

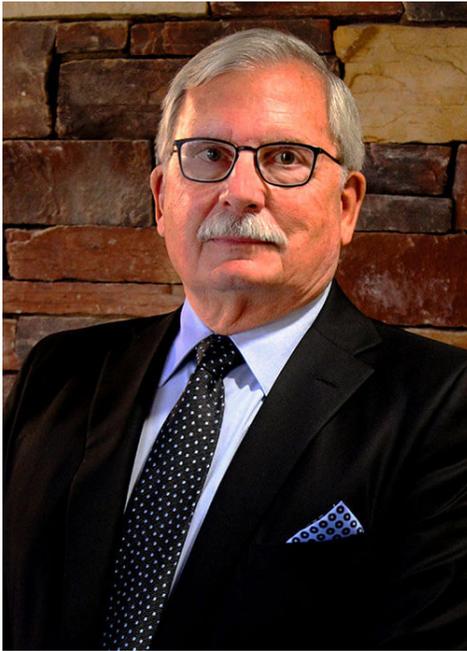


82<sup>nd</sup> Nevada Legislative Session

# SESSION REPORT

BLACK & WADHAMS  
ATTORNEYS AT LAW

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*James L. Wadhams  
Founding Partner*

## **FORWARD**

We are pleased to provide you with this 82<sup>nd</sup> Nevada Legislative Session Report. We would appreciate your feedback on this session as well as our efforts on your behalf. Our performance is enhanced by regular input from our clients. No one knows your business better than you so please don't hesitate to reach out to us for information and for improving our understanding of any challenges you face.

Additionally, I would like to especially commend Jesse's masterful job this session as he has been in charge of our field operations as well as being on the front line daily. Our newest colleague, Amy E. Shogren, brought her experience, wit and intelligence to great use this session to make a significant contribution to our work with the legislators and all of our clients. Having done this for decades, I can say we have never had a better team. We all look forward to serving you in the future.



*Jesse Wadhams, Amy Shogren and James Wadhams*



## OVERVIEW

There is a saying about legislative sessions - each one is unique. Some are just more unique than others. Coming off a 2021 closed session, the ability to return to the legislative building in person, have real world conversations, and make presentations was positive.

There was something, however, about this session that was – off. With significant majorities in both houses for the Democrats but having lost the Governor’s office, divided government returned to Carson City. Additionally, Nevada is flush with revenues from both a resurgent tourism industry and COVID-19 relief funds. Perhaps it was these factors that created the sluggish pace? The cancellation of three days of the session because of winter snow backlogged bill drafting. The laborious process of taking audio testimony and time-limited opposition continued to create a stifled and disjointed process.

The budget standoff between Legislative Democrats and Republican Governor Lombardo pushed major legislation to the waning hours and precluded the ability to close out the business of the legislature on time.

Major concepts such as an incentive to develop a Major League Baseball stadium for the Athletics, a significant expansion of film tax credits and the entire budget for the state lingered to the end. After sine die, a special session was convened to pass the budget. Also, at the time of this writing, a special session is being held to discuss the Athletics possible move to Las Vegas. In the end, there were about 1,100 pieces of legislation drafted – about normal for any session except 2021. And yet much of the legislation was pushed to later in the process. A rewrite to the 20-year-old Medical Malpractice laws wasn’t finalized until the final day. The Senate Committee on Finance needed more than 11 hours on Day 119 to process nearly 100 bills.

Overall, this session had more bills on all aspects of business than ever before. These bills required more amendments than ever before. And despite this level of

engagement, Governor Lombardo is on pace to veto more bills than any Governor in Nevada history, likely surpassing the 48 bills in 2009 Governor Gibbons.

Perhaps more than the continued move to regulate more and more of the daily operations of business, health care delivery, and education policy, it is the pressure by the Legislative Branch to expand beyond its constitutional limitations into all aspects of Executive Branch functions that appear to be the main policy goal of Legislators.

While the 82<sup>nd</sup> Nevada Legislative Session is concluded, the defining theme is that this is the “Incomplete Session.” Perhaps as we look to the coming special session to close the remaining budget items, opportunities will present for real investment in health care, entrepreneurship, and governance reform? If there is compromise in finishing the business of this session, that hope is there.

