Case No. 79224

In the Supreme Court of Nevada

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

Appellant,

vs.

TITLEMAX OF NEVADA, INC., a Delaware corporation,

Respondent.

APPEAL

from the Eighth Judicial District Court, Clark County
The Honorable JERRY A. WIESE II, District Judge
District Court Case No. A-18-786784-C

RESPONDENT'S NRAP 28(f) PAMPHLET WITH 2005 AND 2017 LEGISLATIVE HISTORY OF ENACTMENT AND AMENDMENTS TO NRS CHAPTER 604A

VOLUME 4
PAGES 751–1000

DANIEL F. POLSENBERG (SBN 2376)
JOEL D. HENRIOD (SBN 8492)
DALE KOTCHKA-ALANES (SBN 13,168)
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
(702) 949-8200
DPolsenberg@LRRC.com
JHenriod@LRRC.com
MKotchkaAlanes@LRRC.com

Attorneys for Respondent

TABLE OF CONTENTS TO RULE 28(f) PAMPHLET

CERTIFICATE OF SERVICE

I certify that on May 20, 2020, I submitted the foregoing "Respondent's NRAP 28(f) Pamphlet with 2005 and 2017 Legislative History of Enactment and Amendments to NRS Chapter 604A" for filing *via* the Court's eFlex electronic filing system. Electronic notification will be sent to the following:

Aaron D. Ford
Attorney General
David J. Pope
Sr. Deputy Attorney General
Vivienne Rakowsky
Deputy Attorney General
555 E. Washington Ave., Suite 3900
Las Vegas, Nevada 89101
DPope@AG.NV.gov
VRakowsky@AG.NV.gov

Attorneys for Appellant

/s/ Jessie M. Helm
An Employee of Lewis Roca Rothgerber Christie LLP

Additionally, we offered to prohibit making a title loan to a customer who is not legally the owner of the vehicle as stated in section 7, subsection 2. It makes sense that you should not get a loan on property that is not yours. Additional customer documentation—which is not in the bill but we believe it will make it stronger—would be an industry addition. The licensee is not in violation of the provisions of this section if the customer presents evidence including, but not limited to, pay statements, electronic bank statements, and other reliable documentation of his or her gross income to the licensee, current employment status, and a valid government-issued identification. This includes valid identification (ID) issued by non-U.S. jurisdictions, such as *matrícula consular* identification cards and foreign passports. Another industry addition that is not included in the bill is national automatic clearinghouse association (ACH) language. We offered it to be codified and if the licensee intends to reinitiate an ACH entry that has been returned unpaid, the licensee must do so within 180 days after the settlement date of original entry. The licensee must not reinitiate an entry that has been returned for insufficient or uncollected funds more than two times, or for any other reason following the return of the original entry. Finally, we offered a financial literacy fund, which is also not in the bill. This would provide $500 per licensed location and must apply to the NRS 604A lenders section. Either the Department of Education or the Treasurer's Office would oversee these funds. With that, Madam Chair, if there are no questions for me, I will turn it over to Mr. Shaul.

000751

Chair Bustamante Adams:
Thank you, Mr. Horne. I do not think I have those suggestions, so if you could submit a copy to me that would be helpful.

000751

William Horne:
Yes, and we have been working on this for a while and literally, I think it was after your floor session that I handed them off to Assemblyman Flores for his consideration. As I said, our discussion with Assemblyman Flores has been ongoing.

Chair Bustamante Adams:
Mr. Shaul, thank you so much for being with us. We have questions from the Committee members, but go ahead and make your statements, and then we will take questions.

Dennis Shaul, Chief Executive Officer, Community Financial Services Association of America:
Thank you. I am delighted to be here, but it was not as easy as I thought because we had such a terrible winter weather day yesterday. This is my first trip to Carson City, and I am delighted to be here. I came to this job five years ago and frankly, one of the things I thought when I took it was, How difficult can this area be? I had just finished working on Dodd-Frank and a lot of the work I did was on the Volker amendment on derivatives, and they are complex and they are intellectually consuming. My view of title lending was that it was a pretty-much straightforward entity. I found that it is anything but straightforward.

To begin with, there are online payday lenders, storefront payday lenders, there are Indian tribes who are payday lenders, and there are illegal payday lenders. By the time you

get through the mix, it is very hard to know precisely whom someone is talking about when they tell you an anecdote or a story. For instance, as a trade association we have a code of best practices. If members do not follow them, then they are subject to being thrown out of our organization. Since I have been with the group, I think that has happened on four separate occasions. It is important to distinguish who is giving the loan and to make sure that that lender is adhering to practices that would make you proud of both what they do and also comport themselves according to state law.

When I moved into this industry, I did not realize that this area is conflicted in a sense that I do not think most Americans understand. The truth is that there is a crisis in America for people who are what I call "ordinary wage earners." The Federal Deposit Insurance Corporation indicates that more than 40 percent of Americans cannot raise $400 in a crisis. There is another statistic from their organization indicating that raising $1,000 in an emergency is not something that a majority of American families can do. In another era, when our politics were not in as unhappy a state as they are now, that would have been cause for a real national discussion, because this is clearly something that is not in any way in league with the American spirit. People have used credit, historically, in the United States, to move from one tier of economic opportunity to another. Most middle class people can tell you the circumstances by which or the days under which they began to move forward from being, literally, borrowers and nothing but that, to the point where they became middle class, whether it was through the purchase of a house, advancing themselves in their career, by education, et cetera.

000752

000752

This is a crisis, and payday lenders are not the answer to that crisis. I am amazed that we fulfill the functions that we do, and as I look back on the period of time from 1999 to the present, I am very conscious that we are undergoing an historical difference that we can speak to. That historical difference is that payday loans used to be strictly an emergency vehicle. That is, if you had something untoward that happened to you and you needed cash in an emergency for a specific purpose, you could go to the payday lending store and you could get that cash. Beginning with the economic downturn, what we have seen more and more of is people coming in and saying, I cannot make my ends meet. My income does not match the outgo that I have in front of me. Therefore, we have a much more difficult-to-service population than we once had. As I said, we need to have a debate about this in the country, but for now, payday lending serves a very useful purpose. About 19 million Americans avail themselves of it. In addition to that, we are very aware that most of them who avail themselves of it go on to leave the payday lending platform and go to something else.

We are proud of that, but we are also conscious that payday lending has an awful reputation. It has an awful reputation, in part, because there are unscrupulous operators. We are as dedicated as anybody else to getting them out of business. I am amazed, when I go to conferences, that people will say to me, We do not have payday lending in our state. Yes you do, you just do not know that you have it. As a matter of fact, if you go online, most of the time in most states—even in New York, which prides itself on not having payday lending—you will see that there are payday lending outlets. They are unregulated

and unscrupulous. We have even had, from our member organizations, people come forward and say that they got a complaint on a loan that they never made from a customer who is being fleeced. What do we do about that? We suggested—and I would like you to keep in mind—when we went over to deal with the Consumer Financial Protection Bureau (CFPB), that they ought to require everyone who does any small-term lending to register, and if they do not register, the loan that they give out should not be collectible. States should pass the companion legislation that says that if you are not registered you do not have the ability, in our state, to collect your loan.

Our business thrives on the fact that people reserve these loans for themselves as a last resort, separate and apart from perhaps one thing. There are any number of our customers who have available—and we know this because of the research we have done—portions of their credit card that they may use and who choose not to use it to pay back a payday loan, for example, because they regard that like a savings account and their last, best resource. These are people in the main using payday loans, as they need them, at the end of the month for a variety of purposes, but not necessarily in consecutive order. As someone else mentioned, those who use payday loans consecutively and get themselves into trouble are a very small portion of those who borrow from us.

000753

The reason I am here, that I was asked—and I am honored that I was—is because I have spent the last five years in extended discussions with the Consumer Financial Protection Bureau about how to best reform payday lending. I identify myself with Assemblyman Flores because so much of what he said I find some resonance in, particularly the ability to repay section. There is not yet a magic bullet that can tell us exactly when someone will be qualified to repay a loan, but there are standards we can use and they are increasingly becoming more refined. When we look at the ability to repay, one of the good things that has come out of the debate that we have had with the Consumer Financial Protection Bureau is a greater consciousness that what we are really talking about is the ability to repay this loan while also being able to repay the monthly obligations that the borrower has assumed. It does not do the customer any degree of good if, as a function of our repayment, he neglects to be able to pay his rent, his mortgage, or his car payment.

