

Committee Action:**Do Pass** _____**Amend & Do Pass** _____**Other** _____**Assembly Committee on Commerce and Labor**

This measure may be considered for action during today's work session.

ASSEMBLY BILL 163**Revises provisions governing certain short-term loans. (BDR 52-737)****Sponsored by:** Assemblyman Flores**Date Heard:** March 15, 2017**Fiscal Impact:** Effect on Local Government: No.
Effect on the State: Yes.

Assembly Bill 163 requires a deferred deposit, high interest, or title lender to determine whether a person has the ability to repay a loan before the loan is made, and establishes the factors that the lender must use to make that determination. In addition, it prohibits a title lender from: (1) making a loan to a person who does not legally own the vehicle being used to secure the loan; and (2) considering the income of anyone who is not the legal owner of the vehicle in determining a customer's ability to repay. The bill also specifies that a customer defaults on a loan whenever he or she fails to make a scheduled payment, clarifies the difference between a grace period and a loan extension, and limits the actions a lender can take with regard to a grace period. Finally, A.B. 163 imposes notice requirements related to collection actions and the filing of complaints.

Amendments: Assemblyman Flores submitted the attached amendment. The amendment:

- Specifies a lender may use a customer's pay stub or certificate of deposit as evidence of current employment status; removes the requirement that the lender consider and verify the customer's monthly income, monthly payments on other obligations owed by the customer, and other current debt obligations owed by the customer, including alimony and child support; adds the consideration of other evidence, including bank statements and written representations, to the underwriting factors a lender must consider; and prohibits a lender from considering the ability of any person other than the customer to repay the loan;
- Allows a customer to enter into an extended repayment plan if the customer (1) has not entered into an extended payment plan for the original loan during the immediately preceding 12-month period; and (2) requests an extended repayment plan prior to the time the original loan is due. It also imposes certain requirements on such a plan;
- Further modifies the definition of "default";

- Includes a contract for the lease of an animal for a purpose other than a business, commercial, or agricultural purpose in the definition of a “high-interest loan”;
- Prohibits a lender from reinitiating an electronic debit transaction that has been returned by a customer’s bank except in accordance with the rules prescribed by the National Automated Clearing House Association or its successor organization; and
- For title loans, allows a lender to consider a customer’s community income and the income of any other customers who consent to the loan and enter into the loan agreement, and clarifies that a lender may not make a loan secured by a vehicle with multiple owners without the consent of each owner.

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MOCK-UP

PROPOSED AMENDMENT 3752 TO
ASSEMBLY BILL NO. 163

PREPARED FOR ASSEMBLYMAN FLORES
APRIL 12, 2017

PREPARED BY THE LEGAL DIVISION

**NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN
CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE
OFFICIAL AMENDMENT MAY DIFFER.**

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of **green bold underlining** is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 604A of NRS is hereby amended by adding
- 2 thereto ~~[a new section to read as follows:]~~ **the provisions set forth as**
- 3 **sections 1.3 and 1.7 of this act.**
- 4 ***Sec. 1.3. ~~1.1.~~ A licensee shall not make a loan pursuant to this***
- 5 ***chapter unless the licensee determines pursuant to subsection 2 that the***
- 6 ***customer has the ability to repay the loan.***
- 7 ***2. For the purposes of subsection 1, a customer has the ability to***
- 8 ***repay a loan if the customer has a reasonable ability to repay the loan, as***
- 9 ***determined by the licensee after considering and verifying the following***
- 10 ***underwriting factors:***
- 11 ***(a) The current or reasonably expected income of the customer;***
- 12 ***(b) The current employment status of the customer ~~1.1~~ based on***
- 13 ***evidence including, without limitation, a pay stub or certificate of***
- 14 ***deposit;***
- 15 ***(c) ~~The monthly residual income of the customer;~~***
- 16 ***~~(d)~~ The credit history of the customer;***

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~~[(c)]~~ (d) The amount due under the original term of the loan, the monthly payment on the loan, if the loan is an installment loan, or the potential repayment plan if the customer defaults on the loan;

~~[(f) Any monthly payments on other obligations owed by the customer; and~~

~~[(g) Other current debt obligations owed by the customer, including, without limitation, alimony and child support.]~~

(e) Other evidence, including, without limitation, bank statements and written representations to the licensee.

3. For the purposes of subsection 1, a licensee shall not consider the ability of any person other than the customer to repay the loan.

Sec. 1.7. 1. A licensee shall allow a customer with an outstanding deferred deposit loan to enter into an extended payment plan provided the customer:

(a) Has not entered into an extended payment plan for the original loan during the immediately preceding 12-month period; and

(b) Requests an extended repayment plan prior to the time the original loan is due.

2. An extended payment plan entered pursuant to subsection 1 must:

(a) Be in writing signed by the licensee and customer; and

(b) Provide a payment schedule of at least four payments over a period of at least 60 days;

3. An extended payment plan entered pursuant to subsection 1 must not:

(a) Increase or decrease the amount owed under the original loan; or

(b) Include any interest or fees in addition to those charged under the terms of the original loan.

4. If a customer defaults under an extended payment plan pursuant to this section, the licensee may terminate the extended payment plan and accelerate the requirement to pay the amount owed.

Sec. 2. NRS 604A.045 is hereby amended to read as follows:

604A.045 1. "Default" means the failure of a customer to :

(a) Make ~~make~~ a scheduled payment on a loan on or before the due date for the payment under the ~~original~~ terms of a lawful loan agreement and any grace period that complies with the provisions of NRS 604A.210 for under the original terms of any lawful extension or repayment plan relating to the loan, and any grace period that complies with the provisions of NRS 604A.210;]; or

(b) Pay a loan in full on or ~~before~~:

(1) The ~~before the~~ expiration of the ~~[initial]~~ loan period as set forth in a lawful loan agreement and any grace period that complies with the provisions of ~~[NRS 604A.210]~~; or

(2) The due date of any lawful extension or repayment plan relating to the loan and any grace period that complies with the provisions of NRS

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~~604A.210, provided that the due date of the extension or repayment plan does not violate the provisions of this chapter.] NRS 604A.210.~~

2. A default occurs on the day immediately following the date of the customer's failure to perform as described in subsection 1.

Sec. 3. NRS 604A.070 is hereby amended to read as follows:

604A.070 **1.** "Grace period" means any period of deferment offered gratuitously by a licensee to a customer if the licensee complies with the provisions of NRS 604A.210.

2. *The term does not include an extension of a loan.*

Sec. 4. NRS 604A.210 is hereby amended to read as follows:

604A.210 The provisions of this chapter do not prohibit a licensee from offering a customer a grace period on the repayment of a loan or an extension of a loan, except that the licensee shall not ~~[charge] [~~

~~1. Charge the customer:~~

~~1. Any any fees, interest, costs or anything else of value during such a grace period or for granting such a grace period; or~~

~~2. Any additional fees or additional interest on the outstanding loan during Condition the granting of such a grace period; on the customer making any new loan agreement or adding any addendum or term to an existing loan agreement.] grant a grace period for the purpose of artificially increasing the amount for which a customer would otherwise qualify to borrow.~~

Sec. 4.5. NRS 604A.0703 is hereby amended to read as follows:

604A.0703 **1.** "High-interest loan" means a loan made to a customer pursuant to a loan agreement which, under its original terms, charges an annual percentage rate of more than 40 percent.

2. The term includes, without limitation, any single-payment loan, installment loan ~~[or]~~, open-ended loan or contract for the lease of an animal for a purpose other than a business, commercial or agricultural purpose, which, under ~~[its]~~ the original terms ~~[or]~~ or contract, charges an annual percentage rate of more than 40 percent.

3. The term does not include:

- (a) A deferred deposit loan;
- (b) A refund anticipation loan; or
- (c) A title loan.

Sec. 5. NRS 604A.405 is hereby amended to read as follows:

604A.405 **1.** A licensee shall post in a conspicuous place in every location at which the licensee conducts business under his or her license:

(a) A notice that states the fees the licensee charges for providing check-cashing services, deferred deposit loan services, high-interest loan services or title loan services.

(b) *A notice that states that if the customer defaults on a loan, the licensee must offer a repayment plan to the customer before the licensee commences any civil action or process of alternative dispute resolution or repossesses a vehicle.*

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1 (c) A notice that states a toll-free telephone number to the Office of the
2 Commissioner to handle concerns or complaints of customers.

3 (d) *A notice that states the process for filing a complaint with the*
4 *Commissioner.*

5 ➡ The Commissioner shall adopt regulations prescribing the form and size
6 of the notices required by this subsection.

7 2. If a licensee offers loans to customers at a kiosk, through the
8 Internet, through any telephone, facsimile machine or other
9 telecommunication device or through any other machine, network, system,
10 device or means, except for an automated loan machine prohibited by NRS
11 604A.400, the licensee shall, as appropriate to the location or method for
12 making the loan, post in a conspicuous place where customers will see it
13 before they enter into a loan, or disclose in an open and obvious manner to
14 customers before they enter into a loan, a notice that states:

15 (a) The types of loans the licensee offers and the fees he or she charges
16 for making each type of loan; and

17 (b) A list of the states where the licensee is licensed or authorized to
18 conduct business from outside this State with customers located in this
19 State.

20 3. A licensee who provides check-cashing services shall give written
21 notice to each customer of the fees he or she charges for cashing checks.
22 The customer must sign the notice before the licensee provides the check-
23 cashing service.

24 **Sec. 5.5. NRS 604A.408 is hereby amended to read as follows:**

25 604A.408 1. Except as otherwise provided in this chapter, the
26 original term of a deferred deposit loan or high-interest loan must not
27 exceed 35 days.

28 2. The original term of a high-interest loan may be up to 90 days if:

29 (a) The loan provides for payments in installments;

30 (b) The payments are calculated to ratably and fully amortize the entire
31 amount of principal and interest payable on the loan;

32 (c) The loan is not subject to any extension; ~~and~~

33 (d) The loan does not require a balloon payment of any kind ~~or~~; and

34 (e) The loan is not a deferred deposit loan.

35 3. Notwithstanding the provisions of NRS 604A.480, a licensee shall
36 not agree to establish or extend the period for the repayment, renewal,
37 refinancing or consolidation of an outstanding deferred deposit loan or
38 high-interest loan for a period that exceeds 90 days after the date of
39 origination of the loan.

40 **Sec. 6. NRS 604A.440 is hereby amended to read as follows:**

41 604A.440 A licensee shall not:

42 1. Use or threaten to use the criminal process in this State or any other
43 state, or any civil process not available to creditors generally, to collect on
44 a loan made to a customer.

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1 2. Commence a civil action or any process of alternative dispute
2 resolution or repossess a vehicle before the customer defaults under the
3 original term of a loan agreement or before the customer defaults under
4 any repayment plan ~~[.]~~ or extension ~~[or grace period]~~ negotiated and
5 agreed to by the licensee and customer, unless otherwise authorized
6 pursuant to this chapter.

7 3. Take any confession of judgment or any power of attorney running
8 to the licensee or to any third person to confess judgment or to appear for
9 the customer in a judicial proceeding.

10 4. Include in any written agreement:

11 (a) A promise by the customer to hold the licensee harmless;

12 (b) A confession of judgment by the customer;

13 (c) An assignment or order for the payment of wages or other
14 compensation due the customer; or

15 (d) A waiver of any claim or defense arising out of the loan agreement
16 or a waiver of any provision of this chapter. The provisions of this
17 paragraph do not apply to the extent preempted by federal law.

18 5. Engage in any deceptive trade practice, as defined in chapter 598 of
19 NRS, including, without limitation, making a false representation.

20 6. Advertise or permit to be advertised in any manner any false,
21 misleading or deceptive statement or representation with regard to the
22 rates, terms or conditions for loans.

23 7. Reinitiate an electronic debit transaction that has been returned
24 by a customer's bank except in accordance with the rules prescribed by
25 the National Automated Clearing House Association or its successor
26 organization.

27 8. Use or attempt to use any agent, affiliate or subsidiary to avoid the
28 requirements or prohibitions of this chapter.

29 **Sec. 6.5. NRS 604A.445 is hereby amended to read as follows:**

30 604A.445 Notwithstanding any other provision of this chapter to the
31 contrary:

32 1. The original term of a title loan must not exceed 30 days.

33 2. The title loan may be extended for not more than six additional
34 periods of extension, with each such period not to exceed 30 days, if:

35 (a) Any interest or charges accrued during the original term of the title
36 loan or any period of extension of the title loan are not capitalized or added
37 to the principal amount of the title loan during any subsequent period of
38 extension;

39 (b) The annual percentage rate charged on the title loan during any
40 period of extension is not more than the annual percentage rate charged on
41 the title loan during the original term; and

42 (c) No additional origination fees, set-up fees, collection fees,
43 transaction fees, negotiation fees, handling fees, processing fees, late fees,
44 default fees or any other fees, regardless of the name given to the fees, are
45 charged in connection with any extension of the title loan.

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- 1 3. The original term of a title loan may be up to 210 days if:
- 2 (a) The loan provides for payments in installments;
- 3 (b) The payments are calculated to ratably and fully amortize the entire
- 4 amount of principal and interest payable on the loan;
- 5 (c) The loan is not subject to any extension; ~~and~~
- 6 (d) The loan does not require a balloon payment of any kind ~~;~~ *and*
- 7 ~~(e) The loan is not a deferred deposit loan.~~
- 8 **Sec. 7.** NRS 604A.450 is hereby amended to read as follows:
- 9 604A.450 A licensee who makes title loans shall not:
- 10 1. Make a title loan that exceeds the fair market value of the vehicle
- 11 securing the title loan.
- 12 2. *Make a title loan to a customer secured by a vehicle which is not*
- 13 *legally owned by the customer.*
- 14 3. Make a title loan without ~~regard to the ability of the customer~~
- 15 ~~seeking the title loan to repay the title loan, including the customer's~~
- 16 ~~current and expected income, obligations and employment.~~
- 17 ~~— 3.] determining that the customer has the ability to repay the title~~
- 18 ~~loan, as required by section ~~4.1~~ 1.3 of this act. In complying with this~~
- 19 ~~subsection, the licensee shall not consider the income of any person who~~
- 20 ~~is not a legal owner of the vehicle securing the title loan ~~;~~ but may~~
- 21 ~~consider a customer's community income and the income of any other~~
- 22 ~~customers who consent to the loan pursuant to subsection 5 and enter~~
- 23 ~~into a loan agreement with the licensee.~~
- 24 4. Make a title loan without requiring the customer to sign an
- 25 affidavit which states that:
- 26 (a) The customer has provided the licensee with true and correct
- 27 information concerning the customer's income, obligations, employment
- 28 and ownership of the vehicle; and
- 29 (b) The customer has the ability to repay the title loan.
- 30 5. *Make a title loan secured by a vehicle with multiple legal owners*
- 31 ~~without the consent of each owner.~~
- 32 **Sec. 8.** NRS 604A.930 is hereby amended to read as follows:
- 33 604A.930 1. Subject to the affirmative defense set forth in
- 34 subsection 3, in addition to any other remedy or penalty, if a person
- 35 violates any provision of NRS 604A.400, 604A.410 to 604A.500,
- 36 inclusive, *and section ~~4.1~~ 1.3 of this act*, 604A.610, 604A.615, 604A.650
- 37 or 604A.655 or any regulation adopted pursuant thereto, the customer may
- 38 bring a civil action against the person for:
- 39 (a) Actual and consequential damages;
- 40 (b) Punitive damages, which are subject to the provisions of NRS
- 41 42.005;
- 42 (c) Reasonable attorney's fees and costs; and
- 43 (d) Any other legal or equitable relief that the court deems appropriate.
- 44 2. Subject to the affirmative defense set forth in subsection 3, in
- 45 addition to any other remedy or penalty, the customer may bring a civil

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1 action against a person pursuant to subsection 1 to recover an additional
2 amount, as statutory damages, which is equal to \$1,000 for each violation
3 if the person knowingly:

4 (a) Operates a check-cashing service, deferred deposit loan service,
5 high-interest loan service or title loan service without a license, in violation
6 of NRS 604A.400;

7 (b) Fails to include in a loan agreement a disclosure of the right of the
8 customer to rescind the loan, in violation of NRS 604A.410;

9 (c) Violates any provision of NRS 604A.420;

10 (d) Accepts collateral or security for a deferred deposit loan, in
11 violation of NRS 604A.435, except that a check or written authorization
12 for an electronic transfer of money shall not be deemed to be collateral or
13 security for a deferred deposit loan;

14 (e) Uses or threatens to use the criminal process in this State or any
15 other state to collect on a loan made to the customer, in violation of NRS
16 604A.440;

17 (f) Includes in any written agreement a promise by the customer to
18 hold the person harmless, a confession of judgment by the customer or an
19 assignment or order for the payment of wages
20 or other compensation due the customer, in violation of
21 NRS 604A.440;

22 (g) Violates any provision of NRS 604A.485;

23 (h) Violates any provision of NRS 604A.490; or

24 (i) Violates any provision of NRS 604A.442.