## SESSION ENVIRONMENT

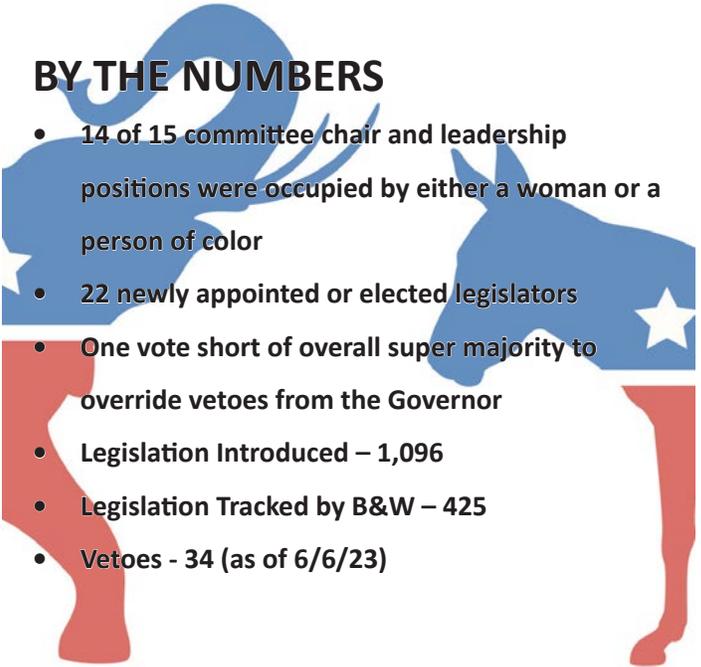
Governor Lombardo entered office in January and came face-to-face with a Democratic-controlled legislature in February. Knowing that the party divide would increase tensions, he started his tenure by emphasizing that communications and interaction would be key. Those two items seemed to break down intermittently throughout the 120-day legislative calendar but were seen more in the last month of the session. Democrat leaders would not hear the Governor’s bills and the Governor made threats to veto certain key legislation and budget bills. This all made for an interesting shell game toward the end.

Several prominent members who have served in the Nevada Legislature for decades completed their final terms this session. Senators Pat Spearman (D), Scott Hammond (R), and Pete Goicoechea (R), have all reached their term limits in their respective houses. The legislative process has benefited from their years of dedication and leadership.

The 2025 Legislative Session has the potential to have a supermajority to override vetoes from the Governor. Identifying both Senate and Assembly candidates will be a top priority for the business community across the state for the upcoming election cycles. Word on the street is that Senate Majority Leader Nicole Cannizzaro will be running for Nevada Attorney General which may open that key position in the Legislature.

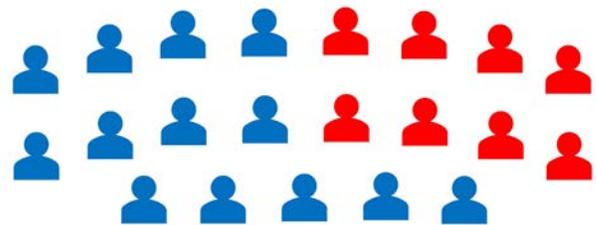
## BY THE NUMBERS

- 14 of 15 committee chair and leadership positions were occupied by either a woman or a person of color
- 22 newly appointed or elected legislators
- One vote short of overall super majority to override vetoes from the Governor
- Legislation Introduced – 1,096
- Legislation Tracked by B&W – 425
- Vetoes - 34 (as of 6/6/23)



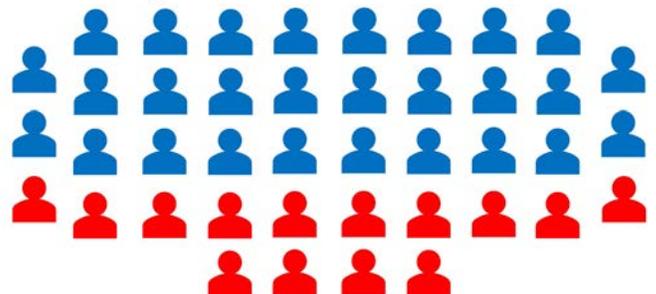
### Nevada Senate

13 Democrats – 8 Republicans



### Nevada Assembly

28 Democrats – 14 Republicans



## VETO PICTURE

Governor Joe Lombardo vetoed 34 bills as of sine die. It appears likely that Governor Lombardo will surpass Governor Gibbons record of 48 vetoes in a single session. Under the Nevada Constitution, the governor has five days (not including the day of a bill's delivery to his office or Sundays) to sign or veto a piece of legislation. For bills delivered with fewer than five days remaining in the session or delivered after the Legislature adjourns sine die, the governor has 10 days (not including Sundays) to act on the bill. We will keep you updated on any future veto that may impact your business or industry.