000753

When we talk about the ability to repay, we are really getting into the question of how much income is left after the loan is repaid to do those necessary things that the ordinary household has to do. That is the real test for ability to repay, and it imposes on us—when you stop to think about it—a greater degree of responsibility than we may have enjoyed or have been forced to exercise in the past. This is because it is really up to the operator to make the decision about the person in front of them—and 59 percent of our customers are women, single mothers, the arbiter of the breakfast table who sits down with the family and says, if we are going to make it through this month this is what we are going to have to do. There is a lot of juggling that, historically has been left, in many cases, to women to manage the books for the family.

One of the things our industry is grappling with is how we make sure that two classes of people really do enjoy this ability to repay. Two things can happen that make it very difficult

for a person to repay a loan. The first one is the obvious; it is when the borrower overestimates what they can do. It is up to operators to do a better job of ferreting that out, and I think we are coming to conclusions that allow us to do a better job. For example, there are more credit union-type entities that are now looking at cell phone or rent payments, as opposed to the big three credit bureaus that only looked at more established lines of credit. We know that we are getting closer to being able to come back with an exact formula to calculate ability to repay, but I applaud Assemblyman Flores for trying to enumerate what that formula might be and to work to put together a situation where there is a kind of formula for that ability to repay.

I want to stress to you that what is important, from our point of view, is not cutting off credit to those who need it the most. We were asked to comment on the rule that the Consumer Financial Protection Bureau proposed and with which we disagreed. One million, four hundred thousand of our customers, under no exertion or pressure from us, came forward, wrote a letter or a comment to CFPB, which essentially said that they need this credit, and that this has been a lifeline.

I gather I have the ability to come back when the second bill is proposed, and I will speak a little more. I have a little more information about some of our statistics. I want to make clear to you that anything I say that is a reference to research, we will provide that to any member of the Committee who wants it. Our polling has been done by The Harris Poll. We take pride in what we have done to find out what our customer is about. We take great pride in what we demand of our operators; as I said we have thrown some out of the organization because they did not comply with our code of conduct, and I think we have a great record of cooperation with the Consumer Financial Protection Bureau. Anyone who enters an attempt at reform deserves our consideration and respect. Payday lending is a dynamic industry in which people are moving away from single pay toward more installment-type lending and other forms of lending. We need to keep up with that, and we need to keep up with it in a manner that gives the customer more confidence that this is a place he can go for a transaction that is not going to burden him with something that is, in the long run, bad for him but will give him a cushion to face the future and improve his lot.

000754

Chair Bustamante Adams:
Thank you, Mr. Shaul.

Assemblywoman Carlton:
These are going right to the questions that I had, because I know full well that a trade association's job is to promote the industry, not necessarily to regulate. You are not regulators in any way that I understand, but I thank you for having your code of conduct. I pulled up your eight best practices. They seem to be very informative, but they are not regulatory in any way, and I understand that they are not meant to be. You did mention, however, that you have asked a few members to leave your association. There is currently a case here in the state of Nevada where a company has blatantly broken the rules and is probably going to go very high up in the court system. What are the consequences of being

asked to leave an association? Is there any penalty? How do you go about that and what real value is there in asking someone to leave?

Dennis Shaul:
It varies from their not being able to indicate that our best business practices are a part of their operation, all the way to our aligning ourselves with those who sue. We have, in some cases, sued the operators. It is not toothless, but as you say, it is not regulation. I think it is a means of keeping a group together in a manner in which they discuss what ought to be their ethical framework, and I think in that sense it has worked very well.

Assemblywoman Carlton:
Thank you. I just have concerns on the value.

Assemblywoman Neal:
Mr. Shaul, what are your thoughts on section 3 of the bill, where Assemblyman Flores added language in regard to the grace period which does not include an extension of a loan?

Dennis Shaul:
My thoughts are that no one who has significant problems repaying should ever be penalized because of that. The object of any legislation is to strike a balance between the fact that the loan is still outstanding—and one would think, under normal circumstances, that loan would be interest-bearing—and the fact that the customer's plight may be such that he or she cannot make any further payment. The trick is to get the borrower out of the situation before it becomes worse.

000755

We suggested to the CFPB that a possible solution to overextension—where borrowers repeatedly stay in the same loan—is to make it mandatory that at a given point borrowers have to exit the loan, and at that point, no more interest is charged. All our conditions were simple. Once the party repaid the loan, however long it took, he should not be penalized in terms of his ability to come back and ask for another loan. Second, we asked that the operator not be downgraded on examinations by the fact that he moved some people out of interest-bearing accounts and into a different position, so they do not have to do that. In other words, what we sought is to say that mistakes happen in the lending process. If someone finds himself or herself in difficulty, the first priority ought to be to get them out of the difficult situation. Once that occurs, that person should be able to come back with a clean slate, and the operator should not be penalized for having taken the steps to get him out of the interest.

Assemblywoman Neal:
You state that, historically, credit has been used to move from one economic tier to another, but the way I have categorized what is happening now is that we are now allowing people to use their paycheck as collateral. Is that correct? You also mentioned that these are people who do not have enough income to meet their needs. What is interesting to me is that we already know that these are predominately communities of color who are poor; whose money never meets their end goals. I am trying to figure out what the solution is for the individual

who is not using payday lending as an emergency but as a constant stopgap because they actually really need another job. At the end of the day, they do not have enough income and the constant cycle—this is what I have seen in my own family. They do not have enough income so they keep using the payday lender. They keep going there, they have been going there for five years straight, because they flat out do not have enough money to pay their bills; they have never had enough money to pay their bills. Using their paycheck as collateral, knowing that their paycheck is never going to be enough, creates what I perceive to be an addiction and a cycle. They do not even have the ability to stop themselves.

I am really trying to figure out the solution to that, because I feel like everybody is saying that we will allow him or her to have the emergency. Then I was reading the document about financial literacy, but at the end of the day, the person does not ever have enough money. Should we really have a business model that is built around the poor?

Dennis Shaul:
I do not think we are going to come to agreement on this. First of all, the paycheck is no more collateral in this instance than it is for any other debt that a person owns. The paycheck is not surrendered to anybody. The paycheck is not the same as the check that is given as security.

000756

Second, it is our experience that people are in and out of payday loans, almost all of them, within 18 months; they are not habitual. Yes, there is a fragment of the industry—less than 10 percent—that are habitual users, but that is certainly not the common experience. I think you have to distinguish between operators who have a conscience and those who do not. As a rule of thumb, for example, anyone who comes in and says that they know of a case where someone has paid as much in interest as in principal, bring that person forward because he has been cheated. That should never happen. There are ways in which operators can detect who belongs and who does not belong. If someone is there with frequency, that should not be the customer. This is a traditional business in the sense that if the loan is not repaid, you do not make money. When the loan is repaid, you hope that that person, if that situation arises again but not in sequence, will come back to you. This means that what you want is a customer core that will, to a given point, come back to you but not every month—not payday after payday—but maybe three or four times a year. During that period of time they will be advancing themselves into a better position.

000756

By the way, our statistics do not in any way show that the vast majority of our customers are the leading edge of the poor. You would be surprised, and I will furnish you the data, at the number of customers who have college degrees, are homeowners, and earn in excess of $50,000 a year. That is as much our customer base as any other portion you can name. The operator does not want to be giving a loan to a person who is making $15,000 and cannot afford to pay it back. If you stop and think for just a moment, you realize that it is not just the paying back that is at issue, but it is the capital flow that makes it possible to do other loans to people who are worthy of the credit.

Assemblywoman Neal:
I guess my problem with that, and it has been consistent, is that you should not borrow money regardless of whether it is a payday loan or any other traditional lender whom you cannot pay back. You do not have enough money in the bank, and they are giving loans out to people who are making $15,000. They are also capturing people who are unbankable.

Dennis Shaul:
We do not have anybody who is unbankable.

Assemblywoman Neal:
Can I finish? I know for a fact, in my district, I have a 22-year-old who cashes checks at the payday lender because he does not have a bank account. He had one account closed at Wells Fargo and another one at a credit union, so now he cashes his checks at the payday loan place because he cannot afford to pay the fees that he racked up on the overdraft charges. To me that is an unbankable person, so to say that to me is not accurate because I know for a fact that if you cannot afford a bank account, this is a vehicle and this is the place where you can take an actual check and get it cashed for a $20 fee. You can get that money back. I know that has happened. It happened two weeks ago.