25 3. A person may not be held liable in any civil action brought
26 pursuant to this section if the person proves, by a preponderance of
27 evidence, that the violation:

28 (a) Was not intentional;

29 (b) Was technical in nature; and

30 (c) Resulted from a bona fide error, notwithstanding the maintenance
31 of procedures reasonably adapted to avoid any such error.

32 4. For the purposes of subsection 3, a bona fide error includes,
33 without limitation, clerical errors, calculation errors, computer malfunction
34 and programming errors and printing errors, except that an error of legal
35 judgment with respect to the person's obligations under this chapter is not
36 a bona fide error.

37 **Sec. 9.** Any contract or agreement entered into pursuant to chapter
38 604A of NRS before July 1, 2017, remains in effect in accordance with the
39 provisions of the contract or agreement.

40 **Sec. 10.** This act becomes effective on July 1, 2017.

41 H

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY**

**Seventy-ninth Session
May 10, 2017**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Kelvin Atkinson at 8:10 a.m. on Wednesday, May 10, 2017, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E 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 Kelvin Atkinson, Chair
Senator Pat Spearman, Vice Chair
Senator Nicole J. Cannizzaro
Senator Yvanna D. Cancela
Senator Joseph P. Hardy
Senator Heidi S. Gansert

COMMITTEE MEMBERS ABSENT:

Senator James A. Settelmeyer (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Nelson Araujo, Assembly District No. 3
Assemblyman Edgar Flores, Assembly District No. 28

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Bryan Fernley, Counsel
Christine Miner, Committee Secretary

OTHERS PRESENT:

Ruben Murillo, President, Nevada State Education Association
Warren B. Hardy II, Nevada Restaurant Association

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Tray Abney, The Chamber; Retail Association of Nevada
 Paul Moradkhan, Las Vegas Metro Chamber of Commerce
 Marcos Lopez, Field Director, Generation Opportunity, Nevada Chapter
 Ryan Uhlmeyer, Americans for Prosperity - Nevada
 Ronald Najarro, The LIBRE Initiative, Nevada Chapter
 Randi Thompson, Nevada State Director, National Federation of Independent
 Business
 Elliott Parker
 Steven Gleicher, Right at Home
 Brian O'Callaghan, Las Vegas Metropolitan Police Department
 Mike Ramirez, Las Vegas Police Protective Association Metro, Inc.
 Ryann Juden, City of North Las Vegas
 Daniel Hansen, Office of the City Manager, City of Reno
 Kelly Crompton, City of Las Vegas
 Phyllis Gurgevich, Nevada Bankers Association
 Tiffany Banks, Nevada Association of Realtors
 David B. Sanders, Greater Las Vegas Association of Realtors
 Tennille Pereira, Legal Aid Center of Southern Nevada
 Jon Sasser, Legal Aid Center of Southern Nevada
 Mike Dyer, Director, Nevada Catholic Conference
 William Horne, Advanced America; Enova International
 Alisa Nave-Worth, Moneytree; Check City; Check-Into-Cash; QC Financial
 Sean Higgins, Dollar Loan Center
 Stacey Shinn, Progressive Leadership Alliance of Nevada
 Michael Hillerby, LoanMax Title Loans
 Keith Lee, Community Loans of America, Inc., Board of Medical Examiners
 Allan Smith, Lutheran Engagement and Advocacy in Nevada
 Rusty McAllister, Nevada AFL-CIO
 Jason Mills, Nevada Justice Association
 Mark Joseph
 Ron Dreher, Nevada Law Enforcement Coalition; Police Officers Research
 Association of Nevada
 Michael Sean Giurlani, President, Nevada State Law Enforcement Officers'
 Association
 Paul Enos, Nevada Self-Insurers Association
 Jim Werbeckes, Employers Insurance Group
 Priscilla Maloney, American Federation of State, County and Municipal
 Employees - Retirees

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Marlene Lockard, Service Employees International Union Local 1107; Las Vegas
 Police Protective Association Civilian Employees
 Ryan Beaman, Clark County Firefighters Union Local 1908
 Rick McCann, Nevada Association of Public Safety Officers
 Todd Ingalsbee, Professional Fire Fighters of Nevada
 Robert Balkenbush, Public Agency Compensation Trust
 Les Lee Shell, Director, Office of Risk Management, Department of Finance,
 Clark County
 David Cherry, City of Henderson
 Jeff Fontaine, Nevada Association of Counties
 Ana M. Andrews, Risk Manager, Risk Management Division, Department of
 Administration
 Susan Fisher, State Board of Osteopathic Medicine
 Catherine M. O'Mara, Executive Director, Nevada State Medical Association

CHAIR ATKINSON:

We will open the hearing on Senate Joint Resolution (S.J.R.) 6.

SENATE JOINT RESOLUTION 6: Proposes to amend the Nevada Constitution to
 provide for certain increases in the minimum wage. (BDR C-867)

SENATOR YVANNA D. CANCELA (Senatorial District No. 10):

In 2006, Article 15 of the Nevada Constitution was amended to include section 16 which established a State minimum wage. On the effective date, an employer was required to pay a wage of \$5.15 per hour if the employer provided health benefits, and \$6.15 per hour if the employer did not provide health benefits. Wages are adjusted annually by July 1 by the amount of increase in the federal minimum wage over \$5.15 per hour or, if greater, by the cumulative increase in the cost of living as measured by the percentage increase by the Consumer Price Index. This information is published by the U.S. Department of Labor.

Currently, the minimum wage for Nevada employees with health benefits is \$7.25 per hour, while the minimum wage for all other employees is \$8.25 per hour. Senate Joint Resolution 6 proposes to amend the State Constitution to increase the minimum wage to \$9 per hour. Beginning January 1, 2022, the minimum wage must be increased by \$.75 per hour each year until the minimum wage is \$12 per hour. Tips or gratuities received by employees must not be credited as being any part of or offset against the minimum wage rate.

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If, at any time, the federal minimum wage is greater than the amount calculated under S.J.R. 6, the minimum wage in Nevada must equal the federal minimum wage. Further, the Legislature is authorized to increase the minimum wage to an amount higher than the minimum wage calculated under this proposed law.

This Resolution also proposes to amend the Constitution to remove the provisions authorizing an employer and an employee to waive the minimum wage requirement in a collective bargaining agreement. A collective bargaining agreement entered into, extended or renewed on or after the effective date of this amendment cannot waive the requirement to pay the minimum wage set forth in S.J.R. 6.

Finally, S.J.R. 6 authorizes an action against an employer for violating the minimum wage requirement be brought as a class action lawsuit and provides that an employee who prevails in an action for a violation of the minimum wage law is entitled to damages in an amount equal to three times the amount the employee would have been paid if the employer had complied with the minimum wage requirement.

RUBEN MURILLO (President, Nevada State Education Association):
The Nevada State Education Association supports S.J.R. 6. I will read from my written testimony ([Exhibit C](#)).

SENATOR GANSERT:

Are the bus drivers and so forth making less than minimum wage?

MR. MURILLO:

Yes, the wage is lower in parts of the State. In Clark County, the wage is \$15.05 per hour. There are paraprofessionals in some segments of our education community making less.

SENATOR GANSERT:

Are they making less than \$15 per hour, or less than the \$7 or \$8 per hour?

MR. MURILLO:

Less than \$15 per hour. The living wage has been estimated in Clark County to be \$15.05 per hour. There are many people making less than that amount.

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SENATOR GANSERT:

So they are not making less than minimum wage, they are making less than the living wage.

CHAIR ATKINSON:

I have written testimony in support of S.J.R. 6 from Janette Dean ([Exhibit D](#)).

WARREN B. HARDY II (Nevada Restaurant Association):

Since the minimum wage has been placed in the Constitution, we have argued before that this is the method to continue the minimum wage legally or to have the debate. The most important commodity to any business, particularly for restaurants, is a happy satisfied employee. In the restaurant industry, employees are the public face of the establishment. It is an advantage to have a happy employee and significant disadvantage to have an unhappy one. The motivation is to have happy employees. The restaurant industry utilizes minimum wage more than any other industry for entry level workers. It views minimum wage as the bottom rung of the economic ladder. Statistics show that 70 percent of those individuals who started as servers or as minimum wage employees go on to upper senior management positions or even owning restaurants. The advancements are significant.

Restaurant minimum wage employees, in some cases, make \$60,000 per year and up. Law requires servers be paid a minimum wage, but these are tipped employees. The correct method to address the minimum wage in Nevada is in the Constitution. From that perspective, the Association does not have any objection. Before the law goes public, the concern is with the prospect of putting damages and penalties in the State Constitution. That is the objection of the Association. Putting the penalty provision into the Nevada Constitution sets a dangerous precedent.

The members of the Association do not object to reasonable increases in minimum wage as long as they are accompanied by a tip credit. The tip credit provision is used significantly in other states. It allows individuals to receive at least minimum wage, based on their tips and other income, but does not put additional burdens on the employers. The biggest challenge in the industry is with regard to its 2 percent to 3 percent profit margin. Many employees make very good livings. The industry would prefer to take any additional revenue to pay higher wages to the back-of-the-house employees.

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TRAY ABNEY (The Chamber; Retail Association of Nevada):

The Chamber and the Retail Association of Nevada oppose this resolution and have concerns. The Chamber and the Association approve of the language authorizing the Legislature to increase the minimum wage. These organizations never agreed that minimum wage be set in the Constitution. This is an amendment to our Constitution. The Constitution has two purposes: limit government and articulate the freedom of the citizens living under that Constitution. The fact the resolution includes treble damages and private rights of action always causes concern, especially when referring to the State Constitution.

The removal of the health care credit for minimum wage is concerning. That provision was put in to provide incentive for employers to provide health care to employees.

The resolution would be more palatable to restaurant owners if it included tip credits. I have spoken to restaurant people, and some of their servers make minimum wage but are actually making \$25 to \$30 per hour with tips. In the meantime, the cooks and back-of-the-house employees are making just above minimum wage, or \$10 to \$12 per hour. A tip credit would make wage increases more palatable to small business owners. The daily overtime rules which negatively affect employers and employees are still concerns of The Chamber and the Retail Association.

PAUL MORADKHAN (Las Vegas Metro Chamber of Commerce):

The Las Vegas Metro Chamber of Commerce is concerned with the removal of the health care credit in section 16 of Article 15 of the Nevada State Constitution, subsection 1 on page 2 of S.J.R. 6. The Chamber is also concerned with damages and penalties defined in subsection 5 of the proposed changes to the State Constitution.

When minimum wages increase, direct costs to employers increase as well in Modified Business Taxes, unemployment insurance and workers' compensation. The increases in overall costs to employers are direct correlations which cannot be looked at separately but should be looked at holistically. There are components of benefit packages and salary costs to be taken into consideration.

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MARCOS LOPEZ (Field Director, Generation Opportunity, Nevada Chapter):

I am the Field Director for the Nevada Chapter of Generation Opportunity, a nonprofit organization that advances policy change, holds policymakers accountable, fights for opportunity and defends the freedoms of young Americans in Nevada. On behalf of young people across Nevada, I urge this Committee to reject S.J.R. 6, which would initiate a ballot referendum to raise the minimum wage.

When Washington, D.C., Oakland, Los Angeles, San Francisco, Seattle and Chicago raised their minimum wage rates, job creation dropped to its lowest in the last five years in the leisure and hospitality sector. Many minimum wage jobs fall within this field, which includes restaurants and hotels. As job opportunities diminished in these areas, unskilled workers began to leave for other cities around the Country searching for jobs. According to Joan Monras of the Paris Institute of Political Studies, these are not isolated incidents. Areas that increase minimum wages routinely see a reduction in the number of unskilled workers. Paradoxically, the young and unskilled workers that minimum wages are designed to help are the first to flee whenever the policies are implemented.

The impacts of raising Nevada's minimum wage to \$12 per hour will be far more destructive. The damage will not be limited to restaurants. Everyone from retail workers to gas station employees will be affected by this law. As employees become more expensive to hire, business owners will turn to automation to do the work. This will not only put individuals out of work but will disproportionately impact those who have just begun acquiring the skills necessary to succeed in the workplace. Making matters worse, average wages in the cities I just mentioned are higher than in Nevada, so even their disastrous jumps were not as serious as what will soon happen in our State if we go down the same path.

Even armed with the best of intentions, we cannot make young workers better off just by passing a law to mandate higher wages. Experiment after experiment has shown that when government dictates to employers what they must pay, younger and less experienced workers are hurt the most. When the government artificially increases the costs to hire and retain workers, businesses are forced to choose between raising prices, laying off workers or closing up shop, hurting exactly those whom the law was intended to help.

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Economic conditions in Nevada vary greatly by region, and the Legislature should be wary of one-size-fits-all approaches. Voters in wealthier cities should not be able to dictate how much employees in rural areas are paid and vice versa. To create a ballot referendum that would bind the entire State with one policy would deprive voters of the right to set minimum wage rates that are right for them.

On behalf of Generation Opportunity and those we represent in Nevada, I urge you to reject the one-size-fits-all approach that will allow big cities to dictate policy for the rest of the State.

SENATOR SPEARMAN:

Where did you find the statistics quoted in your testimony regarding Washington, D.C., and other cities? I would like a copy.

MR. LOPEZ:

The statistics came from various studies. The primary study came from a report by Joan Monras of the Paris Institute of Political Studies. I will supply the Committee with copies of the studies used for this testimony.

RYAN UHLMAYER (Americans for Prosperity - Nevada):

Americans for Prosperity is the Nation's largest free market advocacy group. It opposes S.J.R. 6. I will read from my written testimony ([Exhibit E](#)).

SENATOR SPEARMAN:

You mentioned union and progressive activists' motivation for supporting minimum wage. How many of them have you spoken with and have they told you of their motivations? Or is this hyperbolic?

MR. UHLMAYER:

I have not personally had anyone tell me this exactly.

SENATOR SPEARMAN:

Anything similar?

MR. UHLMAYER:

No, not to me personally.

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SENATOR SPEARMAN:
How did you arrive at your conclusions?

MR. UHLMAYER:
"It is apparent with the way these people ..."

SENATOR SPEARMAN:
No. You made a statement and expect this Committee to believe it as truthful.
So, how do you know that?

MR. UHLMAYER:
I will provide more information to you.

RONALD NAJARRO (The LIBRE Initiative, Nevada Chapter):
The LIBRE Initiative is a nonprofit, nonpartisan organization that advances the principles of economic freedom to empower the U.S. Hispanic community. It opposes S.J.R. 6. I will read from my written testimony ([Exhibit F](#)).

RANDI THOMPSON (Nevada State Director, National Federation of Independent Business):
The National Federation of Independent Business opposes S.J.R. 6. I will read from my written testimony ([Exhibit G](#)). The average wage provided by most small businesses is \$11 per hour. As minimum wage is raised, all wages are raised. I previously testified and expressed the views of the Federation on minimum wage at the hearing for S.B. 106.

SENATE BILL 106: Requires certain increases in the minimum wage paid to employees in private employment in this State. (BDR 53-865)

CHAIR ATKINSON:
How many businesses have closed since September?

MS. THOMPSON:
Sixty restaurants in the San Francisco Bay Area have closed since San Francisco implemented its minimum wage law.

CHAIR ATKINSON:
Are you attributing the closings to the raise in minimum wage?