## BILLS OF INTEREST

The following is a highlight of bills that we have tracked this session and may have an impact on your business or industry. With the session being hectic and rolling right into special sessions, the legislative website is not up to date. If any bill action changes, we will update you. If you would like a more specific review or discussion about a particular bill, please contact any member of the Black & Wadhams Government Affairs Team.

## END GAME BILLS

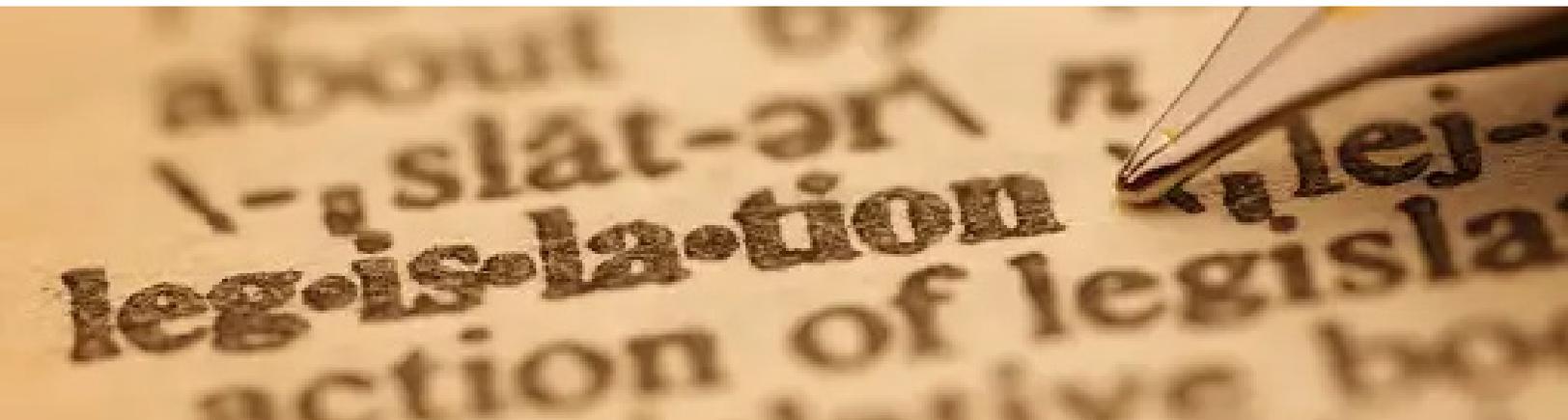
### Film Tax Credit

Lights, camera, and a lot of action accompanied SB496, Nevada's film tax credit bill. Senator Roberta Lange along with representatives from the Birtcher Group, Sony Pictures and the Howard Hughes Corporation introduced the bill in late May, and the proposed package would involve \$190 million annually in tax credits for 20 years and include two film production sites in Las Vegas. There was about a 10-minute sizzle video that hyped enthusiasm for the project from the LVCVA, UNLV, LVGEA and others in the Las Vegas business community.

But the developer-backed bill excluded other parts of the state, and actor Jeremy Renner descended on Carson City to plead his case for expansion of the bill to include Northern Nevada. Legislators, lobbyists and staff were starstruck as Renner walked the legislative building and had small group meetings with legislators. To compliment Renner's push of the bill, actor Mark Wahlburg came to Carson City late in the session to show his support for the bill and the concept. And in the end... the bill did not move out of the Senate Finance Committee.

### A's Stadium

Throughout the session, there was talk of the Oakland A's moving to Las Vegas. After a lot of media hype and overall anticipation, we finally saw the bill, SB509, presented in a more than five hour hearing. Oakland A's owner John Fisher and president Dave Kaval were in the Legislative Building to promote the bill that proposes up to \$380 million in public funding



to help construct a \$1.5 billion, 30,000-seat stadium for the team. Compared with any MLB stadium built in the last century, the A's share of the cost to build the stadium would be the largest of any that included a public-private partnership, and the stadium, which would be located on The Strip, would be the smallest in the country. The bill did not move out the Senate Finance Committee. A special session was called for June 7 and is still ongoing.