Dennis Shaul:
That is not a payday loan. That is check cashing. Those are two entirely different things. You cannot get a payday loan without a bank account.

000757

Assemblywoman Neal:
I am not trying to sit here and argue with you. I know that he went to a MoneyTree or a competitor, but the point is he did it because he does not have a bank account. The thing is, I feel like a lot of poor people of color never learn how to manage their finances. They get caught up in this cycle of trying to meet a need that is never going to be met because they actually do not have enough income to take care of themselves. That is a large population of people of color, it is a consistent population and a historical population, and it is where payday lenders are setting up shop.

William Horne:
May I address the Assemblywoman's concerns? I would say that our average customer earns a little over $40,000 a year. I would remind you, and I think everyone here knows that you can live paycheck to paycheck even if you and your family earn a six-figure yearly income. That exists and those emergencies can arise even in those households, to where they do not have that income or that emergency fund to handle that. Concerning the low-income earners who utilize these services, I would say that eliminating this industry would not be protecting them because this is a well-regulated industry. Eliminating this industry would be sending some people who, as Assemblywoman Neal properly stated, do not have the funds or the income on any given day or any given month to make their ends meet because they are low-wage earners.

If we eliminate this industry, these people are still going to exist, but where are they going to go? They are not going to cease seeking funds to make their ends meet. They are going to go to unregulated online sites to do that where we do not have a reach to protect them. They are going to go to other, unscrupulous areas where we do not have a reach to protect them and then they are going to find themselves in true harm's way. I grew up in Las Vegas, and I have known of people down the street who will lend money, but you had better have that paid back to them when they say to, or there are consequences.

This is a well-regulated industry, and I appreciate Assemblywoman Neal's concern about minority communities with low economic means of making ends meet, but I would say that those concerns—their lack of access to credit, lack of high wages—will still remain, even with the elimination of this industry. I would say do what we have been doing in making sure that the industry we have is well regulated and addressing those needs of the community. This community did not have anything to do with the low wages or the lack of access to credit.

Chair Bustamante Adams:
I think it is a bigger conversation. We are going to redirect back to the bill and we are going to end with Speaker Frierson, who has a question, and then we will go into neutral testimony.

000758

Assemblyman Frierson:
I wanted to shift gears a little bit in addressing my colleague's questions about people who are caught up in this cycle. I know from my criminal practice background, people also are caught up in a cycle when they cash their checks at the casinos and they have a gambling problem. There was a mention of addiction, and I think there is a fair argument about it being similar, but I am also aware that in the gaming industry they have education programs and offer services to try to educate people that come in for that purpose. Along the same lines, if we are talking about people who are actually doing this to pay a light bill or to feed their children, they are not going out and partying or trying to make it rain; they are just trying to meet their bare needs. What has the industry done or what is the industry doing to address that education factor or anything along those lines that would try to mitigate any harm that comes to users who are in some way chained to a cycle?

000758

Dennis Shaul:
It varies from state to state. We have operators who fund community organizations that do this very kind of thing. We have operators who actually, on their own, have those kinds of programs. The trick with consumer education on credit is to catch the problem early enough so that you are not trying to give education at the moment customers are in one of our stores. In other words, once the person has pretty well determined that they want a payday loan, they are going to make that decision stick. Earlier on, when they are considering alternatives, then there is an opportunity to really work with them on what their true needs are. Consumer education can work, but a lot of it rests with the timing of it and also the effectiveness of the teacher.

Susie Schooff, Director of Government Affairs, Advance America; and representing Cash Advance Centers Incorporated:

I appreciate that you gave me the opportunity to testify this afternoon. I am the Director of Government Affairs for Advance America. My home is in Wisconsin and I, too, left in a snowstorm. One of your members told me, when I was speaking with him, that I should thank you all for bringing me into the warm weather.

I represent Advance America, and we are one of the nation's largest small-dollar, short-term loan companies. We operate in 28 states with over 2,100 storefronts. We have 11 centers in Nevada. Advance America was founded in 1997, and in 1999, we were part of the founding members of Community Financial Services Association (CFSA).

Years ago, in the late 1990s, our founders figured out that there was a growing need for the short-term credit that banks and credit unions were no longer offering. We can all accept the fact that banks are growing bigger and they do not offer the short-term, $400 loans our parents could take out. At Advance America, we offer simple, reliable, fully disclosed financial products. We were talking about a lot of different products and different things that we offer, but we do offer the typical payday loan. We are located in populous zones such as shopping centers, malls, and retail areas—places where people and your constituents live and shop.

000759

The need for regulated short-term credit in Nevada is real. You know it. You hear it from your constituents. It is not going away, and as mentioned before, it is a regulated and safe industry, both on the state level in Nevada and from a federal perspective.

000759

The Committee asked about the typical payday loan customer. To say we have a typical customer is difficult to say because people from all walks of life and all demographics patronize our stores. At Advance America specifically, our average customer is 41 years of age, the median household income is $49,000, 70 percent of our customers are homeowners, and 93 percent have a high school diploma or more. We are talking about educated people who are coming in for a short-term need, and we offer that.

We are here today to oppose A.B. 163 as it is currently written. As Mr. Horne mentioned, we are in a dialogue with Assemblyman Flores to talk about different consumer protections and ideas that we as an industry have issues with, and hopefully we are at the table. We recognize that there is a lot of dialogue in Nevada right now with several different initiatives being put forth.

With that said, I would like to offer, from Advance America and probably any other operator, we would love it if you would visit a store. You are welcome to come to an Advance America store; we have 11 of them. You can come see what we do firsthand and talk to our employees. They are the ones who deal with these people who have the issue, who come in with their need, that moment, that day, who need that $300 loan. They work with them. They are your constituents, and we would love it if you would take us up on that

offer. Certainly, Mr. Horne is here, you see him often, and he can get hold of me. With that, I appreciate the ability for us to testify. Thank you so much.

Chair Bustamante Adams:
Is there anybody else in the audience who is in opposition to A.B. 163? If so, please come to the table. I need you to be very specific in what it is about the bill that you want to change. We know enough about the industry; I just need to know what, in the bill—section, line, et cetera—that you would like to see different. That would be helpful to me.

Assemblyman Araujo:
This is mainly for people who are going to testify in opposition, especially the people who are representing the lenders. If you have data concerning how many of your clients default, and how that process unfolds, I think all of that would be helpful. When we asked the Commissioner the same questions, his answer was that he did not have that information. If you have that information, I think it would be helpful. If you do not have that information now, for the record, it would still be helpful to the Committee offline.

Sean T. Higgins, representing Dollar Loan Center:
I would like to address Assemblyman Araujo's question. Obviously, those questions were raised, but the fact of the matter is that each and every one of the licensees in the state prepares a questionnaire, which they return to the FID, and which includes the number of loans approved and the average amount of the loan. I believe Mr. Burns said that the FID takes a sampling of those questionnaires, but every licensee provides that information to them. That information is collected and provided to the FID on a regular basis.

000760
000760

I am here representing Dollar Loan Center. In 2016, my client received a total of six complaints. Each of the six complaints was handled without going to the disciplinary committee; each was resolved with the borrower. Last year, fewer than 50 cases went to lawsuit out of 120,000 loans. I want everyone to understand those numbers as we look through this.

With regard to the bill itself—and I think Mr. Horne addressed this—we believe there are some items such as the ability to repay that can stay. The fact of the matter is that my client is a lender under NRS 604A.480. I think it is important to address that section of the law and the requirements my client must meet currently before they approve a loan. The only loans we write are what are called high-interest loans, and we do not charge any fees up front. The process begins when a person comes in and we have them fill out paperwork. We then perform a credit check on the customer with a major consumer-reporting agency and give the customer the right, per statute, to rescind the loan within five days. We also participate in good faith in credit counseling with that customer. All of those things are already required under the law, and we perform all of those things. Finally, we charge our clients a daily interest rate, but again, we do not charge any fees. We believe that the current ability to repay as written in NRS 604A.480 is adequate.

The second topic I want to address is default. I do not believe people enter into these loans with the intention of defaulting, but we can take one of my client's loans as an example. My client's loans are fully amortized, which means every payment—whether weekly, biweekly, or monthly—is principal and interest until the loan is paid off. If we loaned someone $500 with biweekly payments, their interest would be $2.71 a day. The fact of the matter is that if that person does not make that first payment two weeks later, with Assemblyman Flores's language, we would then throw that client into default. We would never have received a single payment on that loan, and the client would then have no further obligation to pay the interest, which was agreed upon, in a contract, which was signed. Additionally, our contract is like any contract that people freely enter into, and normally it is up to one party—in this case a bank or the lending institution—to determine when they are going to trigger default. That happens every day at banking institutions, whether it is payday lenders or retail banks, on a regular basis. This industry is no different from any others.