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Ms. THOMPSON:

It is blamed especially due to high costs. It is not the only reason, but the article in [Exhibit G](#) references the minimum wage increase as the cause of restaurant closures. This was also seen in Seattle when that city implemented its minimum wage increase. It experienced a loss of 12,000 jobs in the first 6 months. It balances out as the economy returns. In Seattle, restaurants left the area.

SENATOR SPEARMAN:

What are the other intervening factors for the restaurant closures in the San Francisco Bay Area? What was the percentage correlation to the closing of the businesses?

Ms. THOMPSON:

I do not have the data specifically. The article states the high cost of living in San Francisco and the increase in wages caused restaurant closings. I will provide further information.

SENATOR SPEARMAN:

I will read from the abstract of a paper by the National Bureau of Economic Research. It relates to family values. The title is "Effects of the Minimum Wage on Infant Health," by George Wehby, Dhaval Dave and Robert Kaestner, June 2016:

The minimum wage has increased in multiple states over the past three decades. Research has focused on effects on labor supply, but very little is known about how the minimum wage affects health, including children's health. We address this knowledge gap and provide an investigation focused on examining the impact of the effective state minimum wage rate on infant health. Using data on the entire universe of births in the US over 25 years, we find that an increase in the minimum wage is associated with an increase in birth weight driven by increased gestational length and fetal growth rate. The effect size is meaningful and plausible. We also find evidence of an increase in prenatal care use and a decline in smoking during pregnancy, which are some channels through which minimum wage can affect infant health.

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ELLIOTT PARKER:

I am a professor of economics at the University of Nevada, Reno. I received my Ph.D. in economics from the University of Washington. I have taught economics for 25 years. I am in favor of S.J.R. 6. On March 13, I published a column on minimum wage in *The Nevada Independent*.

The national minimum wage has failed to keep up with inflation for the last 50 years. The U.S. Congress rarely increases it and has not indexed it to price inflation like they have social security benefits. Nevada's constitutional amendments of 2004 and 2006 did index the wage to inflation but at lower wages than current federal minimums.

Adjusting for inflation, the 1968 minimum wage was about \$10.90 in 2017 dollars. Unemployment rates were very low then, about 3.4 percent, suggesting that perhaps a high minimum wage does not necessarily lead to high unemployment. Both minimum wage and the median wage have stagnated since 1980 and have failed to keep up with the productivity of average workers. During this period, income inequality has grown significantly.

I will focus on a \$12 wage because the evidence is clearer at that level. While I might personally support a higher wage of \$15, there is less research and precedent for it, so it is harder to draw conclusions. By the time a \$12 minimum wage phases in, it will be worth about \$10.35 in today's dollars. In real terms, it was higher 50 years ago. Comparing the minimum wage to the median wage in each country, the U.S. currently has the lowest minimum wage of any developed market economy in the world. A \$12 wage would bring us closer to average.

There have been many estimates of the elasticity of labor demand for low-income workers. A high-side estimate is around 0.2, meaning that at worst a 25 percent increase in real minimum wage would mean 95 percent of minimum wage workers would be better off, but 5 percent of them would not be able to find jobs. That is the worst-case scenario.

Many other elasticity estimates are much lower and suggest the employment effect would be even smaller, maybe even zero. In theory, there are good economic reasons for this. If firms can pay lower wages without having all of their best workers leave, then it is possible that raising the wage could increase

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employment. Better-paid workers also tend to work harder and be more productive.

Nationwide, 3 million workers, fewer than 4 percent of wage workers, earn minimum wage or less. In Nevada, the number is 20,000, about 2.5 percent of wage workers. There are many more who earn a wage only a little above the minimum, and they will also be affected. Adults who get pay increases are less likely to need food stamps or other government support, as a significant increase in the minimum wage will pull large numbers out of poverty. This should put less of a burden on the State budget for social services. The minimum-wage workers tend to spend all of their disposable income. This can be helpful during a recession because it provides demand for goods and services that other low-wage workers produce.

As a Nevada voter and concerned citizen, I support increasing the minimum wage because no adult who works fulltime should live in poverty. As an economist who has examined the published evidence, I am confident the positive consequences of a \$12 minimum wage, indexed to inflation, will far outweigh any negative consequences.

CHAIR ATKINSON:

Are you able to evaluate the difference between \$12 and \$15 per hour in Nevada?

MR. PARKER:

There is not enough evidence to do this. Other countries have it. There are few examples of \$15 per hour outside of Seattle. It is difficult to make a direct comparison to Nevada.

CHAIR ATKINSON:

Is California at \$15 per hour and Arizona at \$12 per hour? Are they doing this on a scale? Do you have information on why they chose those numbers?

MR. PARKER:

The amounts of increases in minimum wages are political decisions. The effects are difficult to examine until the policies have been in place for a while.

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SENATOR SPEARMAN:

I will read an excerpt from an abstract in the *Forum For Social Economics*, "The Minimum Wage, Bargaining Power, and the Top Income Share," March 2016, by Dr. Liam C. Malloy, "... higher top marginal tax rates, are successful in reducing overall income inequality, mainly by reducing the share of income going to the top 1% of the income distribution."

STEVEN GLEICHER (Right at Home):

Medicaid has not raised its personal care agency rates in over a decade. Personal care agencies are paid \$17 per hour to provide Medicaid services. There are 3 million hours of Medicaid services being provided in Nevada. If minimum wage is raised without raising the reimbursement to the personal care agencies, these agencies will go out of business. The State cannot raise \$4 per hour of agency costs and not raise agency revenues. Consider the impact of this. There are no kiosks and no electronics. The one-on-one personal care agencies that provide to those in need cannot be replaced.

SENATOR CANCELA:

The tip credit issue creates unpredictable wages for workers. It puts employees in a situation, for example, of making \$200 one week and less than that the next week. Wages are no longer tied directly to the employer but are tied to the amount of the worker's tips. If the restaurant is slow, these individuals earn less. This treatment of employees and these life styles lead to unpredictable family lives and is very hard for employees to design their lives. This is one reason a minimum wage is so important. It disproportionately affects women workers who make up two-thirds of the tip jobs in Nevada and in the Country. Minimum wages create situations in which employees do not have to worry about whether they will be making more money this week and less money the next week. Stability is created across the board which creates happier employees.

If employers abide by the law, the damages provision to an employer will not apply. There have been those employers who have not abided by the law, and there needs to be recourse for workers. The damaging behavior affects the entirety of the workforce. The provision protects workers and employers from unpredictability in the process of how recourse should happen.

Much of the discussion on minimum wage is how it affects jobs. The reality is there are studies in favor and studies against its influences. Only in recent

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history have we seen minimum wage increases happen. It is difficult to obtain conclusive data. What is conclusive is looking at numbers. Arizona increased the minimum wage from \$8 to \$10 per hour and will reach \$12 per hour in 2020. This year, 7,800 new jobs have been created in the restaurant and bar sector. This is according the State of Arizona Office of Economic Opportunity. These are undeniable numbers. Data can be represented one way or another. The LIBRE Initiative, which funded its own study, was largely funded by the Koch brothers group. It is easy to see why the conclusions were drawn from its study. It is hard to create change. Raising the minimum wage is one instance in which taking the risk on workers who are most vulnerable is necessary for Nevada.

CHAIR ATKINSON:

We will close the hearing on S.J.R. 6 and open the hearing on Assembly Bill (A.B.) 161.

ASSEMBLY BILL 161 (1st Reprint): Revises provisions relating to certain rental agreements. (BDR 10-733)

ASSEMBLYMAN EDGAR FLORES (Assembly District No. 28):

I will present A.B. 161. There are issues in my District about the removal of individuals who occupy homes unlawfully. These individuals are called squatters. I proposed A.B. No. 386 of the 78th Session. I worked with a judge, law enforcement, Realtors, the Nevada State Apartment Association and the Legal Aid Center of Southern Nevada to understand why we were unable to do anything with regard to the squatter issue. Prior to last Session, everything in law dealt with landlord-to-tenant relationships. A squatter is neither a landlord nor a tenant. Last Session, definitions were created in law to help the courts and law enforcement and, essentially, created the crime of squatting. Today, through communications with law enforcement, I have found it is necessary to do more.

One issue is training law enforcement. New laws do not automatically fix everything. The learning curve for law enforcement is difficult. There is still the issue of law enforcement showing up to the door of a suspected squatter home with the intent of removing the individual unlawfully occupying a property. The police officer is unable to find the rightful owner, and the occupant often shows the officer a fake lease. How do we give law enforcement a tool to circumvent the fake lease? Assembly Bill 161 will address this issue. The bill will not fix the

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problems. It is meant to give law enforcement another tool to address the squatter issues, which are ever-growing in southern Nevada.

After discussions with stakeholders, the bill has been modified. I want to create a rebuttable presumption that if the lease is not notarized, does not have the landlord's name, address and phone number, the individual is not lawfully occupying the dwelling. When law enforcement knocks on the door of a suspected dwelling, and a lease is presented, there are two things the officer can do. One is to check if the lease is notarized. If not, it triggers the rebuttable presumption that the dweller is not lawfully occupying the dwelling. It can be rebutted by the dweller by providing the landlord information, proof of monthly payment and so forth. If the occupant cannot provide this information, then the officer will move forward with an investigation.

Section 1, subsection 4, paragraph (b) states,

The agreement is valid and enforceable against the landlord and the tenant regardless of whether the agreement: (1) Is notarized; or (2) Includes the current address and telephone number of the landlord or his or her authorized representative.

The reason this is included is because there may be a person who rents a property and the agreement is sometimes renewed by email. In the absence of a notarized lease, it does not automatically make the lease invalid. It creates the rebuttable presumption. The bill is strictly offering a tool for law enforcement. No one gets penalized for not following the notarization and landlord information provision.

Subsection 7 specifically excludes commercial buildings, apartments and condominiums from the bill. The squatter problem is primarily related to single-family residences. There is a proposed amendment being submitted by the Nevada Realtors Association. We are looking at it but at this time, it is not considered a friendly amendment. It is my intent to work out their issues.

BRIAN O'CALLAGHAN (Las Vegas Metropolitan Police Department):

There are four victims a detective looks at in his or her investigation into a squatter complaint. The first is the investor or landlord who lives in town, owns a second home as a rental, and discovers a squatter in the home. These situations are easy investigations because the owners are available. The

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second is the bank-owned situation. The asset manager overseeing the home has the proper paperwork. The third are the homeowners associations or neighbors. These are difficult and time-consuming investigations. It is known a house is vacant and suspicious activity is reported. It is a challenge for law enforcement to perform title searches and find ownership on vacant homes. In some circumstances, individuals walk away from their homes when their homes are in foreclosure. The banks owns the homes, but there are no victims. The fourth is the absentee owner. For example, a home could be in probate and family members know the individuals in the home are there unlawfully, but there is no written document showing ownership of the home.

Since the new squatting law was implemented after the Seventy-eighth Session, there have been 148 cases and over 50 arrests. In my presentation ([Exhibit H](#)), I will illustrate how the squatter situation affects the quality of life for our citizens. Traditionally, the problem of squatters was a civil matter. Squatter reports are increasing, and many of the squatter homes have criminal activity associated with them. I will read from the presentation the various instances of violence in various properties in the Las Vegas area. This illustrates the problem of squatters and how it affects the entire region.

If a person commits a burglary by breaking into a home, it is a felony. If a person takes over a vacant property as a squatter, it is a gross misdemeanor on a first offense. On the other hand, if a person breaks into a car, it is a felony.

ASSEMBLYMAN FLORES:

Law enforcement is highlighting their frustration with the act of squatting being considered a gross misdemeanor. They would prefer it to be otherwise. They are justified in their argument that the penalty is disproportionate to the crime and the crimes resulting from the squatting situations.

Assembly Bill 161 does not address or change any penalties. The purpose of the bill is to give tools to law enforcement to make it easier and more efficient to weave out who is a squatter and who is not. If the notary stamp on a lease is fake, that in itself is a crime. It allows law enforcement to accuse the suspects not only of squatting but also the crime of falsifying a document. It opens doors for law enforcement to enforce Nevada's laws.

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As a protection to a renter, section 1, subsection 4 states the lease must contain a disclosure saying if the agreement is not notarized and does not have the three validating factors, there is a rebuttable presumption against the renter.

CHAIR ATKINSON:

There is a difference between a residential property versus a leasing company that rents an apartment. Apartments have on-site managers who can tell if there are squatters. Does this apply to apartment complexes?

ASSEMBLYMAN FLORES:

It does not apply to apartment complexes, condominiums or commercial buildings. The intent is to go where the issue is and that is with single-family residential homes.

CHAIR ATKINSON:

What responsibility does the homeowner carry to make it easier for law enforcement? You mentioned a lease should have the name, address and phone number of the landlord. Why is that?

ASSEMBLYMAN FLORES:

A fake lease could contain a fake name and a fake phone number. Since there is no guidance on how to verify leases and there is no mandate on what information is required on leases, law enforcement must investigate to find the real landlord. It is a nightmare for investigators. Requiring the name, address and phone number of the landlord on the lease allows law enforcement to expedite what is now a very long and tedious process in investigating squatting problems.

If the lease is not notarized and does not have the required landlord information, it does not mean the lease is no longer enforceable. For investigative purposes only, there is a rebuttable presumption the person is not authorized to be in the home. A person can easily rebut that by providing landlord information and demonstrating proof of residency.

CHAIR ATKINSON:

How would law enforcement make contact with the landlord? Do they call the number from the lease? How would the officer know it is the landlord he or she is actually speaking with?

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MR. O'CALLAGHAN:

The officer will call and possibly meet with the landlord and ask certain questions through the investigation to vet the person.

CHAIR ATKINSON:

So, would the officer meet with the landlord?

MR. O'CALLAGHAN:

That is correct.

SENATOR HARDY:

With the instances of violent and criminal activity, how does law enforcement approach the homes?

MR. O'CALLAGHAN:

There are hot spots where most of the squatting is being done and where the criminal activity is taking place. Law enforcement does not know on a call for service who will be confronted. The investigation will vet out if it is a false lease which could eventually result in a search warrant. That is when the criminal activity reveals itself.

SENATOR HARDY:

If the tax rolls were available, is this an easy way to find who owns a property?

MR. O'CALLAGHAN:

That is one way. The tax rolls may be available, but the owner may live in another state.

SENATOR HARDY:

This bill gives the officer tools to find the owner, but it does not make squatting a felony. Why are we not doing something more about the squatter breaking the law?

ASSEMBLYMAN FLORES:

There are two types of victims with regard to the squatting issue. The typical scenario is the property owner. The person owns a home, yet does not know there is a squatter in the home or is having trouble getting that person out of his or her home. This is the primary scenario the bill addresses. The other scenario is when there are two victims: the property owner and the renter. A renter may

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be renting from someone who is not the actual property owner. The person acting as the property owner is renting the property on a false basis. In this case, the renter is the victim and is the person we want to protect.

If a law enforcement officer knocks on the typical person's door and asks for information, normally a person has no problem producing landlord information. Someone who is there unlawfully can give out the information or not. There is no law saying it is mandatory. This bill will create a pathway for law enforcement to lawfully force the issue.

Why are we not treating the squatters as felony law breakers? I do not want to go there yet. I do not know that treating the squatting problem as a felony automatically is the correct way to deal with this. I do not have all of the data on the squatter, who perhaps does not realize he or she has a lease with a bad actor. I am also concerned with situations in which people are staying in their homes, for example, for a foreclosure caused by hard times. I do not want to put a felony on people in these situations.

The first offense for squatting is a gross misdemeanor. A second offense is a felony by law. If a person has a history of squatting, that person is acting willfully and taking advantage of the law and playing the system. These are the people we are after. I will work with law enforcement for the next two years to see how the data works and how the law unveils itself. The future may bring stricter consequences for squatters.

SENATOR HARDY:

Where in the bill does it address the false landlord?

ASSEMBLYMAN FLORES:

Section 1, subsection 4 provides the requirement for the disclosure language on the first page of the agreement. This is there to protect the renter.

SENATOR HARDY:

I want to know about the false landlord. Where is this addressed in the bill?

ASSEMBLYMAN FLORES:

That is not in the bill. There are three other statutes that would apply to that person. Forgery is one of them.

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SENATOR HARDY:

So, are there laws in place that would apply to them?