### **Medical Malpractice**

Early on, AB209 was introduced regarding medical malpractice. Assemblywoman Cecelia Gonzalez sponsored the hard-hitting piece of legislation that would have raised the amount of liability coverage needed by certain health care professionals and repeal parts of existing legislation regarding non-economic damages and trauma services, to name a few. Opposition from the health care and business communities was out in full force led by a coordinated effort from Your Nevada Doctors (YND), followed by the Nevada Hospital Association, Nevada State Medical Association, and others statewide. While that bill died in April, AB404 was introduced but with a different slant.

As introduced, AB404 would have increased the amount that a plaintiff could recover for non-economic damages from \$350,000 to \$2.5 million and increase the statute of limitations, among other things. Negotiations were spearheaded by YND on behalf of the health care community. And after intense negotiations between doctors, hospitals and trial attorneys, an amendment was reached. The current cap of \$350,000 on pain and suffering (non-economic damages) would increase by \$80,000 every year for five years beginning Jan. 1, 2024. Once the cap reaches \$750,000 in 2028, it would increase by a flat rate of 2.1 percent a year. The statute of limitations, among other things, also changed to allow up to two years from discovery of the injury. It is hoped and has been expressed by all parties that this will resolve the issue for at least a decade.

*Effective Date: Applies causes of action that accrue on or after October 1, 2023.*

## **GENERAL BUSINESS BILLS**

### **Room Cleaning**

While COVID-19 was not an issue during the 82<sup>nd</sup> Legislative Session, SB441 was introduced to end daily room cleaning requirements placed on the hospitality industry during the height of the pandemic (SB4 from the 32<sup>nd</sup> Special Session). The Culinary Union came out in full force to oppose this piece of legislation to plead their case stating that the hotel industry had cut costs to achieve the downsizing of labor. And by cutting labor costs and services, they were cutting sustainable jobs in the community. Furthermore, opponents highlighted that the gaming and hospitality industries are growing financially, but it is unknown where the money is going.

In the end, the Culinary Union threatened that if the bill passed, they would include daily room cleaning when negotiating their contracts. SB441 passed and was signed by Governor Lombardo on May 17.

### **State Lotteries**

AJR5 was a proposed amendment that removes a prohibition on state lotteries in Nevada. It passed and will now go to the 2025 legislative session for consideration. If it passes again, it will move to the 2026 general election ballot for a vote of the people. The business community was in opposition to this Constitutional Amendment as it could potentially undermine the gaming industry, the state's largest economic driver.

### **Omnibus Administration**

Governor Lombardo introduced SB431, his 116-page omnibus administration bill (also known as the Government Modernization and Efficiency Act). In a bold move, the Senate Government Affairs Committee voted in a behind the bar meeting to significantly amend and pass out the bill. The amendment removes reorganizing and

renaming DETR as well as the proposed creation of a gubernatorial cabinet. It also removes an attempt to limit the power of the Interim Finance Committee and a proposed “Nevada Way” fund that would have directed money toward certain public private partnerships. Maintained is the creation of a new office governing the state’s many boards and commissions, the removal of a cap on state worker salaries at 95 percent of the governor’s salary and an increase on a statutory cap on the state’s Rainy Day Fund.

*Effective Date: July 1, 2023*

## **MINING BILLS**

### **Mining Tax**

Early in the session, Governor Lombardo signed SB124 to end a mining tax prepayment early and shift \$70 million from the 2023 general fund to the fiscal year 2024 education fund.

### **Environmental Justice**

As introduced, AB312 creates within the Office of Minority Health & Equity the Commission on Environmental Justice consisting of nine members selected by the Governor. Sponsored by Assemblywoman Sarah Peters, the bill focused on environmental justice which generally impacts underserved communities and how these areas disproportionately shoulder the burden of issues with the environment. Strong opposition was led by the Nevada Mining Association and a coordinated effort by the Vegas Chamber and the business community.

The bill was significantly amended with a name change from the Commission on Environmental Justice to the Environmental Justice Advisory Council and it now addressed the member make up to include diversity, representation by various regions of the state and the responsibilities of the council. The bill did not move out of the Assembly Committee on Ways and Means.