Those are the two sections of A.B 163 that relate to my client and with which we have specific issues. I am happy to answer any questions, and I appreciate your time today.

Alisa Nave-Worth, representing MultiState Associates Incorporated; Moneytree; Check City; Check-Into-Cash; and QC Financial:

000761

We represent MultiState, which includes MoneyTree, Check City, Check-Into-Cash and QC Financial. I just want to say that our clients work hard to ensure that they not only comply with existing Nevada law, but they comply with the best practices in the nation. That is why we want to work diligently and have worked diligently with the sponsor to address the particular concerns and real issues where loopholes exist, so that the few bad actors in this area are not able to exploit the law.

000761

Mr. Horne said, and we would like to reiterate, that certain aspects of the ability to repay in A.B. 163 as written make sense, and we believe should be in law. We think there should be some additional elements, including language stating that a licensee will not be in violation if they are able to obtain certain forms of documentation. We think current employment status is something that should be included in the section concerning ability to repay and that a valid government issued ID—including IDs issued by non-U.S. jurisdictions—should also be included in that. We have concerns, however, with other aspects of the ability to pay, because we find the language is overbroad and ill-defined, and we would like to work with the sponsor on those aspects with which we do not agree. We think we are trying to understand what the sponsor is trying to do, and we want to work through this. We understand what the ability to repay is and, frankly, we believe that we comply with ability to repay because we want people to repay our loans. That is the business we are in, and we comply with the law in all of our stores.

We are also concerned about the elimination of the grace period in general, because we believe that the grace period is a form of consumer protection put in place in 2007 and part of a larger discussion about giving a mom who gets caught at soccer practice 48 hours to repay a loan without having to go into default. We would like to further open that conversation with Assemblyman Flores.

We have told Assemblyman Flores that we agree that an individual should not be able to take out a title loan on a car that he or she does not own. If people are doing that, we think that is already against the law and should be enforced, but it needs to be codified. We understand that, and we think it is a good practice that should be put in place.

I want to reiterate two other things we have suggested to Assemblyman Flores. The first is that we believe the Legislature should codify national requirements regarding ACH entries. We believe that is a consumer protection that, while not yet proposed, would be good consumer protection and put more teeth into the law. As an industry we also believe in and are willing to come forward and fund a financial literacy fund modeled after other states that would be a $500 per licensee location. We believe it is important that customers who are not able to access this type of credit should be properly counseled. As an industry, we want to be a part of consumer protection education.

000762

Assemblyman Frierson:
I appreciate that, Ms. Nave-Worth, and I think that you were the first to at least provide a full-throated notion of being willing to work with the sponsor and articulate exactly what it is you are having issues with, but also what you can do moving forward. I just wanted to encourage those that did express opposition—I realize that we are taking testimony in a nontraditional order—to speak with the sponsor and subsequent members of the Committee to articulate in a detailed way what you do not like versus what is good, in addition to what might need to be altered. I am assuming that there are some things that you do not like, there are some things you support with some modifications, and then there are others that you support as being an effective way to go after bad actors. It is not entirely clear with the presentations that that is where we are going. I think it would be productive and fruitful for us to make sure to go that way.

000762

Alisa Nave-Worth:
Thank you very much, and we look forward to having a very detailed conversation in the coming days.

Chair Bustamante Adams:
Thank you both so much. Is there anybody in the neutral positon who would like to testify? Being neutral means that you will provide information that you think we should have in order to make an informed decision. [There was no one.] We will now take testimony from those in support of A.B. 163.

Barry Gold, Director of Government Relations, AARP Nevada:
There will always be a need and a place for people with less than stellar credit to take these kinds of loans. However, oftentimes these people are desperate. As Assemblywoman Neal said, these people cannot make ends meet so they need to find a way to get the money that they need.

AARP has been working on payday lending, title loans, et cetera, for a number of years in the Legislature. It is very important that we do two things: we protect people against the industry, and we also protect people against themselves because, oftentimes, people do things that are not in their best interests. I get calls from people who took out one payday loan to pay off another, and since I am not an attorney, I do not give them advice. I ask them a simple question: how did that work for you? They tell me that it did not work for them, so I refer them to agencies like the Legal Aid Center of Southern Nevada and Washoe Legal Services. AARP, on behalf of our more than 300,000 members across the state, supports A.B. 163. I am not going to be able to stay for the next hearing, so I know it is a little out of protocol, but we also support Assembly Bill 222. Thank you.

Venicia Considine:
I wanted to bring the conversation back to the fact that A.B. 163 is about allowing lenders to write loans and allowing borrowers to pay them off and to get borrowers out of a bad situation before it gets worse. This is about defining and clarifying statute. This bill is about defining what the term "grace period" means; this bill is not about getting rid of the grace period. It is about an understanding that if the grace period is a gratuitous and free period of time—such as 48 hours—for someone to make a payment, then that is what it is: it is a free and gratuitous offer by the lender. It is not, as has happened in our experience and as is described in my testimony (Exhibit E), the ability for a title loan lender to take someone who is in a title loan and cannot make the payment, and put them into a 14-month loan that not only jumps up after 7 months of payments into double the payments, but also nets the lender an additional $1,200 in interest. This is a loan that went from a 210-day loan—and in this particular case this was not even the first loan, it was a roll-over—into an additional year or more for what was supposed to be a short-term loan. The fixes in A.B. 163 are there to avoid this type of predatory lending. This is not an argument about who is scrupulous or who is unscrupulous; this is about making it clear what default means and, when a default is triggered—by whatever means it is triggered—that instead of putting someone who is already financially vulnerable into a position where they are paying for several months after the loan should have been done, they are paying hundreds or thousands of dollars more of interest than what they agreed to. The statute backs up the fact that a default is clear.

The reason why this type of grace period deferment plan ended up in a lawsuit was because these types of predatory lending netted over $7 million for the lender who did this. The lender said that their version of "grace period" was interpreted differently from the customer, but that their version was understandably the intent at the time "grace period" was defined in statute. The same issue exists with default. If default is defined, it should be defined clearly. There should be no argument that "default" is vague; otherwise companies will just find new ways to get additional interest and then we will see how long it takes

000763
000763

because people do not know what their rights or complaints are. This bill simply clarifies default, clarifies grace period, and clarifies ability to repay a loan. This bill also clarifies that if you are not the titled owner of a vehicle, you should not be given money, as someone else's collateral is the thing that is going to be repossessed. I appreciate your time, and I am happy to answer any questions.

Nancy Brown, President and Board Chair, Opportunity Alliance Nevada:
Opportunity Alliance for Nevada (OA) is a 501(c) nonprofit. Finance and economics affect nearly every aspect of Nevadans' lives. The ability to manage one's finances and have access to resources needed to better one's financial prospects can lead to an increase in financial security and the ability to maximize one's assets. As more Nevadans are able to successfully improve their financial outlook, Nevada's economic ladder is strengthened, providing a resilient middle class that can meet the demands of a global market. Access to affordable, responsible credit is part of the equation. Unfortunately, payday lenders in Nevada are taking advantage of people who are operating in crisis mode and end up signing complex loan agreements with interest rates so high that they are illegal in many states. While Nevada has made some progress in legislating payday lending reform, more is needed to protect the consumer; therefore, OA supports this legislation. Thank you.

Elizabeth Tenney, Private Citizen, Reno, Nevada:
I am a citizen from Reno. Thank you very much for taking our comments today. I am here with a brief personal story. This business in Assemblyman Flores's bill about the ability to repay is so fundamental to the success of anyone.

000764

I am a retired teacher, and I knew a teacher whose story tells the old issue of being trapped in a situation that one can never get out of. Life happens: through divorce, losing a house, and a former spouse's poor financial management, this teacher found herself homeless. She was not able to get together first and last month's rent, and she was living in her car. She was a college graduate teaching school, living in her car, going to public bathrooms to get ready for school, and going to department stores at night to get clean for the next day. It was a very tragic situation. She was eventually and with difficulty able to pull herself out of this situation, but if she had gotten into the debt cycle we see with high-interest loans that are rolled over with usurious interest rates, her recovery never would have happened. In her case, she would have looked like she had the ability to repay, which is a very important component of this bill. I am very impressed with the breadth of Assemblyman Flores's seven prongs and that all those factors must be considered, so I am very much in support of this bill. Thank you.