ASSEMBLYMAN FLORES

There are other laws we can use for the crimes they are committing.

MR. O'CALLAGHAN:

The gross misdemeanor offense for squatting begins the process. We do not want to go down the felony road this Session. It is a rare occurrence for a person to issue a false lease to a renter. In the case I presented on this, the management people assisted the renters in finding another dwelling. It was difficult to find the false landlord because the arrangement was dealt with in cash. There were no names or information to follow up on.

MIKE RAMIREZ (Las Vegas Police Protective Association Metro, Inc.):

The Las Vegas Police Protective Association Metro, Inc., supports A.B. 161. I work graveyard, and the resources are limited at 1:00 a.m. or 2:00 a.m. on who can be called and what can be looked at. This bill will benefit officers with the provision for providing the name, address and phone number of the owner. If the owner is local, another police unit can be sent to knock on the door of the landlord if the phone is not answered. This will help resolve the problem. Nine out of ten times, squatters will leave the premises when the real homeowners appear. Most of the crime in these situations happens after law enforcement leaves. If the perpetrators vacate, they can come back and often vandalize the property. It is an unknown factor when law enforcement approaches the door of a suspected squatter property. This bill is a step toward resolving the issue little by little.

RYANN JUDEN (City of North Las Vegas):

The city of North Las Vegas supports A.B. 161. Squatting is an issue we have been dealing with in North Las Vegas, and it has a squatter task force. It has been successful in dealing with this issue, but any additional tools provided will help. Our police department is strained on resources, and our detectives are working on many cases. This tool will help the police quickly determine if the individuals in a home are there lawfully.

DANIEL HANSEN (Office of the City Manager, City of Reno):

The city of Reno supports A.B. 161.

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KELLY CROMPTON (City of Las Vegas):

The city of Las Vegas supports A.B. 161. The additional tool for our code enforcement officers who work in conjunction with the Las Vegas Metropolitan Police Department (LVMPD) will help them deal with squatter issues.

PHYLLIS GURGEVICH (Nevada Bankers Association):

The Nevada Bankers Association works with different municipalities, law enforcement and task forces to prevent and deal with squatter issues in Nevada, particularly southern Nevada. Law enforcement carries the biggest burden. The Nevada Bankers Association supports A.B. 161 for providing additional tools to our law enforcement.

CHAIR ATKINSON:

I have written testimony from Chris Giunchigliani, Clark County Board of County Commissioners in support of A.B. 161 ([Exhibit I](#) and [Exhibit J](#)).

TIFFANY BANKS (Nevada Association of Realtors):

The Nevada Association of Realtors opposes A.B. 161. It is proposing an amendment ([Exhibit K](#)). The Association supports protecting private property rights and the work being done to remove squatters. The disclosure portion of the bill is of concern. The bill has an impact on all landlords, the small mom-and-pop landlords as well as real estate licensees. Our amendment will remove the disclosure requirement if the agreement is signed by an authorized agent properly licensed under *Nevada Revised Statutes* (NRS) 645. If the agreement is signed by a licensee, anyone can look the licensee up on the Website of the Real Estate Division of the Department of Business and Industry which maintains a list of active properly licensed agents. It is available 24 hours per day. In NRS 118A.260, the tenant must have the landlord or authorized agent contact information. Standard leases also require that information. This amendment will not change this or the fact that a properly signed lease, not notarized, is still valid and enforceable. A contract is a contract regardless of whether it is notarized. This amendment does not change the rebuttable presumption provision. The amendment can give the Real Estate Division an avenue to pursue a fake licensee.

SENATOR HARDY:

If a mom-and-pop landlord does not have a real estate agent but puts his or her name and address on the lease, is that the same thing as the real estate agent being able to put his or her name and address on the lease?

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Ms. BANKS:

The Association considers it the same. We are seeking the exemption for Nevada Real Estate Division licensees.

SENATOR HARDY:

Are you after the mom and pops, not the real estate licensee?

Ms. BANKS:

We would like to protect everybody, but a licensee is easier to look up on the Real Estate Division Website. Exempting the licensee from the disclosure provision would be applicable.

SENATOR HARDY:

I understand what you are saying. Consider the mom-and-pop landlord who has another house and provides his or her name and address on the lease. I do not see the difference between the nonnotarized mom-and-pop lease and the nonnotarized real estate agent lease. The police could call either of them.

Ms. BANKS:

I am speaking specifically to the disclosure portion of the bill. The concern is every property manager who sees the provision will default to having to get every lease notarized.

SENATOR GANSERT:

Is that accurate that a lot of absentee owners use agents to help them with their properties? Would this help with the ease of locating someone who could substantiate or support a lease? Is the purpose of the amendment because your members have information readily identifiable on an online published list?

Ms. BANKS:

A tenant is required to have the information of either the current landlord or the authorized agent according to NRS 118A.260. Our amendment would release the agent from having to put the disclosure on the top of the lease saying if the lease is not notarized it creates a rebuttable presumption.

SENATOR HARDY:

What is the difference between a real estate agent supplying contact information on the lease and a mom and pop putting a name and address on the lease?

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MS. BANKS:

The difference would be the licensee information is readily available, including the licensee name and license number. If law enforcement sees that, they can go to the Division Website and confirm if the licensee information is valid and if that person is an active or inactive licensee. In a mom-and-pop situation, the police would seek contact with the person.

SENATOR HARDY:

If the mom-and-pop business has a Website accessible at any time, is there a difference?

MS. BANKS:

Yes. The Real Estate Division Website ensures the person is properly licensed under NRS 645.

SENATOR HARDY:

So, are we going to have to license every mom and pop?

MS. BANKS:

No.

CHAIR ATKINSON:

Is this amendment considered unfriendly?

ASSEMBLYMAN FLORES:

Yes.

DAVID B. SANDERS (Greater Las Vegas Association of Realtors):

In 2015, when the original squatter bill was passed, I met with some representatives of the LVMPD and created a series of forms to assist them in investing the squatting issues. At the same time, it ensured the members of the Greater Las Vegas Association of Realtors would avoid any potential confrontation or violence at a squatter home. The documents were created in conjunction with LVMPD. These documents contain all of the requirements of the new bill except the notarizing and disclosure provisions. There is a single-page owner authorization form that the owner of a home executes authorizing the real estate professional to file the related documents with the LVMPD. There is a document from the licensee already created in conjunction with the Henderson Police Department and LVMPD which establishes the

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authorization. The forms created provide a great relationship with LVMPD, address most of the concerns and allow LVMPD to investigate the squatting crimes as well as ensure the safety of the real estate professionals.

SENATOR HARDY:

Do you feel notarization is not necessary because the forms you provide already give what the police need?

MR. SANDERS:

The documents being provided to LVMPD already address most of the concerns. The private-public partnerships the Association has with LVMPD and Henderson Police are positive ones. Owner information is supplied to investigators. The Association members are instructed not to contact patrol officers but to take the information to LVMPD's local substation or to the Henderson Police headquarters. We work in conjunction with law enforcement to maximize police resources. These documents provided by the real estate professional to the police contain most of the information the police need to get a jump start on an investigation.

SENATOR HARDY:

Is this duplicated in Reno, North Las Vegas and other parts of the State?

MR. SANDERS:

The Association has had discussions and is working directly with the North Las Vegas Police Department, and I have been personally invited to speak at their squatter task force. This police department has chosen not to use our forms. I cannot speak of what happens in northern Nevada, but am willing to share the forms with real estate professionals throughout the State.

SENATOR HARDY:

If LVMPD does not have this form, by definition, the person who is squatting is squatting. Can actions be taken?

MR. SANDERS:

In the packet, there is a document being executed by an individual submitting a police report claiming the person on the property is there unlawfully. It is a crime in Nevada to file a false police report. Documentation in the packet from the real estate people address the concerns.

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THE MOTION PASSED. (ASSEMBLYMEN HANSEN AND TOLLES
VOTED NO.)

Chair Bustamante Adams:

I will assign the floor statement to Assemblywoman Jauregui. The next bill we will consider is Assembly Bill 149.

Assembly Bill 149: Revises provisions relating to noncompete provisions in employment contracts. (BDR 53-316)

Kelly Richard, Committee Policy Analyst:

Assembly Bill 149 was heard in this Committee on February 27, 2017, and was sponsored by Assemblyman Carrillo ([Exhibit K](#)).

The bill codifies the standard established by the Nevada Supreme Court to determine whether a noncompetition covenant is reasonable and enforceable. Additionally, A.B. 149 provides that a noncompetition covenant is unenforceable if it prohibits an employee from competing with or becoming employed by a competitor for more than three months.

Staff has received the attached amendment [page 2, ([Exhibit K](#))]. The amendment makes unenforceable a noncompetition covenant that prohibits an employee from pursuing a similar vocation in competition with or becoming employed by a competitor of his or her employer that is proportional to the valuable consideration supporting the noncompetition covenant. The three-month restriction is thereby removed. Additionally, the amendment specifies that an employer who negotiates, executes, or attempts to enforce a noncompetition agreement that is void and unenforceable does not violate the provisions of *Nevada Revised Statutes* (NRS) 613.200.

Chair Bustamante Adams:

Are there any questions from Committee members?

Assemblyman Paul Anderson:

We heard this bill a while back, and I have not really had a chance to digest the amendment. Perhaps this may be a question for legal, but is there anything in the amendment that is different from the Nevada Supreme Court's decision? Are we adding or subtracting from their decision when it comes to the noncompete agreements?

Wil Keane, Committee Counsel:

Section 1, subsection 1(a) through 1(c) of the proposed amendment is an exact codification of the existing Nevada Supreme Court standard. Section 1, subsection 1(d) is new, and it is tied into the new definition of "valuable consideration" at the bottom of the page. However, in my opinion, that does not really seem to change much with regard to what the Court would be doing because they would usually look at these and expect them to be proportional anyway. That is an addition, however, that is not specifically laid out in the court decision.

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Section 1, subsection 2, is new and removes the employer from the criminal provisions that currently exist in NRS 613.200. In section 1, subsection 3, the new language will actually reverse the recent Nevada Supreme Court decision in *Golden Road Motor Inn, Inc. D/B/A Atlantis Casino Resort Spa v. Sumona Islam*, 132 Nev., Adv. Op. 49 (2016). In the *Atlantis* case, the court said that it would not blue-line contracts. In other words, if there is an existing noncompetition agreement and the court finds that it is overreaching, then the court would simply make it void, and it would not apply. This language would tell the court that if the court finds an existing noncompetition agreement to have gone too far, then the court would rewrite the agreement to be the most extensive it could be, while still complying with the law. That would be new and that would reverse the current state of the law. I think those are most of the operative provisions. If you have any more questions, I would be happy to answer them.

Chair Bustamante Adams:

Are there any other questions? [There were none.] Just as a reminder, if you vote one way in Committee but you later change your mind, the professional courtesy is that you let the sponsor and the Chair know in a timely manner that you have changed your vote. Sometimes there are some additional questions that you have to ask outside of the Committee and that is okay, but the rule is that you extend the professional courtesy to let the sponsor and Chair know so we do not have any surprises. I will entertain a motion to amend and do pass A.B. 149.

ASSEMBLYWOMAN JAUREGUI MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 149.

ASSEMBLYMAN FRIERSON SECONDED THE MOTION.

Is there any discussion?

Assemblyman Paul Anderson:

I appreciate the clarification, Mr. Keane. I would like some time to digest this a little bit more. I am going to vote no in Committee. I actually will likely vote it out on the floor—or reverse that. Either way, I would like to see it out of Committee, but I just want some time to digest it before I commit to the floor vote.

Chair Bustamante Adams:

Assemblyman Marchant, should I mark you in that category as well?

Assemblyman Marchant:

Yes, Madam Chair.

Assemblywoman Carlton:

I am just curious, and I can ask Mr. Keane this question. The changes that are being made here would eliminate the precedent that has been set by the courts. This would be the new ground rules, and if anyone wanted to question it, they would have to go to court again. Is that correct?

Wil Keane:

I want to make sure that I answer your question correctly.

Assemblywoman Carlton:

It is because there is a court opinion that is out there right now and everyone is operating under that opinion? By putting it in statute, but with some changes, we have, in essence, possibly eliminated that precedent because there is now statute speaking on the issue. That means if anyone disagreed with it, they would have to go to court again to get the opinion to discuss what is going on here. Is that correct? I had been told, a long time ago, not to put court opinions in statute, but there is a change in this. I just want to make sure that I correctly understand what the process going forward will be for anyone who would want to question this.

Wil Keane:

I think there are three different answers to that. In the first part, I think you are specifically referring to section 1, subsection 1, paragraphs (a), (b), and (c), which is the existing state of the law, but that state of the law is purely through court decisions. By codifying it, we are putting it in statute so to the extent that it would evolve in court decisions, it will now not evolve in court decisions, unless the court were to somehow find this language to be unconstitutional or something like that. We would be freezing this state of the law in place.

The addition of paragraph (d) is a new rule, but it seems—at least in my reading of the cases—to be in line with what the court was doing anyway, although they have not specifically enunciated that as a rule. As with subsection 1 (a), (b), and (c), it would now be freezing that in place.

The new rule, in section 1, subsection 3, does reverse the court's practice. What the court does now, pursuant to the recent *Atlantis* decision, is to simply say if an agreement reaches too far, then the agreement is void. If it is void, the employee is free to do whatever he wants; the agreement does not apply to the employee anymore. Section 1, subsection 3 would reverse that by statute so in the future, the court applying the statute would take an agreement such as the one in the *Atlantis* case, and instead of simply finding it void, they would reduce the terms either in geographic distance, in the scope of the occupation, the length of time to a point where the court felt it was reasonable, and it would enforce that newly rewritten, reasonable agreement. That is a change in the law.

Assemblywoman Carlton:

I have concerns, but we can move forward.

Assemblyman Hansen:

While I am voting no on the bill, I think it is actually somewhat important. One of the big complaints that I hear is that we get frustrated with the courts legislating from the bench, and that is what I think we are actually trying to solve here. In so many cases, the courts have become legislators instead of interpreting existing statute. I think whenever we can put something in statute rather than leaving it to the arbitrary will of the courts, I think that is better.

Chair Bustamante Adams:

Is there any other discussion? [There was none.] I will call for the vote to amend and do pass A.B. 149.

THE MOTION PASSED. (ASSEMBLYMAN HANSEN VOTED NO.
 ASSEMBLYWOMAN NEAL WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblyman Carrillo. The next bill on work session is Assembly Bill 457.

**Assembly Bill 457: Revises provisions relating to certain professional licensing boards.
 (BDR 54-410)**

Kelly Richard, Committee Policy Analyst:

Assembly Bill 457 revises provisions related to certain professional licensing boards (Exhibit L). It was heard in Committee on April 12, 2017, and the requestor of the bill was the Legislative Committee on Health Care.

The bill requires the Boards of Psychological Examiners, Examiners for Marriage and Family Therapists and Clinical Professional Counselors, Examiners for Social Workers, and Examiners for Alcohol, Drug and Gambling Counselors to submit certain reports to the Commission on Behavioral Health. The bill requires each new member of the boards to complete an orientation, and requires the boards to establish policies concerning compensation and reviewing the staff. Further, the bill requires the boards to enter into agreements with the Department of Health and Human Services (DHHS) to carry out or improve performance of the boards' duties.

The boards are required to adopt online application forms for the issuance or renewal of a license or certificate, and the bill provides an appeals process for persons aggrieved by a determination of the board in refusing to issue or renew a license or certificate or imposing discipline. Additionally, the bill requires the boards to adopt certain regulations, and further requires the Commission on Behavioral Health to review the regulations before they are submitted to the Legislative Commission for approval.

During the hearing on the bill on April 12, 2017, there were two amendments that were discussed. Assemblyman Oscarson submitted the attached amendment to add a preamble to the bill [page 2, (Exhibit L)].

Additionally, the boards submitted a consensus amendment [page 3, ([Exhibit L](#))], which alters the reporting requirements; makes permissive the provision relating to agreements between the boards and DHHS; modifies provisions related to the appeals process and the adoption of regulations; and changes the composition of the Commission on Behavioral Health and its role in reviewing regulations.

