N	11	Senator James Ohrenschall	Proposed Amendment
S.B. 155	O	18	Lilith Baran / ACLU	Presentation
S.B. 155	P	19	Lilith Baran / ACLU	Proposed Amendment
S.B. 155	Q	28	Alida Benson / Nevada Republican Party	Written Testimony