Shane Piccinini, Government Relations, Food Bank of Northern Nevada; and representing Three Square:
Without getting repetitive, Nancy Brown made several of the points that we would have made. I just wanted to go on the record and make it clear that our food bank and our work through Bridges to a Thriving Nevada absolutely supports A.B. 163.

Kenneth Krater, Private Citizen, Reno, Nevada:
My name is Ken Krater and I live in Reno. I wanted to give you a quick background about myself. I have always been highly involved in my community, and about a year and a half ago, with the help of Mayor Hillary Schieve, we formed the Operation Downtown Blue Ribbon Commission to deal with homelessness, blight, mental health, and addiction issues within our downtown community. We received quite an education in the last year and a half, and one of the things the commission discussed is payday loans.

I learned, long ago, that in any industry or any business there is the good, the bad, and the ugly. For those who are good, thank you very much for the service that you provide to Nevada's citizens. We have also learned, however, that there are the bad and the ugly. For example, the Housing Authority of the City of Reno received numerous complaints from senior citizens who were barely making enough on social security to pay their rent and buy food, and they faced these same issues with payday loan companies.

My real reason for being here today is that about two years ago, our 19-year-old daughter was brought home by a police officer, and we learned that she was a heroin addict. She frequented payday loan companies to support her addiction. The more we got into it and the more we learned, I realized that she clearly did not have the ability to repay. She did not have the title to her car—I had that as her father—yet she was able to receive multiple loans from various payday loan companies, including MoneyTree. I paid them off just so that she could move on to a new life in California. She is a good girl. She has gone from a 1.5 grade point average (GPA) to a 3.5 GPA. She is starting a new life, but I learned that perhaps we need to do a better job of policing this industry, to ferret out the bad and the ugly. Clearly, the good guys do a great service, but there are major issues with payday loan companies, and it is feeding our heroin addiction. We all know the major crisis we have in our state with opioid addictions, and we have to do everything we can to help that, or we are going to lose a significant portion of our youth in the state of Nevada. Thank you.

000765
000765

Marlene Lockard, representing Nevada Women's Lobby; and Service Employees International Union Local 1107:
Payday lenders simply prey on the poor. It is plain and simple. All you have to do is Google "payday lenders," which I did last night. One after another, the results displayed are "ten-minute loans," "quick," "no cash down"—the headlines for these companies suck people in deliberately, to get people into the cycle of repeat loans. As John Oliver says, and I will not even to attempt to impersonate his accent, Payday loans are like Lay's potato chips—you cannot have just one. This billion-dollar industry has grown so fast in the last 20 years that there are now more of them than Starbucks or McDonald's. Think about that for a minute. Please support the measures in these two bills; they are very much needed. Thank you.

Harold Carnes, Private Citizen, Las Vegas, Nevada:
I thank you, and I appreciate being here today. I thank you for taking the time out of your busy day to have this hearing and to look into the payday loan industry. I, myself, have been a victim of the payday loan industry. As a fast food worker, I have struggled at $8.75 an hour to take care of my wife and my grandson. There have been days that I have been ill and

have not been able to go to work, and those days my paychecks have been short. In doing so I have turned to the payday loan industry four times. Even when they found out that I could not pay them back and after defaulting on a couple of my loans, I was still offered and given money. I took it because I needed it, because I did not want to see my family out on the street. It is a cutthroat industry because once they found out that I could not repay the first loan of $500, I was given an opportunity to get $300 more, and after that $300 more. Right now, I am currently paying back one of my loans, and they told me that once I had made a significant amount of repayment they would lend me some more money. To me that is crazy. The seven steps were not being followed. They realized I did not have the ability to pay them back, and once again, this company went after me and they got me.

I am here today to ask you to regulate these companies, to stop them from what they are doing, because people like me who are making $8.75 an hour, paying $617 in rent and $100 and something in light bills, buying food and diapers and everything else that I need to take care of my family with, it is not helping. I cannot afford to pay these people back, and every day it becomes even harder. The last thing I want to see is my family out on the streets, so therefore, I have no choice but to go to these people and let them take what they want. I am praying that you will stop for a minute and realize that we need help, not only with the payday loan industry people, but also with minimum wage. Help us out, that is all we are asking for. Forget that you are politicians for one minute and remember that you are human beings just like us, and that if you wanted to live in my place for a minute I do not think you would make it. Thank you.

000766

000766

Roxana Lanuza, Intern, Progressive Leadership Alliance of Nevada:
I am an intern for the Progressive Leadership Alliance of Nevada (PLAN) and we are here in support of A.B. 163. Thank you.

Betty Bishop, representing St. Therese Church of the Little Flower; Society of St. Vincent de Paul; and Acting in Community Together in Organizing Northern Nevada:
I am here today to give testimony in support of A.B. 163. I represent two nonprofit organizations: the St. Vincent de Paul Society from Little Flower Catholic Church in Reno, where we provide direct services to low-income people, and I am also part of Acting in Community Together in Organizing Northern Nevada (ACTIONN). The purpose of our organization is to work towards making systemic changes in systems that adversely affect people.

Today, through St. Vincent de Paul, I met a gentleman whose name is Charles. Charles wanted to be here, but he had pneumonia and so he could not testify today. He wanted you to know that he is 51 years old, he is disabled and his monthly disability check barely covers his housing and food costs each month. Three years ago, he had an unforeseen emergency and thought he could remedy his situation by taking out a $75 loan from a payday lender. It is now three years later and he is still paying his loan at a rate of $150 per month and his interest rate is 521 percent on his high-interest loan.

Unfortunately, he is not the only person that we see trapped in these oppressive debt traps. We frequently encounter people who have taken out payday or title loans, only to be faced with huge penalties when they cannot pay. They then become delinquent on their other bills and they sometimes face evictions. We strongly urge you to enact laws that protect people from unfair, high interest rates, and to ensure their rights to basic material necessities that are required to live a decent life. We just encourage you to close the lending loopholes that leave borrowers without enough money to live on. Thank you.

Judy Simon, Private Citizen, Incline Village, Nevada:
I am here to support A.B. 163. Usually people seeking these loans are desperate, and their quality of life is affected. They may have a sick child, they may need warm clothes for that child, the child might need money to go on a field trip or participate in athletics. Perhaps they need a car repair so they can get to work or maybe even food. These predatory practices do affect their quality of life and need to be stopped. Thank you.

Steve Jimenez, Extern, Nevada Hispanic Legislative Caucus:
I am an extern for the Nevada Hispanic Legislative Caucus, and we support A.B. 163.

Jim Dickey, Credit Manager, Western Nevada Supply, Sparks, Nevada:
Thank you for the opportunity to speak today. My name is Jim Dickey, and I am a credit manager with Western Nevada Supply. I have been in the credit industry for close to 40 years: 5 years in consumer credit and 35 years in commercial credit. The reason I am here is that last week we had an employee come to us who had six high-interest loans totaling roughly $9,000. His payments were $2,000 a month, and when I did a budget with him, he had about $300 in money available to pay these loans. This had gone from $1,500 to $9,000 in one year. Clearly, nobody is doing a test to see if he has the ability to repay. The interest rates ran from 300 to 700 percent.

What I think is really going on with at least some of these companies is what I call the pulse test. I do it at work, and I do it when somebody comes in to get credit from us. No matter how bad their credit is, we are going to give them a certain credit line. I think what is going on is because the interest rates are so high, they can do a pulse test and figure out that if they do enough of these, more are going to pay than are not going to pay. If you really want to fix this, you have to cap the interest rate, because then they will start looking at whether people can really repay these loans or not.

The other thing I think you should be looking at, to see if lenders are really looking at the ability to repay, is turndowns. What is their percentage of turndowns of these loans? Are they approving everything, or are they turning some people down; and why are they turning people down? I think if you look at that, then you will get a clear idea as to whether they are really looking at ability to repay. I think capping the interest rates is clearly where you need to go.