Additionally, it is not in your work session document, but Assemblywoman Jauregui proposed an amendment on the record to require existing members of the boards to also undergo the orientation that will be required of new members. It is the staff's understanding that the sponsor is supportive of that amendment. I believe the Chair also had an amendment that she wanted to propose.

Chair Bustamante Adams:

After some discussion with our Majority Leader, I am going to write a letter to the Sunset Subcommittee of the Legislative Commission and whoever the new chair is, and I will ask them to review these four boards. I do appreciate all who have worked to try to improve them, but there is a long way to go in these four boards and this Commission. I am going to write a letter as the Chair of the Assembly Committee on Commerce and Labor, and that was after a discussion with our Majority Leader as well.

Assemblywoman Carlton:

I received a letter from Ms. Cody Phinney because of one of my concerns. First, my fiscal concern was that state resources were going to be used to support what are supposed to be fee-driven boards, and it basically said they could bill for that. I do not see that letter attached, so I just want to make sure that is on the record and that will actually happen. Right now, it is my understanding that can happen but no one realized they could actually do it. I would like to get on the record that they will charge the fee for time and effort, and whatever resources are used.

Kirsten Coulombe, Deputy Administrator of Administrative Services, Division of Public and Behavioral Health, Department of Health and Human Services:

I am here on behalf of our senior administrator. You are correct, Assemblywoman Carlton. We would make arrangements to recoup any costs that were incurred with the boards. If you have any other questions about the information we provided in the letter, I am happy to provide that information as well.

Assemblywoman Carlton:

The only other question I would have is how often does the Commission meet? The other thing I was concerned about in the bill was regulations that would be developed would end up going to the Commission before they would come to the Legislature. I have a problem with that because it is getting in the way of the legislative body. How often does that Commission meet?

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Kirsten Coulombe:

My understanding is they currently meet every three months, but they can always meet more frequently, as needed. They also have subcommittees that can meet. I think there was some discussion among the boards of potentially having a subcommittee dedicated to regulations they could look at and then report back to the full Behavioral Health Commission.

Assemblywoman Carlton:

I would just hate to see us slow down the process rather than expedite the process. I still have concerns about that because when we do these regulations, we are trying to fix the board. We want it to move as quickly as possible. I understand the filtering process and the thought process behind it; I just do not want to see it go the other way. With those answers, I just have one other thing to say. I appreciate all the work Assemblyman Oscarson has done on this bill, and for those new members of the body who have not been around, you have to be very wary of allowing the perfect to be the enemy of the good. This is good, but it is not perfect yet. We still have a ways to go, but Assemblyman Oscarson has given me his commitment that we can keep working on it, so I am happy to do that with him. I would be happy to make the motion to amend and do pass.

Chair Bustamante Adams:

I will entertain a motion to amend and do pass with all the amendments. The letter from Ms. Phinney is also on NELIS ([Exhibit M](#)) and is part of the record. Thank you for making the additional statements on the record as well.

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 457.

ASSEMBLYMAN PAUL ANDERSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Carlton. The next bill on work session is Assembly Bill 361.

Assembly Bill 361: Revises provisions governing business practices. (BDR 52-320)

Chair Bustamante Adams:

Since the Nevada Electronic Legislative Information System is having some functional problems, we made copies of the mock-up for Assembly Bill 361 ([Exhibit N](#)), which should be in front of you. I do not see Assemblyman Carrillo in the room, so I will ask you, Ms. Tauchen, to come to the table. If you can just be present at the witness table, I would appreciate that.

Kelly Richard, Committee Policy Analyst:

Assembly Bill 361 is sponsored by Assemblyman Carrillo ([Exhibit O](#)). It specifies that a person commits a deceptive trade practice if, in the course of his or her business or occupation, a fee is charged to update or change a person's records, including billing or credit information, or to speak with a person by telephone in lieu of using an automated or computerized telephone system. The bill also changes the font size, style, and location required for expiration dates printed on gift certificates or other materials related to gift certificates.

Assemblyman Carrillo submitted the attached amendment [page 2, ([Exhibit O](#))]. The amendment clarifies that a gift certificate issued as part of a promotion or as an incentive for potential customers must also conform to certain requirements related to expiration dates.

In addition, Assemblyman Carrillo has requested to further amend the bill by adding subsection 13 to section 1 to specify that a person engages in a deceptive trade practice when, in the course of his or her business or occupation, he or she charges a fee to a person to change or update any record that relates to that person, including, without limitation, billing or credit information, without regard to the method the person uses to communicate the change or update, including, without limitation, speaking to a natural person by telephone in lieu of using an automated or computerized telephone system.

There is also an amendment staff received just prior to the hearing ([Exhibit N](#)). I would defer to Ms. Tauchen to explain the amendment.

Lea Tauchen, Senior Director of Government Affairs, Grocery and General Merchandise, Retail Association of Nevada:

The original bill, as well as our first mock-up, attempted to amend a section of statute that another bill being proposed will delete. Section 1 of proposed amendment 3855 ([Exhibit N](#)) attempts to reconcile this with the result that *Nevada Revised Statutes* (NRS) Chapter 598 will be complete. The intent in section 1 is to clarify the gift card offer provision. Additionally, I would like to point out that it was not our intention to strike section 4. Our intention was not to strike NRS 598.0921 in its entirety. I believe we would like to unstrike the language in section 4 of the amendment ([Exhibit N](#)) beginning on page 4, lines 10 through 45.

Assemblywoman Carlton:

I want to make sure we are all on the same page. We are talking about section 4, which applies to NRS 598.0921. You wanted to get rid of the new language that starts on page 3, line 43 that states, ". . . and on any brochure, leaflet, pamphlet . . ." but you wanted to leave what was in front of that. Am I correct?

Lea Tauchen:

Looking at section 4, our intention was not to strike the language beginning on line 10 of page 4 and then moving down.

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Assemblywoman Carlton:

That would be section 4, subsection 1(b). Is that correct?

Lea Tauchen:

Yes. That would remain in statute, as it is currently.

Assemblywoman Carlton:

Is the new language that was proposed in the original bill in section 4, subsection 1(a) stating, ". . . any brochure, leaflet, pamphlet . . ." staying in? It looks like that language is double-struck.

Lea Tauchen:

Correct. That language would remain stricken because it is being replaced within the green language in section 1, on page 1.

Assemblywoman Carlton:

As long as our legal counsel understands, then it is okay. He is shaking his head no, that this is not working. We need a moment, please.

Chair Bustamante Adams:

Assemblyman Carrillo, can I ask you to come to the table? I want to make sure we get this right. I know you had been in some discussions with Mr. Keane as well. I just want to make sure the language you want in the bill is in the bill. Mr. Keane, which parts of this were we not sure of?

Wil Keane, Committee Counsel:

I thought we were going to add the new language from the mock-up, as it appears in the mock-up in section 1. I did not know this before, but what I am gathering from what was just said is you want to delete what was originally section 2 of the bill, amending NRS 598.0921. You want to get rid of all the changes that the bill made and then delete the existing language in subsection 1(a). Do I understand that correctly?

Assemblyman Richard Carrillo, Assembly District No. 18:

What we were looking at is, of course, the struck-out language; that is put back in. We are then going to add back all the language in section 1 of amendment 3855 ([Exhibit N](#)).

Wil Keane:

This is what I think is supposed to happen. I want to clarify it to make sure we get the language correct in the final amendment. We are adding the new section 1 from mock-up 3855 ([Exhibit N](#)), and later there will be many conforming changes that will add section 1 as an internal reference later on in the document. Were you still intending to make changes to what now appears as section 3, subsection 13 of the bill concerning NRS 598.092, or were you meaning to leave subsection 13 as it appears in the bill?

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Assemblyman Carrillo:

That only applies if you have to modify any credit information or billing information. That would be where consumers would not be subjected to fees or charges if they talk to a natural person and not an automated system.

Wil Keane:

As I understand it then, you want to keep subsection 13 as it was originally drafted.

Assemblyman Carrillo:

Yes.

Wil Keane:

The last change I want to confirm is what is now in the mock-up ([Exhibit N](#)) as section 4; instead of striking that whole section, all we would be doing is eliminating any changes to NRS 598.0921 and just deleting the existing language in subsection 1(a).

Assemblyman Carrillo:

Yes, that is correct.

Wil Keane:

Thank you, Madam Chair; I have everything I need.

Chair Bustamante Adams:

I am not very clear on this. Mr. Keane, can you help us to understand what we are talking about? Can you start from the top? That would give me some comfort.

Wil Keane:

I believe I can explain everything from the mock-up proposed amendment 3855 ([Exhibit N](#)). Most of what we see in this mock-up is going to be the final amendment. Section 1, as it appears in this mock-up, will be part of the final amendment.

Chair Bustamante Adams:

Tell the Committee what section 1 does.

Wil Keane:

Section 1 is a new section having to do with gift certificates and gift cards that are received as part of a promotion, preventing them from expiring less than 90 days after the date on which the offer is made. To be exact, this section will be added in among the definitions of deceptive trade practice, so it will be considered a deceptive trade practice for businesses to engage in this action. Subsection 2 of section 1 puts forth some more limitations on those gift certificates, such as the size of the font and the information that must be contained in it. In essence, if a business is going to offer a gift certificate or a promotional offer, it needs to comply with these detailed requirements to avoid committing a deceptive trade practice. It is my understanding, as we will get to later, this bill is replacing some existing statutory language, which had more limited restrictions on gift cards.

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Section 2 contains some of the internal references that I had mentioned. It is a long section, but if you scroll down to subsection 13, I clarified that we are keeping that language, as-is, from the original draft.

Moving on to the next section, I think this is where some of the confusion came up. It is identified as section 4 in the mock-up ([Exhibit N](#)), and it amends NRS 598.0921. As I understand it, the intent is to not make any of the changes that were originally made to that section. Instead, we are simply deleting subsection 1(a), which contained the more limited rules regarding gift certificates that are in existing statute. The new section 1 will replace this with more detailed requirements.

Chair Bustamante Adams:

I think that is it, correct?

Wil Keane:

Yes. I believe the rest of the bill is simply adding internal references.

Chair Bustamante Adams:

Are there any questions for the bill sponsor or Mr. Keane?

Assemblywoman Neal:

I am leery about asking this question. It is about section 3, subsection 13—the section you added back in—and the language about the service fee that will be imposed. I am not clear about why the fee is being imposed and on whom. Is this being imposed on the actual issuer of the gift certificate?

Lea Tauchen:

The service fee exists in current language. This provision directs a business that sells a gift card to inform the consumer that they will impose a service fee when the gift card is issued—should that business use that as their practice. I want to add that not all businesses charge service fees when they issue gift certificates or gift cards.

Chair Bustamante Adams:

Are there any other questions? [There were none.] I will entertain a motion to amend and do pass A.B. 361, but with the amendment as stated in the mock-up 3855 ([Exhibit N](#)), and the confirmations that the bill sponsor made on the record.

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 361.

ASSEMBLYMAN DALY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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I think we are going to need a diagram to explain this bill. I will assign the floor statement to Assemblyman Carrillo.

With that, I want to inform the Committee that we will remove Assembly Bill 158 and Assembly Bill 222 from the agenda.

Assembly Bill 158: Requires the State Board of Cosmetology to allow the use of fish for pedicures. (BDR 54-812)

Assembly Bill 222: Revises provisions governing payday loans, title loans and installment loans. (BDR 52-574)

That will conclude our work session. We are going to go into recess until the call of the Chair [at 2:06 p.m.].

[The meeting was reconvened at 5:34 p.m.]

Chair Bustamante Adams:

This meeting is adjourned [at 5:35 p.m.].

RESPECTFULLY SUBMITTED:

Pamela Carter
 Recording Secretary

Devon Isbell
 Transcribing Secretary

APPROVED BY:

Assemblywoman Irene Bustamante Adams, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is the Work Session Document for [Assembly Bill 161](#), dated April 14, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is the Work Session Document for [Assembly Bill 163](#), dated April 13, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is the Work Session Document for [Assembly Bill 109](#), dated April 11, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit F](#) is the Work Session Document for [Assembly Bill 354](#), dated April 11, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit G](#) is the Work Session Document for [Assembly Bill 255](#), dated April 14, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit H](#) is the Work Session Document for [Assembly Bill 468](#), dated April 13, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit I](#) is the Work Session Document for [Assembly Bill 381](#), dated April 13, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit J](#) is the Work Session Document for [Assembly Bill 211](#), dated April 14, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit K](#) is the Work Session Document for [Assembly Bill 149](#), dated April 17, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit L](#) is the Work Session Document for [Assembly Bill 457](#), dated April 13, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

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[Exhibit M](#) is a letter, dated April 13, 2017, clarifying provisions in [Assembly Bill 457](#), to Chair Bustamante Adams and members of the Assembly Committee on Commerce and Labor, authored by Cody Phinney, Administrator, Division of Public and Behavioral Health, Department of Health and Human Services.

[Exhibit N](#) is a proposed amendment to [Assembly Bill 361](#), presented by Assemblyman Richard Carrillo, Assembly District No. 18.

[Exhibit O](#) is the Work Session Document for [Assembly Bill 361](#), dated April 13, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

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ASSEMBLY AGENDA

COMMITTEE ON COMMERCE AND LABOR

Day Friday Date April 14, 2017 Start Time Call of the Chair* Room 4100
 Room 4100 of the Legislative Building, 401 S. Carson St., Carson City, NV.

*Please note start time.

Possible work session on measures previously considered.

SECOND REVISION

WORK SESSION

- | | |
|---------------------------------|---|
| <u>A.B. 109</u> | Revises provisions relating to public utilities. (BDR 58-622) |
| <u>A.B. 158</u> | Requires the State Board of Cosmetology to allow the use of fish for pedicures. (BDR 54-812) |
| <u>A.B. 161</u> | Requires the notarization of certain rental agreements. (BDR 10-733) |
| <u>A.B. 163</u> | Revises provisions governing certain short-term loans. (BDR 52-737) |
| <u>A.B. 222</u> | Revises provisions governing payday loans, title loans and installment loans. (BDR 52-574) |
| <u>A.B. 354</u> | Revises provisions relating to employment practices. (BDR 53-275) |
| <u>A.B. 361</u> | Revises provisions governing business practices. (BDR 52-320) |
| <u>A.B. 381</u> | Revises provisions governing prescription drugs covered by policies of health insurance. (BDR 57-698) |
| <u>A.B. 457</u> | Revises provisions relating to certain professional licensing boards. (BDR 54-410) |
| <u>A.B. 468</u> | Revises provisions relating to mortgage brokers and mortgage bankers. (BDR 54-1028) |

Public comment.

Matters continued from a previous meeting.

Unless waived by the Chairman, proposed amendments, handouts, and other exhibits for a hearing must be submitted electronically in PDF format to the committee manager at AsmCL@asm.state.nv.us no later than 5 p.m. the day before the meeting. Proposed amendments must be submitted in writing and include the sponsor's name, contact information, and the intent of the amendment.

Cellular telephones must be silenced while in the committee room.

If you cannot attend the meeting, you can listen to it live over the Internet. The address for the legislative website is <http://www.leg.state.nv.us>. For audio broadcasts, click on the link "Calendar of Meetings."

Note: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Assembly Committee on Commerce and Labor at (775) 684-8579.

(R#) Indicates the reprint number of the bill/resolution being considered.

PLEASE PROVIDE 20 COPIES OF YOUR DOCUMENTS.



Meeting ID: 786

Committee Action:
Do Pass _____
Amend & Do Pass _____
Other _____

Assembly Committee on Commerce and Labor

This measure may be considered for action during today's work session.

ASSEMBLY BILL 161

Requires the notarization of certain rental agreements. (BDR 10-733)

Sponsored by: Assemblyman Flores
Date Heard: March 6, 2017
Fiscal Impact: Effect on Local Government: No.
 Effect on the State: No.

Assembly Bill 161 requires a written rental agreement for a single-family residence to be notarized.