### **Mining Reclamation**

In mid-March, Assemblywoman Peters introduced AB313 on mining reclamation focusing on back filling pit lakes with a presentation by Great Basin Resource Watch. According to presenters, reclamation is to restore the environment to as close as possible to a pre-mining condition that will allow for post-mining use. But, according to opponents, the bill ignores decades of science, decades of regulatory oversight of pit lakes, and ignores the credibility of the federal National Environmental Policy Act (NEPA) under which all modern open pit mining occurs when on or connected to federal lands.

This bill was brought forth due to the perception of the poor condition of specific older pit lakes that remain from historic mining operations. The bill would essentially make mining in Nevada economically and environmentally unfeasible. The mining industry, as well as the business community, came in full opposition to this bill. The bill did not move out the Assembly Committee on Ways and Means.

## **HEALTH CARE BILLS**

### **End-of-Life Medication**

The 2023 session brought out a plethora of health care bills. A controversial bill, SB239, would allow terminal patients to end their own lives with self-administered medication provided by a healthcare professional. Proponents from Oregon, the place where the first Death with Dignity law was passed in 1994 and affirmed in 1997, provided support testimony in person and virtually. The common theme was those who are facing a terminal diagnosis simply want to make their own decisions about their end-of-life care.

While this concept has been introduced before, the support provided this session pushed legislators to pass the bill along party lines. It was enrolled and delivered to Governor Lombardo on May 30, and he vetoed it on June 5 stating that, “I am not comfortable supporting this bill.”

## **Nevada HOPE Act**

SB419, also known as the Nevada HOPE Act, proposes several changes to healthcare including ensuring that patients have access to their data, building health capacity by passing new tax incentives and modernize public health systems. But the original standout feature was that it would provide Medicaid to non-citizen children and adults in Nevada who meet all other enrollment requirements. The amended bill would allow undocumented children to access the Children's Health Insurance Program. In theory, this would ultimately save the state money by keeping them out of costly emergency rooms.

The bill drew sharp criticism from Republicans who suggested that the proposal would be costly and worsen provider access issues for patients. The final amendments were introduced and heard all within 24 hours. It passed and was sent to the Governor.

*Effective Date: Various*

## **Prescription Drug Price Reduction**

Sponsored by Assemblywoman Venicia Considine, AB250 was introduced to ensure that Nevada is able to take advantage of future Medicare-negotiated prices for prescription drugs once the federal insurance program sets those prices. There was a great deal of support and opposition for this bill. Patients who face exorbitant out-of-pocket prescription costs would like to see this legislation pass. On the other hand, PHrMA, along with others in health care, stated that this legislation could limit access to needed medicines, discriminate against patients, disincentivize the innovation of new medicines, and raise constitutional concerns.

Had the bill become law, it would go into effect in 2026, aligning with the timeline of the Inflation Reduction Act and giving the state and businesses enough time to adjust to the new pricing of drugs. It was enrolled and delivered to Governor Lombardo on May 30 and vetoed on June 5.

## **Reproductive Rights**

With the overturning of Roe v. Wade in June

2022, abortion rights have been at the center of conversations for months. Congressional Amendment SJR7 was introduced by Democrats led by Senate Majority Leader Nicole Cannizzaro. Legislation would guarantee a fundamental right to reproductive freedom, authorize the state to regulate abortion care after fetal viability with certain exceptions and prevent the state from penalizing or prosecuting an individual exercising the right to reproductive freedom. Further, the bill states that reproductive rights would include without limitation, prenatal care, childbirth, postpartum care, birth control, vasectomy, tubal ligation, abortion, abortion care, management of a miscarriage and infertility care. The measure was enrolled on May 15 and will need to return and pass out of the Legislature in 2025 before it would appear on the 2026 general election ballot.

## **Patient Protection Commission**

There were three bills brought forth by the Patient Protection Commission - AB6 on cost growth benchmarking, AB7 addressing health care interoperability and AB11 prohibiting hospitals from employing physicians. Early on, Governor Lombardo criticized these bills and recommended that they not be heard. But in the end, all bills received hearings.

AB6 addresses increasing health care costs in Nevada and in theory enables the state to control and predict healthcare shortfalls. The Nevada Hospital Association, along with the Nevada State Medical Association and the Nevada Association of Health Plans provided opposition to this bill because it would create an unrealistic growth expectation for the healthcare system that does not match the current economic environment. It would also force entities subject to the growth targets to complete bureaucratic exercises that take resources away from patient care. The bill did not move out of the Senate Finance Committee.

AB7 would create interoperability of healthcare providers between each other as well as patients and allow patients to provide their medical records to other doctors. The bill passed on June 5.