000767
000767

Assemblyman Hansen:
I just wanted to make a comment. Mr. Dickey and I actually go way back. Just so you know, when the economy flat-out collapsed, his company—owned by Rick Reviglio and the major supplier in western and northern Nevada for plumbers—worked with me extensively, and still does, on trying to recover from that economic collapse. When this man talks, he literally talks to hundreds, if not thousands, of small business owners. He helps them out, and he also understands this industry extensively well. I wanted to thank him publicly for having worked with me through some of these similar things and not forcing me, frankly, to go in desperation to some of these other types of people. I just wanted to state that for the record. When Mr. Dickey speaks, it is with a level of authority and knowledge on the ground level, dealing with thousands of small business owners like myself who have had credit issues.

Chair Bustamante Adams:
Thank you, Assemblyman Hansen, and thank you Mr. Dickey for your testimony. I appreciate it. I will now let the bill's sponsor make some closing comments, and then we will open the hearing for our next bill.

Assemblyman Flores:
I wanted to briefly thank all who have come to my office or who spoke in opposition. I have been working with a few of them, including Security Finance, on some specific language as pertaining to their industry, as it is slightly different.

000768

I wanted to make a few really quick remarks. First, I want to thank Mr. Shaul, the expert, for coming to our state. Welcome to our state; I hope you stay and spend some money and eat at some of the amazing restaurants we have here. I hate it when we fly people in and they just talk in this building and that is all they bring to us. I appreciate it when visitors can spend a little money in our state. I was going to bring in my own expert, but I figured I would just have the people of Nevada speak, and that would be sufficient.

Beyond that, I think 80 percent of the opposition who spoke against this bill actually did not oppose it. They did not address a single line in my bill that they opposed, which draws a bigger concern. Every single time we address and open a chapter in NRS pertaining to some of these industries, they automatically panic because they do not want to be regulated. They are already too regulated, yet there are all of these concerns. That should be frightening to all of you. When somebody comes up here in opposition and cannot articulate a single line that they are against, they actually are not against it; they are in support of my bill, including Mr. Shaul, the expert. He said, "You're right—ability to repay is a huge concern." That is an issue nationwide; everybody is tackling that. So actually the opposition, I would say about 80 percent of it, actually agrees with me, or they should have come in in the neutral position because they cannot articulate a reason they are against it. For those who did articulate a reason that they are against my bill, I invite you to come to my office. You know my door is open. I want to work with you, and if I can, we will come to an amicable ground and figure out the best way to go about it.

Tennille Pereira:
I just wanted to cover some of the data that was discussed earlier. There was a great study on payday lending by the Pew Charitable Trusts. It is titled, "Payday Lending in America: Who Borrows, Where They Borrow, and Why" (Exhibit F). I would be happy to provide a copy of this full report for you to see. I wanted to bring out some of the points they discuss. The average borrower takes out eight loans for $375 each and spends $520 in interest. The average borrower does not have a four-year college degree, rents their home, is African American, earns below $40,000 annually, and is either separated or divorced. The average borrower is indebted about five months out of every year on payday loans.

One of the other issues that I wanted to address is the fear that, if this industry becomes more regulated, people are going to have to run to the online community and then they will no longer be protected. I wanted to be clear that that is not the state of our law in Nevada. In Nevada, online lending is subject to our regulation. I can tell you those statutes: they are NRS 604A.565 and NRS 604A.620. If we regulate payday lenders more, online lenders will still be subject to our regulation.

The Pew Study I provided to the Committee also included interviews. They asked people what they would do if they did not have access to payday lending, and I thought this was very interesting: 81 percent of borrowers said they would cut back on expenses. Many also would delay paying some bills, rely on friends and family, or sell personal possessions. These are from the people that are using payday loans, and this is what they said they would do. The study did an analysis on the states that had no regulation on this industry, states that had moderate regulation, and states that had the most stringent regulation. What was interesting was that the online usage for payday loans varied very little. For the most stringent states, only 5 out of every 100 would-be borrowers were going online. This is not a huge rush to go online and again, if it is, they are still subject to our regulation.

[Additional exhibits include a Title Loan and Security Agreement (Exhibit G), a Deferred Deposit Loan Agreement (Exhibit H), and an Installment Loan Agreement and Disclosure Statement (Exhibit I), submitted by Tennille K. Periera, Legal Aid Center of Southern Nevada; written testimony in opposition from Wendy Corson (Exhibit J), and written testimony in opposition from Mike Byrne (Exhibit K).]

Chair Bustamante Adams:
Thank you so much, Assemblyman Flores. We are going to go ahead and close the hearing on A.B. 163 and open the hearing on Assembly Bill 222. Just to prepare the Committee members, this is our second bill on this topic—payday lending. Keep in mind some of the testimony on the overview of the industry that you have heard, where the chapter is, where it is regulated; keep that in mind as we prepare for this bill.

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

Assemblywoman Heidi Swank, Assembly District No. 16:
We are having a few technical issues, but if it would be helpful, I would be happy to get started. I know there are some people in the audience who have a bus that is leaving at 4:30 p.m., so if Madam Chair would not mind, if I could ask those people to stand if they are in support.

Chair Bustamante Adams:
Absolutely, and thank you for notifying me of that. If you are in support of Assembly Bill 222 and you have to head out, could you please stand?

Assemblywoman Swank:
I believe they have already left.

Chair Bustamante Adams:
Well, they were here. Who were those individuals?

Assemblywoman Swank:
It was the Progressive Leadership Alliance of Nevada.

Chair Bustamante Adams:
Thank you so much. I wanted to get that on the record.

000770

Assemblywoman Swank:
I will start with a few opening remarks, but then I would really like to have my PowerPoint so I may give the Committee some good visuals. For the record, my name is Heidi Swank and I represent Assembly District No. 16 in Las Vegas. I am going to be talking to you about Assembly Bill 222. I am bringing this bill because my constituents asked me to. The first time I ran for office, I literally received campaign contribution checks with notations on the memo line that gave me this mandate. Therefore, I am here with this bill for my constituents.

The purpose of this bill is really to make sure that payday loans are doing what I was initially told, by payday lobbyists, that they are meant for. They are meant for helping people through emergencies or when they need to get their car fixed and they cannot quite afford it. Payday loans are for short-term needs and not for utilities, groceries, and things that are part of individuals' ongoing expenses. For me, this bill is about making sure that we have people taking out these loans for things that they were originally intended for.

I would also like to address rumors I have heard from a couple of members that stakeholders have not been heard in negotiations, and that we have not been negotiating in good faith. I would like to be sure you know that I came to people and I come to this process the same way I used to live in India. I would need to buy some groceries, and I would go there and I would say that I will give you x amount of rupees for this broccoli, and I would wait for that person to say, No way, I will give you this amount. That is what I did with the stakeholders who had interests in and problems with my bill. I have yet to hear back what in my bill they could live with and what they would keep. I am open; I know there is a lot in

000770

this bill, but as I have told all of the stakeholders, everything in this bill is on the table. We just need to sit down and have those negotiations.

Chair Bustamante Adams:
I think Assemblyman Flores unplugged the projector. We will take a five-minute recess.

[The meeting was recessed at 4:08 p.m. and brought back to order at 4:13 p.m.]

Assemblywoman Swank:
I am happy to get started. There are going to be a lot of numbers and data in this presentation that come from different states. We do not have a lot of data in our state, and we really looked for good data. I can tell you, as a social scientist, this is a valid way in which to present data and to compare people. There are many similarities when you get to that granularity of data.

I am going to start off with an overview (Exhibit L) of payday loans. I know we have talked about much of this so I will try to zoom through parts of this. We know that most borrowers seek a payday loan for about $375 on average [slide 3, (Exhibit L)], often to cover routine expenses. These loans are typically made for a period of two weeks, at which point the lump sum—including principal and fees—is generally due. The borrowers can also re-up or roll over their loan, at which time they would pay the initial fees again. This generally equates to about $75 in fees on a $375 loan. With an annual interest rate (APR) of over 500 percent and fees of around 20 percent, these loans typically account for about one-quarter of the borrower's take-home pay. I do not know about you, but if I had to pay out one-quarter of my take-home pay every month, that would be pretty difficult.

Slide 4 talks a little bit about rollover loans. Colorado's Attorney General concluded that about 61 percent—the majority—of all payday loans were refinance or rollover loans, and it is not uncommon to pay $1200 in interest and fees over a five-month period for a $500 loan. In fact, what we see from payday borrowers is that they are four times more likely to file for bankruptcy than non-payday loan borrowers.