Amendments: The sponsor has proposed the attached amendment to the bill.
 The amendment:

- Removes the requirement that a written rental agreement for a single-family residence be notarized;
- Requires any written rental agreement for a single-family residence to include a disclosure, at the top of the first page of the agreement, and in a font size at least two times larger than any other font used in the rest of the agreement, advising the tenant that the lack of notarization of the agreement: (1) creates a rebuttable presumption that the tenant does not have a right to lawful occupancy of the dwelling unit or premises; and (2) does not render the agreement invalid, and the landlord may enforce the agreement without regard to whether it is notarized; and
- Adds a provision in *Nevada Revised Statutes* 205.0813 and 205.0817, which specifies a person is presumed to know entry into a home is without permission of the owner of the dwelling, or the owner's agent, unless the person provides a rental agreement that is notarized and includes the current address and telephone number of the owner or authorized representative.

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Ninth Session
April 14, 2017**

The Committee on Commerce and Labor was called to order by Chair Irene Bustamante Adams at 12:40 p.m. on Friday, April 14, 2017, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Irene Bustamante Adams, Chair
Assemblywoman Maggie Carlton, Vice Chair
Assemblyman Paul Anderson
Assemblyman Nelson Araujo
Assemblyman Chris Brooks
Assemblyman Skip Daly
Assemblyman Jason Frierson
Assemblyman Ira Hansen
Assemblywoman Sandra Jauregui
Assemblyman Al Kramer
Assemblyman Jim Marchant
Assemblywoman Dina Neal
Assemblyman James Ohrenschall
Assemblywoman Jill Tolles

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman Edgar Flores, Assembly District No. 28
Assemblywoman Ellen B. Spiegel, Assembly District No. 20
Assemblyman Richard Carrillo, Assembly District No. 18

Minutes ID: 786



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STAFF MEMBERS PRESENT:

Kelly Richard, Committee Policy Analyst
 Wil Keane, Committee Counsel
 Pamela Carter, Committee Secretary
 Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Alisa Nave-Worth, representing MultiState Associates, Inc.
 Kirsten Coulombe, Deputy Administrator of Administrative Services, Division of
 Public and Behavioral Health, Department of Health and Human Services
 Lea Tauchen, Senior Director of Government Affairs, Grocery and General
 Merchandise, Retail Association of Nevada

Chair Bustamante Adams:

[Roll was called. Committee rules and protocol were explained.] Today, all we have on the agenda is a work session. We are going to take some of the work session items out of order. I want to let the Committee know that we included the language "possible work session on measures previously considered" on the agenda, so we have added three bills. They are in your binders, and we are going to take it slow, so do not worry.

I also want to go through some housekeeping items. We only have a limited amount of time, so unless there is a question about a bill or motion, there will not be any need for commentary or explanation of votes by members. Also, there is no need to reserve your right to change your mind. That right always exists, so if a member who votes a certain way decides to change it on the floor, they just need to inform the sponsor and the Chair in a timely manner that they will vote differently. I just wanted to mention that so that we have a great flow in our work session process.

The first bill we are going to consider is Assembly Bill 161.

**Assembly Bill 161: Requires the notarization of certain rental agreements.
 (BDR 10-733)**

Kelly Richard, Committee Policy Analyst:

Assembly Bill 161 requires a written rental agreement for a single-family residence to be notarized ([Exhibit C](#)). There is an amendment attached for the members' review.

The amendment removes the requirement that a written rental agreement for a single-family residence be notarized. Instead, it requires any written rental agreement for a single-family residence to include a disclosure at the top of the first page of the agreement, and in a font size at least two times larger than any other font used in the rest of the agreement, advising the tenant that the lack of notarization creates a rebuttable

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presumption that the tenant does not have a lawful right to occupancy of the dwelling unit or premises, and does not render the agreement invalid, and the landlord may enforce the agreement without regard to whether it is notarized.

The amendment also adds in a proposal from the original mock-up on the bill, which you heard in this Committee on March 6, 2017. It adds a provision in *Nevada Revised Statutes* (NRS) 205.0813 and NRS 205.0817, specifying a person is presumed to know entry into a home is without the permission of the owner of the dwelling or the owner's agent, unless the person provides a rental agreement that is notarized and includes the current address and telephone number of the owner or authorized representative.

Chair Bustamante Adams:

Is there any discussion? [There was none.] I will entertain a motion to amend and do pass A.B 161.

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 161.

ASSEMBLYWOMAN JAUREGUI SECONDED THE MOTION.

Assemblyman Kramer:

I actually like this bill—knowing what it is for—but I received some pushback from people who do electronic leases. Would Assemblyman Flores accept an amendment on paragraph 4 where it says ". . . any written rental agreement for a single-family residence must be notarized," to add "notarized either manually or digitally, or be signed by an electronic signature registered with the Secretary of State"?

Assemblyman Edgar Flores, Assembly District No. 28:

We amended that language, so the section you are looking at is actually no longer included in the bill. I amended the notarization requirement. We completely got rid of that, and all we have now is a rebuttable presumption that persons are not in the property with authorization if it is not notarized.

Chair Bustamante Adams:

Is there any further discussion from the members? [There was none.]

THE MOTION PASSED. (ASSEMBLYMAN PAUL ANDERSON WAS
ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblyman Flores. The next bill we are going to consider is Assembly Bill 163.

**Assembly Bill 163: Revises provisions governing certain short-term loans.
(BDR 52-737)**

Kelly Richard, Committee Policy Analyst:

Assembly Bill 163 is sponsored by Assemblyman Flores. It was heard in Committee on March 15, 2017 ([Exhibit D](#)).

The bill requires a deferred deposit, high interest, or title lender to determine whether a person has the ability to repay a loan before the loan is made, and establishes the factors that the lender must use to make that determination. In addition, it prohibits a title lender from making a loan to a person who does not legally own the vehicle being used to secure the loan; and considering the income of anyone who is not the legal owner of the vehicle in determining a customer's ability to repay. The bill also specifies that a customer defaults on a loan whenever he or she fails to make a scheduled payment; clarifies the difference between a grace period and a loan extension; and limits the actions a lender can take with regard to a grace period. Finally, A.B. 163 imposes notice requirements related to collection actions and the filing of complaints.

There is a mock-up amendment attached for your review that was submitted by the sponsor [page 3, [Exhibit D](#)]. The amendment specifies a lender may use a customer's pay stub or certificate of deposit as evidence of current employment status; removes the requirement that a lender consider and verify the customer's monthly income, monthly payments on other obligations owed by the customer, and other current debt obligations owed by the customer, including alimony and child support; adds the consideration of other evidence, including bank statements and written representations to the underwriting factors a lender must consider; and prohibits a lender from considering the ability of any other person besides the customer to repay the loan.

The amendment allows a customer to enter into an extended repayment plan if the customer has not entered into an extended repayment plan for the original loan during the immediately preceding 12 months and requests an extended repayment plan prior to the time the original loan is due. It also imposes certain requirements on such a plan.

The amendment further modifies the definition of "default"; includes a contract for the lease of an animal for a purpose other than a business, commercial, or agricultural purpose in the definition of a "high-interest loan"; prohibits a lender from reinstating an electronic debit transaction that has been returned by a customer's bank except in accordance with the rules prescribed by the National Automated Clearing House Association or its successor; and for title loans, allows a lender to consider a customer's community income and the income of any other customers who consent to the loan and enter into the loan agreement; and clarifies that a lender may not make a loan secured by a vehicle with multiple owners without the consent of each owner.

Chair Bustamante Adams:

I will have the bill sponsor make a statement on the record. This is an opportunity to make sure that we have the bill right and to ask questions before we take the vote. Once we take the vote, we cannot make any further amendments.

Assemblyman Edgar Flores, Assembly District No. 28:

It has been a long, tedious, and painful process getting here, but we are here—and I mean that. I am being serious; it has been very painful, but I am very grateful for everybody sitting at the table with me and for ensuring that we can get both the good actors in this industry and the Legal Aid Center of Southern Nevada to be able to come together and compromise. I also want to let the Committee know that everything included in this mock-up has been agreed upon on both sides of the table, with one exception. In my original presentation of the bill, it was my intent that if a person does not own an asset, he or she cannot get the loan contingent upon someone else's asset. In a hypothetical situation where I am married, my wife's income cannot be taken into account when I am trying to get a loan. That was my intent. There was a question about the language, and this mock-up addresses this in the section about the ability to repay. The industry just has to run that back to their teams to make sure they are 100 percent on board. Absent that, however, we are in agreement on everything else.

If I could have Mr. Sasser or Mr. Horne quickly walk the Committee through the amended language, I would appreciate it. I could do it myself, but I would like them to do it because they worked so hard on it.

Alisa Nave-Worth, representing MultiState Associates, Inc.:

For the Committee's education, MultiState Associates, Inc., represents Moneytree, Check-Into-Cash, Cash City, CQ Financial, and USA Cash, all of which are listed under the banner of MultiState Associates. On behalf of our organization and Mr. Horne, I want to say we are very grateful to Assemblyman Flores. He has been incredibly engaged in this process. He has been very thoughtful and very willing to engage with the industry to have substantive conversations about things that we believe should happen. He has been a true leader, and we really are grateful to him. We are also grateful to the Legal Aid Center of Southern Nevada; we have deep respect for them. Jon Sasser and his team—and Tennille Pereira—have been very wonderful and good to work with, and we look forward to having ongoing conversations with them in the future.

Next, I want to walk the Committee through the changes to the bill. Section 1 addresses the ability to repay in statute and includes mutually agreed-upon language by Legal Aid and the industry. Section 1.3, subsection 2(c) removes from the original draft the monthly residual income of a customer. We also removed section 1.3, subsection 2(f), which addresses any monthly payments, and subsection 2(g), which is other current debt obligations owed by the customer. We removed these sections because they lacked legal precision, and we felt they would create unnecessary liability to industry members. We suggested, on behalf of the industry, to add both "pay stub" and "bank statements" into the ability to repay statute, which are actually tangible products that a lender could evaluate. It is also

a best practice of some of our members in the industry so it should just be an institution of best practices. The closest thing to a tangible profit and loss statement is a person's bank statement—what goes in and what comes out. The other evidence, which is subsection 2(e), has been added as well, and is meant to say a person does not have to have a printed bank statement. In today's modern age, a person can use an iPhone and that is enough. That is the point of that provision.

Chair Bustamante Adams:

I did not see that. Can you tell me where that is?

Alisa Nave-Worth:

It is in section 1.3, subsection 2(e). I am looking at the compromise language. I just received the mock-up.

Chair Bustamante Adams:

Okay, thank you.

Alisa Nave-Worth:

The mock-up does not track exactly from the compromise language, but it has the compromise language in it. We actually recommended that there would be some electronic evidence as well, and it seems that did not make it into the final version, but the purpose of that was so customers could look at it on their phones.

Section 1.3, subsection 3, is the one area that is of some concern, and we have to just check it with our clients. We think that there is a solution that was actually introduced later on, with regard to title associated with community property. I will explain that there, if that is okay.

Section 1.7 is brand new language suggested to Assemblyman Flores on behalf of the entire industry. This is actually one of the national industry's best practices called an extended payment plan. This provision says that someone who takes out a loan has the right to go to the lender and request an extended payment plan once in a 12-month period. That would give them the right to still pay the contracted amount in its entirety, but over an extended period of 60 days. With an extended payment plan, the customer does not owe additional interest. It does not extend the interest, but it says consumers have more time to pay without going into default. Therefore, consumers avoid the consequences of default, and they have more time to pay. Many of the best actors in the industry already do this, so this is instituting a national best practice into Nevada law. We brought that to Assemblyman Flores because we thought it would be a new consumer protection tool that we use nationally and should be codified in Nevada law.

Assemblywoman Carlton:

If I remember correctly, when the consumer goes into default, there are actual conditions that apply to the default. By not allowing consumers to go into default, are they losing anything?

Alisa Nave-Worth:

This does not eliminate any of the protections under default or the options of default. This simply says that a consumer can choose to go into default and go through the process and the mechanisms associated with default—prime plus ten, which is not in any way changed or eliminated. Alternatively, consumers can invoke their right for a new tool, which is the extended payment plan that says, "No, I want to pay the fully contracted value that I took the money for; I just need more time to do it."

Assemblywoman Carlton:

It is good to have that on the record.

Assemblywoman Neal:

I have a question about the statement that was just made. I thought Assemblyman Flores' original intent was to eliminate this constant extension of the loan. Section 3, subsection 2 says the grace period ". . . does not include an extension of a loan." It looks as if, in another part of the bill, you are still trying to keep the customer extending the loan. You say the customer has the option to default, but as a regular person, you would choose to extend the loan. I thought that was what we were trying to avoid with this bill.

Assemblyman Flores:

If I can draw your attention to section 1.7, subsection 3 it states, "An extended payment plan entered pursuant to subsection 1 must not: (a) Increase or decrease the amount owed under the original loan; or (b) Include any interest or fees in addition to those charged under the terms of the original loan." This is actually 100 percent in tune with the original spirit of the bill I presented. We are not going to have more fees; we are not going to increase the amount owed. The reason we have that language in there is because we were trying to avoid a scenario where a customer gets a loan and then takes out a second loan to pay the first loan from the same company. We are also trying to avoid the scenario where we have super-high interest rates that keep pushing over for months after the terms of the original loan have passed.

Even with the compromise and all the stakeholders working together, the compromise is just clarifying language. The original intent of the bill has not been distorted in any way. We are addressing the issue of default. We are addressing the issue of owning the asset before a person can get a loan on it, and we are addressing the issue of ability to repay.

Assemblywoman Neal:

We are assuming that everybody is going to be a good actor, which is great, but what if they extend the loan and there is an increase or decrease, or an increase actually in the amount owed through some kind of fee or charge? What then is the penalty associated with that if they create a fee, and it was not encompassed in this language?

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Alisa Nave-Worth:

That would not be legal, and the penalties would be the penalties associated with the other chapter. If someone were to charge a fee under the extended payment plan that would not be allowed by law, the penalties would be similar to any of the other provisions under the statute that are not encompassed within this bill.

Assemblyman Flores:

I would just add to that that it would be void. There are already mechanisms in place. Legal Aid addresses these concerns all the time. They go to court and take care of it.

Chair Bustamante Adams:

Are there any other questions? Thank you for your leadership, Assemblyman Flores. I appreciate the work that you have done with the stakeholders. Therefore, I am going to call for a motion to amend and do pass A.B 163 with the amendments read by Ms. Richard.

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 163.

ASSEMBLYMAN ARAUJO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblyman Flores. The next bill we will consider is Assembly Bill 109.

Assembly Bill 109: Revises provisions relating to public utilities. (BDR 58-622)

Kelly Richard, Committee Policy Analyst:

Assembly Bill 109 is sponsored by Assemblyman Ellison and Senator Goicoechea. It was heard in Committee on March 22, 2017 ([Exhibit E](#)).

The bill requires the Public Utilities Commission of Nevada to conduct a general consumer session in Elko County. The bill also requires the Consumer's Advocate of the Bureau of Consumer Protection of the Office of the Attorney General to intervene and represent the public interest in a general rate case filed by a water or sewage disposal service utility with an annual gross operating revenue of \$2 million or more.

The sponsors proposed the attached amendment [page 2, ([Exhibit E](#))] during the hearing on the bill. The amendment requires the Consumer's Advocate to intervene and represent the public interest in a general rate case filed by a water utility which has annual gross operating revenue of \$2 million or more in a county whose population is less than 100,000—currently Elko County only.

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Chair Bustamante Adams:

Are there any questions? [There were none.] I will entertain a motion to amend and do pass A.B. 109.

ASSEMBLYMAN PAUL ANDERSON MOVED TO AMEND AND DO PASS ASSEMBLY BILL 109.

ASSEMBLYMAN KRAMER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblyman Ellison. The next bill for consideration is Assembly Bill 361.

Assembly Bill 361: Revises provisions governing business practices. (BDR 52-320)

I will invite Assemblyman Carrillo to the table as well. Are any of the members having problems with the Nevada Electronic Legislative Information System (NELIS)? Assemblyman Carrillo, because NELIS is not functioning at its best, I will make copies of your amendment. In the meantime, we will move on to Assembly Bill 354.

Assembly Bill 354: Revises provisions relating to employment practices. (BDR 53-275)

Kelly Richard, Committee Policy Analyst:

Assembly Bill 354 was sponsored by Assemblywoman Neal and was heard in Committee on April 3, 2017 ([Exhibit F](#)).