On June 3, Governor Lombardo vetoed AB11 and included in his letter to Speaker Yeager that “this bill would decrease access to care for Nevadans by placing significant burdens on the ability to recruit physicians to Nevada.”

### **Medicaid Provider Tax**

Sponsored by the Senate Committee on Health and Human Services, SB435 helps implement a program by which DHHS can impose an assessment on certain operators if two-thirds of that group agree. Money generated by the assessment would provide supplemental payments or enhanced rates of reimbursement to certain health care operators. This passed and has been sent to the Governor.

*Effective Date: Upon passage and approval.*

## **INSURANCE BILLS**

### **Division Omnibus**

SB57 is the Insurance Commissioners Omnibus bill. As an omnibus bill, the legislation was inclusive of a variety of items including clarifying third-party reporting, licensing, fraud control and confidentiality of insurance fraud records, to name a few.

*Effective Date: Various*

### **Vehicle Inspection**

AB334 was a pre-filed bill regarding the timely inspection of vehicles by an insurance company. This bill came about because insurance companies appear to delay vehicle inspections causing consumers to pay out of pocket for rental vehicles. According to sponsor Tracy Brown-May, hundreds of complaints are received every year from consumers and auto repair shops. These complaints spotlight the problem regarding a lack of regulation of auto insurers, and how often they delay an insurance claim by taking weeks to inspect vehicles involved in a claim.

For months, there were discussions related to timeframes for vehicle inspections and what was realistic. The bill outlines that after receiving a claim and accepting liability, an insurance company has eight days to perform certain actions. Opponents

of the bill from the automobile insurance industry believe that the bill would compromise the quality of the repair work and the cost-effectiveness of the repairs by an insurer’s race to meet an unrealistic deadline. This passed and was delivered to the Governor on May 31.

*Effective Date: Upon passage and approval.*

## **KEY LEGISLATION THAT DIED EARLY**

### *Assembly*

Sponsored by Assemblyman Howard Watts, AB105 would have allowed a broadband service provider to have access to nonexclusive easement public right-of-way or other property rights granted to a public utility or a service provider. This bill died in committee.

There were several compact bills that were introduced this session that would allow for certain types of professionals to have a single license to work in multiple states. AB108 on the Nursing License Compact has been brought to the Legislature for many years. Unfortunately, 2023 was no exception and the bill ended up dying on April 15.

Sponsored by Assemblywoman Cecelia Gonzalez, AB209 was the first of two medical malpractice bills. It would have raised the amount of liability coverage needed by certain health care professionals and repeal parts of existing legislation regarding non-economic damages and trauma services, to name a few. The bill gathered a great deal of opposition from the health care community, and the bill died in committee.

AB411 would have allowed terminally ill patients with a medical card to use marijuana in medical facilities. This bill included many regulations for the patient including discussion of federal vs. state law and had a plethora of opposition. The bill ended up passing in the Assembly but died in the Senate.



Joint resolution AJR3 would have amended the Nevada Constitution by creating a new section related to accessing a clean and healthy environment and protection of environmental resources. This included equitable access regardless of race, ethnicity, gender, geography, wealth, etc. This bill died on the Assembly Floor.

#### *Senate*

Sponsored by Senator Scott Hammond, SB179 was intended to promote further transparency in third party litigation funding and advertising for prescription drugs and medical devices. The Nevada Justice Association was the main opposition to this bill stating that, in Nevada you cannot assign a tort claim. Opposition further noted all ads must go through the State Bar of Nevada. This bill ended up dying in the Senate Judiciary Committee.

There were several bills used as vehicles to address homelessness. SB318 would have allowed certain sewer surcharge fees to be used to provide services for an indigent or a homeless person. This bill eventually died in the Senate.

Sponsored by Senator Edgar Flores, SB427 would have created a heat mitigation program as well as a training program to protect employees from heat and other dangerous weather conditions. Businesses are currently required by OSHA to follow certain heat mitigation requirements and there was a great deal of opposition to adding extra measures. This bill died in the Assembly Committee on Commerce and Labor.

SJR6 would have allowed annual sessions for the Nevada Legislature providing a 90-day session for odd years while even years would have a 60-day session. This bill would have allowed the Speaker and the Majority Leader to jointly allow a recess of a regular session. This bill ended up dying in the Committee on Legislative Operations and Elections.

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