One of the things we often hear when discussing payday loans is that these rates are justified because these loans are high risk, but if you look at the Consumer Financial Protection Bureau's (CFPB) definition of "high risk," it means that, "different consumers have different interest rates or other loan terms" [slide 5, (Exhibit L)]. For the most part, payday lenders do not differentiate. It does not matter if Joe has a better ability to repay than Mary does, they get the same interest rate. The payment is often virtually guaranteed in that the borrower gives the lender a postdated personal check or an authorization to make a withdrawal. What often happens because of this withdrawal is that it causes borrowers to bounce checks and incur overdrafts and other bank fees.

Slide 6 shows us there is also economic loss to us as a state. We know that borrowers often have to turn to public programs for assistance with necessities, and in fact, one out of six borrowers receives government assistance. These loans, because of the high fees, reduce

000771
000771

spending on other goods and services which could be used to bolster other parts of our state's economy. People tend to not go to movies, out to dinner, or to do the other things that they might otherwise do if they did not have to pay these high fees.

I want to take you through a bunch of maps of Clark County that are going to look at many different demographics. I know there is a lot of information here, but in the end, I will pull it all together for you. Looking first at the prevalence of payday lenders on this map [slide 7], the darker red means more storefronts. The blue box shows the ten highest ZIP codes as far as the prevalence of payday lender storefronts. The squiggly boundary in the southern part is my district, so you can see that this is something that is of concern for people in my district. Other Assembly districts that have the highest concentrations of payday storefronts in Clark County include District No. 10, District No. 42, District No. 3, and for people not on this Committee, District No. 20, District No. 15, and District No. 11. This affects many of our constituents. Try to keep in mind where the darker areas were. I should also note that up at the very top middle is ZIP code 89081; we do not have data for that so that will always appear lighter.

Slide 8 shows the same map with median income in Clark County. What you see here is that where you have lighter blue you have lower income. Just to go back, you can see that the lower income is where these payday lenders are concentrated; they do not have a usual distribution of businesses.

000772

Slide 9 looks at the prevalence of bank locations in Clark County. Here we see that the darker the green, the more banks, and we start to see a bit more normal distribution as far as businesses here. It is not really that unusual to have financial sectors located closer to the urban core, so it makes sense that we have more banks in this central area. They are definitely much more spread out than we see in terms of payday lenders, however.

000772

Because banks are a unique segment of the business sector, we want to look at a business that really does not target any specific segment of the population. Therefore, let us look at Starbucks. On slide 10, we see that the darker color once again means more storefronts. Apart from the two ZIP codes in the center, which are right by the university, there is a much more even distribution of Starbucks across Clark County. They are not targeting any specific population; they are just trying to reach out to as many people as they can with their product.

If we look at all of these, it can seem like a lot of information, but if we think about the ten ZIP codes that have the most payday loan storefronts, they have 21.1 percent of the county's population, 21 percent of the banks, but they have 59.8 percent of the payday storefronts. I would argue that what is happening here is that the people who run payday lending locations are creating a space in which, for low-income people, this is the default. This is all they see. They do not see the banks but they see the payday lenders. They are everywhere, they become normalized, and it becomes the only way that they see to access credit.

Next, I want to walk you through the bill itself. The slides are organized by topic, not by the order of the bill. I can let you know which sections correlate. We thought it would be easier to do it thematically.

Chair Bustamante Adams:
Before you go through the bill, I want to ask the Committee if they had any questions.

Assemblywoman Neal:
I was looking at the slides and I noticed that 89115, 89030, 89032, and 89031 are in my district. If I am reading slide 9 correctly, it looks like there are only 1 to 3 banks located in 89115. On slide 7, 89115 and 89030 are light pink, and it looks like there are 10 to 19 payday lenders in each of those ZIP codes. Am I reading these maps correctly?

Assemblywoman Swank:
My apologies for missing your district, and yes, you are correct on both counts.

Assemblywoman Neal:
I was trying to get a good reference for that, and the correlation to income seemed a little high in 89115 for households earning under $40,000 a year. That would make sense for 89030, because I know for a fact that ZIP code has the highest percentage of people who have not graduated from high school, or have at least a Grade 12 education or a one-year bachelor's degree. Where did you find your data? I understand the applied analysis, but for the $40,000-$49,000 for 89115, I found it interesting that that was the average median income. I had never seen that number before for that particular ZIP code. It is much lower, but 89031 is one of the highest income rates in my district, where most people have a four-year or higher college degree. I just thought it was interesting because people claim that these payday loans are not located in the communities where historical poverty exists. I just wanted to make that point.

000773

000773

Chair Bustamante Adams:
That was a statement and not a question. If you could take us through the bill, Assemblywoman Swank, I would appreciate it.

Assemblywoman Swank:
The first thing this bill does is that it establishes a rate cap in section 3. In Nevada, the APR for payday loans is currently 521 percent. With credit cards, the rate is 24 to 30 percent, which is still somewhat high. This bill would establish a rate cap of 36 percent. On slide 13 (Exhibit L) you can see the list of some of the organizations that support a 36 percent rate cap on high-cost loans.

The second thing this bill does, in section 2, is consider the ability to repay. Assembly Bill 222 would prohibit all payday loans that exceed 5 percent of a customer's gross monthly income—it is currently 25 percent in Nevada—and this bill would drop the maximum down to 5 percent, which we think is much more reasonable for someone to be able to pay back in the short term. This bill would also require consideration for a customer's

ability to repay and require the verification of seven underwriting factors that are currently being enforced by the Federal Deposit Insurance Corporation (FDIC) and the Office of the Comptroller of the Currency (OCC) on bank payday loans [slide 14]. The bill would bring those seven underwriting factors into statute. I will let the Committee members read through that because it is pretty self-explanatory. The 5 percent cap is something that the Pew Charitable Trust does recommend, as far as what people can actually pay back.

Next, A.B. 222 establishes a per-year limitation, which you can find in section 4, subsection 1, and also in section 5. This would limit the number of payday loans to six loans per year. It would also incorporate a real-time database and require lenders to participate in the database [slide 15, (Exhibit L)]. Some lenders will tell you that they already report to some credit agencies so they should be carved out of this database, but database entry is simple. It is a very simple form that can be integrated into a single point-of-sale. I am positive that this is something that most of the lenders working in the state could easily accommodate. The application and the database would be filled out simultaneously and then the information would be reported. The rationale for this is that in Tennessee, in 2010, 90 percent of title loans were renewed and only 12 percent of loans were paid in full at the end of the year. Another point I would like to highlight is that 60 percent of borrowers who neither renewed nor defaulted during a one-year period only took out one loan. We are not asking for one loan; we are asking for just six.

000774

There is a case study on slide 16 that the Committee can look at but I will not go into, for time's sake.

000774

Section 4, subsection 1, asks that borrowers only take out one loan at a time [slide 17]. It would prohibit a new loan, payday or title, until the previous loan is paid off. This is helpful because, from the data we have looked at, half of all loans that are renewed, extended, or refinanced are at least ten loans long. In 80 percent of these cases, the last loan is the same size or larger than the first. We think that if people can only have one at a time, it would afford them time to pay the loan off and reset again.

Section 38 places a restriction on conjunction businesses [slide 18]. This is something that has not yet been a huge problem in Nevada, but we are trying to get ahead of the curve. We do not want to have payment centers provide necessities such as utilities inside payday loan centers. We know that Alabama, Missouri, and Arizona have already done this. A quote from *The Wall Street Journal*, on slide 19, provides more information about conjunction businesses.

Assemblyman Ohrenschall:
I am sorry to interrupt you, but do conjunction businesses currently exist in Nevada? Are these places where people can pay utility bills at the payday loan center? If so, I was not aware of that. If it is happening, how widespread is it? Are people taking out loans and paying their bills at the same location? Does anyone have information on that? I was not aware of that.

Assemblywoman Swank:
That is happening, but only in limited cases at this point. We would like conjunction businesses to not take hold, so it would help to prohibit them so that we do not head further down that path. In a small number of cases, however, this situation is occurring.

As I mentioned, there are more payday storefronts than banks in many ZIP codes in Clark County. Section 38, subsection 2, looks at the distance separation between storefronts [slide 20, (Exhibit L)]. We hope to diffuse this a bit more by having some very solid distance separations. We know that this happened in Colorado; the state recently introduced regulations that resulted in a 42 percent decrease in storefronts. However, 77 percent of all people who live in Colorado still live within 5 miles of a payday lender. This does not eliminate accessibility; it just makes it not the default or the most common way to get credit.