The bill requires the Employment Security Division of the Department of Employment, Training and Rehabilitation (DETR) to gather information related to race, gender, and other demographics from a claimant for unemployment insurance. The bill further requires the administrator of the Division to gather aggregate data from the claims and report it to the Governor's Office of Economic Development and the Director of the Legislative Counsel Bureau, as well as other persons who wish to provide workforce recruitment, assessment and training programs.

There is a mock-up amendment attached for your review that was submitted by the sponsor [page 2, ([Exhibit F](#))]. The amendment deletes sections 1 through 4 of the bill. It amends section 5 to require the Director of DETR to provide the Director of the Legislative Counsel Bureau with a quarterly report containing the unemployment rate of residents of this state by county, and for each county, the unemployment rate disaggregated by demographic factors including age, race, and gender. It also requires the Governor's Workforce Investment Board to coordinate efforts to reduce the unemployment rate of a demographic group if that group's unemployment rate meets certain criteria. The amendment further requires the Office of Workforce Innovation to submit an annual report on the statewide longitudinal data system.

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Chair Bustamante Adams:

Are there any questions? [There were none.] I will entertain a motion to amend and do pass A.B. 354 with the amendments read on the record.

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 354.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Neal. The next bill up for consideration is Assembly Bill 255.

Assembly Bill 255: Provides that provisions governing certain short-term loans apply only to consumer loans. (BDR 52-921)

Kelly Richard, Committee Policy Analyst:

Assembly Bill 255 was sponsored by Assemblyman Hambrick and was heard in Committee on April 10, 2017 ([Exhibit G](#)).

The bill specifies that the provisions of *Nevada Revised Statutes* (NRS) Chapter 604A apply only to loans made primarily for personal, family, or household services.

During the hearing on the bill, the sponsor presented the attached amendment for the Committee's review [page 2, ([Exhibit G](#))]. It basically substitutes in whole for what the original bill would have contained. It provides an exemption from the provisions of NRS Chapters 604A and 675 for a person who exclusively lends credit for business, commercial, or agricultural purposes outside of this state to persons who are not residents of this state.

Chair Bustamante Adams:

Are there any questions? [There were none.] I will entertain a motion to amend and do pass A.B. 255.

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 255.

ASSEMBLYMAN FRIERSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN NEAL WAS ABSENT
FOR THE VOTE.)

I will assign the floor statement to Assemblyman Hambrick. The next bill up for consideration is Assembly Bill 468.

Assembly Bill 468: Revises provisions relating to mortgage brokers and mortgage bankers. (BDR 54-1028)

Kelly Richard, Committee Policy Analyst:

Assembly Bill 468 was heard in this Committee on April 12, 2017 ([Exhibit H](#)). The sponsor is Assemblywoman Jauregui. The bill combines the provisions related to the regulation of mortgage brokers and mortgage bankers in the *Nevada Revised Statutes* (NRS) into a single chapter; both professions will now be known as "mortgage loan originators."

Chair Bustamante Adams:

I know with this bill the various stakeholders involved still need a little more time. Therefore, we are going to rerefer it without recommendation. I will entertain a motion from our Chair of the Assembly Committee on Ways and Means.

Assemblywoman Carlton:

With the level and comfort of work that still needs to be done on this bill, I would make the motion to send it out of Committee without recommendation.

ASSEMBLYWOMAN CARLTON MOVED TO REREFER WITHOUT
RECOMMENDATION ASSEMBLY BILL 468.

ASSEMBLYMAN PAUL ANDERSON SECONDED THE MOTION.

Chair Bustamante Adams:

Is there any discussion?

Assemblywoman Carlton:

For the new members of the Committee, this requires no commitment from us. It just allows the work to continue with this legislation, so no matter where you are, it is not an affirmation of the bill. It is affirming that you would like the work to continue; that is what a no recommendation motion is.

Chair Bustamante Adams:

Thank you for that clarification.

Assemblyman Paul Anderson:

I also think with a 96-page bill, we need a larger summary.

Chair Bustamante Adams:

We have heard the motion; I will now call for the vote.

THE MOTION PASSED. (ASSEMBLYWOMAN NEAL WAS ABSENT
FOR THE VOTE.)

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Chair Bustamante Adams:

The next bill up for consideration is Assembly Bill 381. I would like to invite our colleague, Assemblywoman Spiegel, to the table. I do not know if you want to bring the other individuals with you or not, but that is your call.

Assembly Bill 381: Revises provisions governing prescription drugs covered by policies of health insurance. (BDR 57-698)

Kelly Richard, Committee Policy Analyst:

Assembly Bill 381 is sponsored by Assemblywoman Spiegel. It was heard in this Committee on April 10, 2017 ([Exhibit I](#)).

The bill prohibits an insurer from moving a prescription drug from a lower-cost tier to a higher-cost tier before the expiration of the policy of health insurance, and expressly authorizes such a move upon renewal.

Assemblywoman Spiegel submitted several amendments to the bill, which are summarized in the attached mock-up [page 2, ([Exhibit I](#))]. The amendment provides that, for individual plans, a drug may be moved from a lower tier to a higher tier on January 1 of a calendar year, and for small employer plans, on January 1 or July 1 of a calendar year, with certain exceptions. It specifies that an insurer can remove a drug from a formulary at any time and revises the effective date so the provisions of the bill only apply to plans issued on or after January 1, 2019.

Chair Bustamante Adams:

Are there any questions? [There were none.] Assemblywoman Spiegel, would you like to add anything to the record?

Assemblywoman Ellen B. Spiegel, Assembly District No. 20:

There may be an issue with the amendment in section 1, subsection 2. We changed it so for small group plans, it could be changed on January 1 and July 1. The amendment says "and" not "or." I just wanted to point that out to the Committee.

Chair Bustamante Adams:

That is on the first bullet point of the work session document. Is that correct?

Assemblywoman Spiegel:

That is correct.

Chair Bustamante Adams:

Thank you for pointing that out. Members, if you note that first bullet point on the work session document, the third line should say, ". . . employer plans, on January 1 'and' July 1 of a calendar year, with certain exceptions." I will entertain a motion to amend and do pass A.B. 381.

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ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 381.

ASSEMBLYWOMAN JAUREGUI SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Spiegel. The next bill up for consideration is Assembly Bill 211.

**Assembly Bill 211: Revises provisions governing compensation and wages.
(BDR 53-764)**

Kelly Richard, Committee Policy Analyst:

Assembly Bill 211 is sponsored by Assemblywoman Jauregui and was heard in Committee on February 27, 2017 ([Exhibit J](#)). The bill allows an employee who prevails in any action or proceeding to recover unpaid wages to be awarded treble damages.

Assemblywoman Jauregui proposes to amend the bill by removing its current provisions and inserting new provisions, which would increase the maximum amount of the administrative penalty for wage theft from \$5,000 to \$10,000; require the Labor Commissioner to publish on its website a list of those who have willfully committed wage theft; and allow the Labor Commissioner to award some or all of the administrative penalty to the complainant.

Chair Bustamante Adams:

Are there any questions? Did we get it right, Assemblywoman Jauregui?

Assemblywoman Jauregui:

Yes, Madam Chair. I just want to be clear to all the members on the Committee that we removed the treble damages portion.

Chair Bustamante Adams:

I will entertain a motion to amend and do pass Assembly Bill 211.

ASSEMBLYMAN FRIERSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 211.

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

Is there any discussion?

Assemblyman Paul Anderson:

I just want to thank the sponsor. I know this bill has been on the back burner since earlier in the session, and I appreciate her efforts.

Case No. 74335

In the Supreme Court of Nevada

THE STATE OF NEVADA, DEPARTMENT)
OF BUSINESS AND INDUSTRY,)
FINANCIAL INSTITUTIONS DIVISION,)

Appellant,)

vs.)

TITLEMAX OF NEVADA, INC., and)
TITLEBUCKS d/b/a TITLEMAX, a)
Nevada Corporation,)

Respondent,)

Electronically Filed
Jul 23 2018 09:32 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPEAL

from the Eighth Judicial District Court, Clark County
The Honorable JOE HARDY, District Judge
District Court Case No. A-16-743134-J

**RESPONDENT'S NRAP 28(f) PAMPHLET
WITH 2017 LEGISLATIVE HISTORY OF AMENDMENTS
TO NRS CHAPTER 604A**

**VOLUME 2, PART 2
PAGES 332-406**

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The four behavioral health care licensing boards are a crucial piece to ensuring access to care because they serve as the gateways between the pool of potential health care providers and the pool of licensed health care professionals available to serve Nevadans. Boards are in a position to facilitate the licensure application process while ensuring adherence to standards and regulations and protecting patient safety.

The broad goal of A.B. 457 is to improve access to behavioral health care by facilitating licensure for behavioral health providers while ensuring high standards of care. The bill amends NRS Chapters 641 through 641C, which relate to the four boards that license behavioral health care providers. These include the following:

- The Board of Psychological Examiners;
- The Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors;
- The Board of Examiners for Social Workers; and
- The Board of Examiners for Alcohol, Drug and Gambling Counselors.

Since the Interim Committee met, representatives of the Department of Health and Human Services (DHHS) have been working closely with board members and staff. Together they developed the amendment you have before you today ([Exhibit Z](#)). I would like to thank Cody L. Phinney, Administrator, DHHS, the board members, and staff for coming to the table and for their dedication to improving their communication, transparency, and processes to increase access to mental and behavioral health care for all Nevadans.

I will now walk through the bill and the amendment ([Exhibit Z](#)).

Sections 2, 11, 18, and 25 of the bill require the boards to submit an annual report to the Commission on Behavioral Health—a body which currently exists within the Division of Public and Behavioral Health, DHHS. The proposed amendment revises the specific information that must be included in the annual report to include information related to complaints, investigations, and applications.

Sections 3, 12, 19, and 26 of the bill require each new member of those boards to complete an orientation within 60 days after appointment and require boards to establish policies regarding compensation and reviewing the performance of board staff.

As proposed in the amendment, sections 4, 13, 20, and 27 authorize, but do not require, boards to enter into an agreement with DHHS to provide services or help with improving board functions. For example, the Department might facilitate cooperation with other boards, provide recommendations to improve board standards or procedures, or assist in identifying resources for improving board operations.

Sections 5, 16, 21, and 28 of the bill require the boards to adopt online application forms for issuance or renewal of licenses and certificates. Currently, some boards operate completely manual systems, which wastes time as applicants have no indication as to whether an application is considered complete and must wait for notification of deficiencies and other correspondence via snail mail.

Assembly Bill 457 requires the boards to have an application that can be completed online. This is not simply a PDF form that must be printed, filled out, and mailed in. Rather it is an interactive, online application which lets the applicant know if all information is submitted and automatically stores data upon completion.

Sections 6, 14, 22, and 29 of the bill are revised in the proposed amendment ([Exhibit Z](#)) to authorize a person aggrieved by an application denial or other order imposing disciplinary action to appeal that decision to the Commission on Behavioral Health and allow the Commission to review and modify or rescind such orders on its own motion. Currently, the only appeals process for an aggrieved applicant or licensee is taking a board decision to court. However, for many behavioral health care professionals, the cost of a proceeding in court is prohibitive—which means for them, there is effectively no appeals process. This bill aims to build in an effective appeals mechanism for applicants and licensees.

Sections 7, 15, 23, and 30 of the bill are slightly modified in the proposed amendment and require each board to adopt regulations establishing:

- Uniform standards for board-approved internship locations;
- Standards related to supervision of interns working at remote sites; and
- The manner in which information regarding what is required for licensure is made available to the public.

These sections also require the Commission to review all regulations adopted by the boards.

Section 35 requires each board to submit a report to the Commission by January 1, 2018, with information related to the costs of board activities, the fees imposed by the board, and the board's efforts to recognize licenses, certificates, and other credentials from jurisdictions outside of Nevada.

Finally, Madam Chair, I would like to propose one additional amendment ([Exhibit AA](#)). As you and I have discussed, I think it would be beneficial to include a preamble to the bill to emphasize the fact that behavioral health professional licensing boards have an equal obligation to protect the public, promote quality health care, and facilitate licensure through the development and implementation of fair, consistent, and transparent policies and procedures to increase access to behavioral health care services in Nevada.

Madam Chair, that concludes my remarks. I believe A.B. 457 is a critical step in the right direction. It has already started a conversation, but I want to see the words we have heard turn into action. Each of these boards has its strengths and its weaknesses, and this bill provides a process that will benefit not only the boards, but also current and future providers of mental and behavioral health care services in Nevada. On behalf of the Interim Legislative Committee on Health Care, I appreciate your consideration of A.B. 457 and urge your support. I am happy to answer any questions, and I have with me Cody Phinney, Administrator, Division of Public and Behavioral Health, DHHS, to help.

Chair Bustamante Adams:

Are there any questions from the Committee?

Assemblywoman Carlton:

On the reporting of complaints and investigations, I believe they already submit that, and you can find that through the legislative web page under the boards. You can go to each board and find out what their applications and complaints are. I would be interested in knowing what in that report you are looking for that is not available. I would hate to see a duplicate process. Do any of these boards use the credentialing scheme that we use with a number of other boards where, if you have had a license in another state for five years and have had no problems, you can actually credential into the state? It is not reciprocity because we have an opportunity to say no to people we would have concerns about. It makes it easier to come into the state under the credentialing process. Do any of these boards have credentialing?

Assemblyman Oscarson:

I am not aware of what the boards currently use as a process. Some of them still use the paper, handwritten system that has to be sent in. During the Interim Health Care Committee hearings, we did not have any indication that there was any expeditious way that this was being done, which is why we brought this forward.

Assemblywoman Carlton:

It is not just the processing, it is the actual credentialing of another professional. In order to address a number of these issues, you could probably incorporate boilerplate language into those boards to make sure people can get here more quickly. It has been tested, and we have used it on a number of other boards without problems.

I have some concerns about the state spending resources in supporting boards that are supposed to support themselves. If they have not raised their fees and have not asked the professionals who they regulate to pay for their boards, I have concerns. Having a professional license is a privilege in this state, and we expect them to pay for it. I have real concerns that, especially within the Division of Public and Behavioral Health, those dollars are few and far between and they are needed in five different places at the same time. I would be very apprehensive of using state dollars to support these boards. If they are not charging enough at the boards, it is the boards' responsibility to make sure they are revenue neutral and they get the appropriate fees from their licensees. I want to make sure that we are not opening the gate to state support of professional licensure.

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Chair Bustamante Adams:

You can continue that discussion outside of this hearing.

Assemblywoman Jauregui:

In section 3 you are going to require that new board members complete an orientation within 60 days. Would that apply to current board members? In section 6, is there a current appeals process?

Assemblyman Oscarson:

We heard through the Interim Committee that there was not a process. The only process for them was to go to district court to appeal unjust or unfair disciplinary actions. That is why we felt this was an important piece to be able to circumvent that court process. That would save money for both parties. We thought this would be a process to avoid having to use the courts. I had not thought about the current board members being required to complete the orientation. I do not have any opposition to that. I do not think it was discussed with the current boards. It could be done in a group aggregate meeting, and I have no objection to that.

Chair Bustamante Adams:

Seeing no other questions, I will move to those in opposition. [There were none.]

[Jim Jobin, Licensed Clinical Professional Counselor and Licensed Clinical Alcohol and Drug Counselor submitted a proposed amendment to A.B. 457 ([Exhibit BB](#)).]

Are there any to speak in support of A.B. 457?

Helen Foley, representing Nevada Association for Marriage and Family Therapy:

We strongly support this legislation. As we see more and more bills coming forward for endorsement, we know that we need more mental health professionals in the state. The problem is, once we put all of the new people coming in from out of state in front of all of the people who are graduating and finishing internships in Nevada, it pushes all of our people to the back of the line. It is true that our fees are very low and have not been increased since the 1980s. There have been policies by many of our governors that they did not want to increase fees. It is important to have some backstop before going to court if you have a dispute. We think this is a very good way to do this.

Merlelynn Harris, President, Nevada Association for Marriage and Family Therapy:

I agree with Helen Foley's comments. Our fees have not increased, but due to the financial challenges that our board has had, that has led to staffing challenges to the Board of Examiners. The backlogging of having qualified mental health providers in southern Nevada has been an ongoing challenge. I am in full support of A.B. 457. Change needs to happen.

Lynne M. Smith, Clinical Director, University of Phoenix; and President, Nevada Counseling Association:

I have an issue with section 32, subsection 1, paragraph (f) that directs the committee to select from a list of three candidates from the Nevada Association for Marriage and Family Therapy. Our Board represents two professional licenses which are clinical professional counselors and marriage and family therapists. The Nevada Association for Marriage and Family Therapy is not the appropriate body to suggest these candidates.

Joelle Gutman, Private Citizen, Reno, Nevada:

I have a master's degree in social work and, until recently, was a licensed social worker under the Board of Examiners for Social Workers. I chose not to renew my license in December 2016 because, after numerous negative interactions with the Board, I could not bring myself to pay a Board that I feel does not help, but hinders, the practice of social work in our state. After attempting to recertify this spring, I cannot emphasize enough the importance of this bill. I am here today to support A.B. 457 and appreciate the sponsors for giving this issue the attention it needs.

The Board of Examiners for Social Workers is sorely in need of oversight and accountability and needs to be reminded that the Board is to govern and protect the public as well as its licensees. Nevada has an incredible and urgent need for mental health providers and social service workers. As social workers, we need a board that incubates the growth of the profession. Since 2012, every encounter I have had with the Board has been negative. I have experienced an unwillingness from them to be helpful and answer questions, lengthy waits for licensure that have caused financial hardship and professional gridlock, and an overall sense of reluctance to grant me licensure.

Joan Hall, President, Nevada Rural Hospital Partners:

Our rural hospitals, especially in the border areas of Ely and Caliente, have great difficulty recruiting social workers. They found some in Utah and, in dealing with the Board of Examiners for Social Workers, have encountered many difficulties getting social workers licensed in Nevada. We are very supportive of this bill.

Chair Bustamante Adams:

We will move to those in neutral.

Bryan Gresh, representing Nevada Psychological Association:

We do not oppose the bill and are here because our members like their board, the Board of Psychological Examiners. The Board and the psychologists in the field have had a fairly successful give and take over the years. We understand the reason behind this bill, but we are happy with our Board.

Agata Gawronski, Executive Director, Board of Examiners for Alcohol, Drug and Gambling Counselors:

The Board is neutral because we have not been able to have a meeting yet to vote on this bill. We have been working with Cody Phinney and other stakeholders on the bill.

Colleen Platt, Counsel, Board of Examiners for Alcohol, Drug and Gambling Counselors:

We do have an endorsement which was established by Senate Bill 68 of the 78th Session as well as a licensure by endorsement for veterans throughout all of the chapters you see before you today in the bill. In regard to the reporting requirements, NRS Chapter 622 requires certain information to be reported and authorizes the boards to report other information. Currently, license applications are not an appealable decision by the board to the district court. There is a Supreme Court case that provides that as well as some language in NRS Chapter 233B. With regard to disciplinary action, there is a 30-day window whereby someone who has been aggrieved by a decision by a board may appeal it to the district court through a petition for judicial review.

Assemblywoman Carlton:

What are your endorsement criteria?

Colleen Platt:

In the statute, it requires that if you are licensed in another state, you can submit an application by endorsement. There are requirements that you submit fingerprints and information about other licenses in other states. The applicant has to be in good standing in the other states. The board is required to review that application within a certain period of time. If additional information is needed, the board is required to request that information from the applicant. The board is required to make a decision within 45 days of receipt of the application or after the fingerprint checks have come back.

Assemblywoman Carlton:

The fingerprints seem to be one of the difficulties. Is there any component of that endorsement that we put in the credentialing language that takes into consideration the amount of time the person has been practicing?

Colleen Platt:

I do not believe that language is specific from that bill. There may be some additional language in the regulatory sections of the various boards to frame out some of that, but that is part of the review process.

Assemblywoman Carlton:

That is the way we found to allow people to get into the other professions who had already been practicing in another state. At least the fingerprint checks are a lot faster now than they were a couple of years ago.

Agata Gawronski:

We do have a provisional license that is good for six months. It is in the hands of the applicant how soon they are going to get licensed. If the application is submitted and all of the documentation is in place and the fees are received, the turnaround can be as quick as ten days.

Sara Hunt, Director, Mental and Behavioral Health Coalition, University of Nevada, Las Vegas:

Our coalition is a multidisciplinary faculty group that has come together to work on workforce development, especially in the area of mental health in the state of Nevada. I am here to provide neutral testimony. We appreciate the collaboration and working together that the Division of Public and Behavioral Health and the boards have been doing. On our campus, we try to connect our future graduates with the different boards by having the boards present on licensing requirements. We look forward to that continued relationship, and we want to make ourselves available to any further work to be done in workforce development in the area of mental health, as we see the universities have a big role in that area.

Morgan Alldredge, Executive Director, Board of Psychological Examiners:

We submitted our neutral testimony ([Exhibit CC](#)) with an additional handout ([Exhibit DD](#)) prior to this meeting. Additionally, we do have multiple professional certificates and 20-year licensure that leads to expedited licensure through our board.

Assemblywoman Carlton:

Do you have the credentialing language that was discussed earlier?

Morgan Alldredge:

We do have the endorsement language that was placed in our statutes last session. Our Board has a subcommittee that is going through each jurisdiction in the United States and Canada to see who aligns with our requirements.

Assemblywoman Carlton:

We require them to be substantially equivalent so you have to be able to analyze each jurisdiction to make sure you only allow those jurisdictions. Are you in that process now?

Morgan Alldredge:

Yes.

Paula Berkley, representing Board of Examiners for Social Workers:

The Board of Examiners for Social Workers has many challenges, and we need to make improvements in many of the legislative intentions. The Board has authorized through board action the purchase of equipment that will fully automate the Board. They have restructured Board processing and leadership so they might become more transparent and customer-oriented. They have hired additional investigators so the processing of discipline can be faster. We have proposed a number of options to improve the licensing structure across the state by including the behavioral health boards and have been talking about better utilization of the Sunset Subcommittee. The four boards have met together to propose the amendments. We support the amendments because we think we can flourish under them.

Sandy Lowery, Interim Executive Director, Board of Examiners for Social Workers:

At the end of the 2015 Legislative Session, we were incorporating into our language the process for expediting endorsed licenses for individuals who have five years or more experience and who are currently clear in their practice. They are able to be endorsed in a much quicker manner. They do not need to meet a substantial equivalent standard. For individuals who have less than five years, we have a substantial equivalent requirement that they are able to demonstrate that their process was similar to what we require in Nevada. We have created a new licensure category, which is our "Provisional C." That Provisional C allows for an individual who is licensed in another state in good standing, passes a background check, et cetera, to immediately be licensed. They have a year to provide us with the additional documentation that we need to support their endorsed license.

Assemblywoman Carlton:

When was the last time you raised your fees?

Sandy Lowery:

We attempted to raise the ceiling of our fees in the 2015 Legislative Session. That met with a lot of noes from both licensees and individuals. That was in part due to some poor communication on the part of the board to our licensees about what our intent was. We are at the maximum ceiling that we have available to us now.

Assemblywoman Carlton:

Since I have been in this building, fees have always been a problem. I have always had a problem with having the two-thirds vote on a fee. A fee is for a licensee who wants to carry a license in this state. It is not a tax. It is not imposed. It is a choice to pay. That two-thirds moniker on a fee really ties the hands of our boards in being able to move into the twenty-first century and do these types of things, because people are afraid to vote for resources to get the job done. That is why I am frustrated when the conversation is about the state helping with that. It is hard enough for us to find the money to help our constituents and patients in this state, much less fund our boards. There are a lot of boards that will come forward, and they educate their membership. Their membership wants to pay the fees because they want to have a good board that is moving into the next century.

[Lisa M. Linning and Melanie Crawford, Legislative Co-Chairs, Nevada Psychological Association, submitted a letter in the neutral position to A.B. 457 ([Exhibit EE](#))]

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Chair Bustamante Adams:

Are there others in the neutral position? Seeing none, there are additional conversations to be had, so I would ask that the concerned parties speak directly to the sponsor and the sponsor to speak directly to the members. I will close the hearing on A.B. 457. Is there anyone here for public comment? [There was no one.] This meeting is adjourned [at 3:56 p.m.].

RESPECTFULLY SUBMITTED:

Earlene Miller
Committee Secretary

APPROVED BY:

Assemblywoman Irene Bustamante Adams, Chair

DATE: _____

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EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a proposed amendment to [Assembly Bill 262](#) presented by Jon Sasser, Statewide Advocacy Coordinator, Legal Aid Center of Southern Nevada.

[Exhibit D](#) is the Work Session Document for [Assembly Bill 12](#), dated April 12, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is the Work Session Document for [Assembly Bill 83](#), dated April 11, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit F](#) is a letter, dated April 6, 2017, regarding [Assembly Bill 83](#) submitted by Nick J. Stosic, Insurance Regulation Liaison, Division of Insurance, Department of Business and Industry.

[Exhibit G](#) is the Work Session Document for [Assembly Bill 458](#), dated April 11, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit H](#) is the Work Session Document for [Assembly Bill 267](#), dated April 12, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit I](#) is the Work Session Document for [Assembly Bill 328](#), dated April 12, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit J](#) is the Work Session Document for [Assembly Bill 425](#), dated April 11, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit K](#) is the Work Session Document for [Assembly Bill 454](#), dated April 11, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit L](#) is the Work Session Document for [Assembly Bill 165](#), dated April 12, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

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[Exhibit M](#) is the Work Session Document for [Assembly Bill 194](#), dated April 12, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit N](#) is a letter to Chair Bustamante Adams from Steven Burt, Chair, Nevada Behavioral Health Association, dated April 11, 2017, in a neutral position to [Assembly Bill 194](#).

[Exhibit O](#) is a letter to Chair Bustamante Adams from Trey Delap, Director, Group Six Partners, dated April 12, 2017, in opposition to [Assembly Bill 194](#).

[Exhibit P](#) is the Work Session Document for [Assembly Bill 199](#), dated April 10, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit Q](#) is the Work Session Document for [Assembly Bill 339](#), dated April 11, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit R](#) is the Work Session Document for [Assembly Bill 175](#), dated April 11, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit S](#) is a letter to members of the Assembly Committee on Commerce and Labor from Eva Medina, Program Manager, Consumer Direct Care Network Nevada, dated April 11, 2017, in opposition to [A.B. 175](#).

[Exhibit T](#) is a statement from Michael DiAsio, President, Visiting Angels; and Board Member, Personal Care Association of Nevada in opposition to [A.B. 175](#).

[Exhibit U](#) is the Work Session Document for [Assembly Bill 223](#), dated April 11, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit V](#) is the Work Session Document for [Assembly Bill 431](#), dated April 12, 2017, presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit W](#) is a proposed amendment to [Assembly Bill 468](#) submitted by Nevada Mortgage Lenders Association.

[Exhibit X](#) is a letter dated April 6, 2017, to Chair Bustamante Adams and members of the Assembly Committee on Commerce and Labor, in opposition to [Assembly Bill 468](#), from Darren K. Proulx, Chair, Advisory Council on Mortgage Investments and Mortgage Lending.

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[Exhibit Y](#) is written testimony presented by Assemblyman James Oscarson, Assembly District No. 36, regarding Assembly Bill 457.

[Exhibit Z](#) is a proposed amendment to A.B. 457, dated April 12, 2017, submitted by the Department of Health and Human Services (DHHS).

[Exhibit AA](#) is a conceptual amendment to A.B. 457 presented by Assemblyman James Oscarson, Assembly District No. 36.

[Exhibit BB](#) is a proposed amendment to A.B. 457 dated April 9, 2017, submitted by Jim Jobin, Licensed Clinical Professional Counselor and Licensed Clinical Alcohol and Drug Counselor.

[Exhibit CC](#) is written testimony regarding A.B. 457, dated March 12, 2017, submitted by Morgan Alldredge, Executive Director, Board of Psychological Examiners.

[Exhibit DD](#) is a document titled, "State of Nevada Board of Psychological Examiners: Making strides to pave the path to licensure of qualified professionals" regarding A.B. 457, submitted by Morgan Alldredge, Executive Director, Board of Psychological Examiners.

[Exhibit EE](#) is a letter dated April 6, 2017, to Chair Bustamante Adams and members of the Assembly Committee on Commerce and Labor, submitted by Lisa M. Linning and Melanie Crawford, Legislative Co-Chairs, Nevada Psychological Association in neutral to A.B. 457.

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ASSEMBLY AGENDA

COMMITTEE ON COMMERCE AND LABOR

Day Wednesday Date April 12, 2017 Start Time Upon Adjourn* Room 4100
 Room 4100 of the Legislative Building, 401 S. Carson St., Carson City, NV.
Videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 E. Washington Ave., Las Vegas, NV.

***Please note start time will be upon adjournment of the Committees on Government Affairs, Judiciary, and Ways and Means**

REVISED

- [A.B. 353](#) Revises provisions governing professional licensing. (BDR 54-930)
- [A.B. 457](#) Revises provisions relating to certain professional licensing boards. (BDR 54-410)
- [A.B. 468](#) Revises provisions relating to mortgage brokers and mortgage bankers. (BDR 54-1028)

WORK SESSION

- [A.B. 3](#) Makes various changes relating to the administration of workers' compensation claims. (BDR 53-161)
- [A.B. 12](#) Makes various changes relating to insurance adjusters. (BDR 57-465)
- [A.B. 83](#) Makes various changes relating to insurance. (BDR 57-159)
- [A.B. 109](#) Revises provisions relating to public utilities. (BDR 58-622)
- [A.B. 115](#) Authorizes a physician assistant or advanced practice registered nurse to perform certain services. (BDR 40-98)
- [A.B. 161](#) Requires the notarization of certain rental agreements. (BDR 10-733)
- [A.B. 163](#) Revises provisions governing certain short-term loans. (BDR 52-737)
- [A.B. 165](#) Provides for the licensure of health services executives. (BDR 54-566)
- [A.B. 175](#) Requires certain increases in the minimum wage paid to employees in private employment in this State. (BDR 53-866)
- [A.B. 194](#) Provides for the certification of behavioral healthcare peer recovery support specialists. (BDR 54-712)

If you cannot attend the meeting, you can listen to it live over the Internet. The address for the legislative website is <http://www.leg.state.nv.us>. For audio broadcasts, click on the link "Calendar of Meetings."

Note: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Assembly Committee on Commerce and Labor at (775) 684-8579.

(R#) Indicates the reprint number of the bill/resolution being considered.

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Meeting ID: 773

<u>A.B. 199</u>	Revises provisions relating to end-of-life care. (BDR 40-813)
<u>A.B. 206</u>	Revises provisions relating to the renewable portfolio standard. (BDR 58-746)
<u>A.B. 222</u>	Revises provisions governing payday loans, title loans and installment loans. (BDR 52-574)
<u>A.B. 223</u>	Revises provisions relating to energy efficiency programs. (BDR 58-660)
<u>A.B. 267</u>	Revises provisions governing industrial insurance. (BDR 53-650)
<u>A.B. 328</u>	Revises provisions relating to professional licensing boards. (BDR 54-157)
<u>A.B. 339</u>	Revises provisions relating to health care. (BDR 54-729)
<u>A.B. 354</u>	Revises provisions relating to employment practices. (BDR 53-275)
<u>A.B. 405</u>	Establishes certain protections for and ensures the rights of a person who uses renewable energy in this State. (BDR 52-959)
<u>A.B. 425</u>	Revises provisions governing alcohol, drug and problem gambling counselors. (BDR 54-1031)
<u>A.B. 431</u>	Revises provisions governing alcoholic beverages. (BDR 52-1018)
<u>A.B. 454</u>	Makes various changes to provisions relating to accountants. (BDR 54-109)
<u>A.B. 458</u>	Revises provisions governing industrial insurance. (BDR 53-489)

Public comment.

Matters continued from a previous meeting.

Unless waived by the Chairman, proposed amendments, handouts, and other exhibits for a hearing must be submitted electronically in PDF format to the committee manager at AsmCL@asm.state.nv.us no later than 5 p.m. the day before the meeting. Proposed amendments must be submitted in writing and include the sponsor's name, contact information, and the intent of the amendment.

Cellular telephones must be silenced while in the committee room.

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