Section 4, subsection 1, asks for a 30-day waiting period in between loans. We know that 80 percent of payday loans are rolled over or followed by another loan within 14 days, so having this cooling-off period would be helpful for allowing people to reset their finances between loans.

I have a couple of amendments that did not make it into this bill prior to drafting. One extends the Military Lending Act, which caps interest rates at 36 percent for active military, to our veterans. Our veterans served our country. We know that when they leave the military they are often financially at-risk, so we want to extend that service to veterans. I know that, at least in Clark County, there is a provider on the Nellis Airforce Base that provides a 36 percent loan product specifically for the military. We would like our veterans to have access to that too.

The second amendment would add in a same-language requirement. That means that if a contract is spoken about or read aloud in any language—for example Spanish, Japanese, or whatever language you are speaking—that contract needs to be written in the same language.

The final amendment adds two additional sponsors to the bill: Assemblywoman Neal and Assemblyman Hansen, and we are more than happy to amend them on.

Slide 22 (Exhibit L) gives a brief history of payday lending, which is not a new phenomenon. Payday lending occurred in the early twentieth century. Then, because of deregulations that happened in the 1990s—I believe we just heard from a payday lender who said their business started up in the 1990s—by 2008 we ended up with more payday loan storefronts than McDonald's restaurants and Starbucks combined.

These are all the things A.B. 222 seeks to accomplish. As I said at the beginning, I am open to negotiations with the stakeholders. I think all of these things are on the table, and I am hoping that we will have some fruitful conversations afterwards. Finally, I listed some resources for the Committee on slide 26.

000775
000775

Now, I would like to briefly address some of the things you may hear from the opposition to A.B. 222. Some people are going to talk about how we passed payday reform in 2005 and will question why we need more regulations. The answer is that consumers are not getting all the protections they need. Lenders are simply writing off all-new contracts and not indicating that proceeds go to pay off the previous loan, and they are preventing borrowers from being able to get out from underneath them.

I believe someone already talked about Internet loans. Our Legislature was smart and got ahead of online lenders, and they are already being regulated. Lenders are going to tell you that they are the "good guys." I would say that what I have learned through these conversations is that everyone says they are not the other people, but there is at least one entity that has twice introduced legislation to remove the prohibition on lenders suing borrowers who do not pay back loans. The legislation was rejected both times, I believe most recently in 2015. Nonetheless, this actor was recently able to obtain an order from a district court judge stating that it could sue to collect on these loans. There are people who are bad actors in this business, so I would just be careful about how we go forward.

Some lenders want to opt themselves out of the database. We need to keep everyone in the database so that we all know how many loans people have taken out. Additionally, we start to undermine the quality of our data when we carve people out of the database.

000776

Some will argue that consenting adults should be able to choose how and where they borrow money. We can see, from these maps, there is a concerted effort to focus the prevalence of payday lending on certain populations, and we need to provide assistance in diffusing those storefronts. We are told that these services help people in emergencies, but 69 percent of people who are taking out these loans are using them for living expenses and not for emergencies. With that, I will hand it over to Ms. Pereira from the Southern Nevada Legal Aid Center.

000776

Chair Bustamante Adams:
Thank you, Assemblywoman Swank. On your summation, I think that you are proposing establishing a cap rate of 36 percent and not 38 percent.

Assemblywoman Swank:
My apologies, that was a typo.

Chair Bustamante Adams:
Ms. Pereira, we heard your testimony with A.B.163. Will you be providing the same testimony for A.B. 222?

Tennille K. Pereira, Attorney, Consumer Rights Project, Legal Aid Center of Southern Nevada:
There are a few differences. I am not going to go over what I already went over, but I want to focus on the additional proposed changes to the law in A.B. 222. I would like to discuss those briefly.

Assembly Bill 222 proposes a waiting period to limit the number of loans and to implement a database to help monitor and enforce compliance. I would just like to reiterate and point out that the Commissioner of the Division of Financial Institutions (FID) supported the database idea and talked about how helpful the database would be for collecting data as well as for enforcement purposes on his end.

I would like to share one story and then show you how these three provisions would have prevented my client's situation. There are several other examples of clients in the written testimony that I provided to you (Exhibit M) so I will just discuss one, briefly. This was a client who worked in a nursing home and made about $1,300 a month. She was a single mother of two children. She had been given 24 payday loans with one payday lender, ranging from $51 to $1740, over a period of two years. She brought all of her contracts into my office so that I could review each of them and try to figure out what happened. From my summation, almost every single loan was just a new loan that paid off the previous loan. She could not make her payment so they would write her a new loan. She could not make that payment so they would write her a third loan, et cetera. This went on for two years. Finally, the payments were so out of control and so undoable that she found her way to my office. If there had been a waiting period when she could not pay her first loan, she would have gone into default and, as discussed in the previous hearing, that would have allowed her to get rid of the contract interest and instead pay 10 percent plus prime, or 15 percent. She should have found that off-ramp from the debt cycle, but that did not happen. As far as limiting of the number of loans a borrower can take out, my client would have had a limited number—and this would not have haunted her financial picture for two years. We are still, to this day, dealing with this for her. The database would back everything else up. If the FID can monitor and enforce this in an efficient way, the consumer will be so much better off. That is all the testimony I have on this matter. Thank you.

000777

Chair Bustamante Adams:
Thank you.

Jon Sasser, Statewide Advocacy Coordinator, Washoe Legal Services; and representing Legal Aid Center of Southern Nevada:
I want to thank you for the opportunity to testify on A.B. 222, which has become the full-employment act for blue suits in 2017 legislation. I say that somewhat facetiously, but the blue suits back up the fact that this industry is doing very well in our state. They are making a great deal of money at our citizens' expense. One bragged, in another hearing in the building, that they now have 42 outlets with a $12 million payroll for their workers, and that just raises some policy questions for our state.

The previous bill focused on plugging loopholes in the law and tightening definitions so that bad actors could not evade the current rules. I think this bill goes beyond that and looks at whether we want to do more than the current rules we enacted in 2005 or focus on the larger picture where we have an industry in our state that is making this type of money by exploiting the clients that we serve at Washoe Legal Services.

I would also like to point out that a lot of people say they are the "good guys" and, therefore, should not be covered by this bill. These operators may be the good guys under the current rules, but if a lower interest rate makes sense, then everybody should be under that, regardless of if you have a balloon payment loan or one that is paid off in installments. There is an article I can provide to the Committee called, "Payday and Car Title Lenders Migration to Unsafe Installment Loans" [Center for Responsible Lending Issue Brief, October 2015]. This article argues that, in spite of their installment terms, these loans have the same troublesome characteristics as other payday and car title loans: a lack of underwriting, access to a borrower's bank account or car as security, structures that prevent borrowers from making progress repaying, excessive rates and fees that increase costs when loans are flipped. Many of these loans are problematic even without repeat borrowing. The fundamental harm is making loans that a borrower cannot afford to repay regardless of whether the loan is structured as an installment or a balloon payment. I am not saying that everyone in the installment loan business is a bad guy, but looking forward, if we are going to know who is making loans that people cannot repay, we need to have information about default rates.

How do we know if lenders are making loans that borrowers cannot afford to repay, whether the lender is technically under one rule or another? Normally, in the credit industry, lenders want to check consumer credit history because they want to ensure the borrower can pay the loan. Payday lending would not be a profitable industry with the type of explosion we have seen if borrowers actually paid their loans on time. Payday lending is so profitable because operators are able to continue out that period of interest. Studies show that the two-week payday loans we are talking about take an average of five months to pay off. Lenders make their money for those five months off what was supposed to be a two-week loan. I think it is important for us as a state to take a step back, take a fresh look at policy going forward, and have a database that tracks what is working and what is not working, regardless of exactly what the technical rules are. Are people borrowing what they cannot afford to pay, and is that leading to extreme profits?

000778

000778

Chair Bustamante Adams:
Thank you, and I think I am going to put you in the support position instead of presentation, if you do not mind. Now, Assemblywoman Swank, I will take testimony. We will take opposition first on this bill, because I want to hear, specifically, the sections in opposition. Those who would like to see something change in A.B. 222, if you could come forward, I would appreciate it. Please, if you have already testified on the other bill, you do not need to repeat the whole conversation, but if you could be very specific, that would help me.

Phillip Holt, Senior Vice President, Security Finance of Nevada; and Managing Director, National Installment Lenders Association:
I certainly appreciate the opportunity to speak to your Committee today. There are several points that I want to make, and I want to point out that the 36 percent rate cap will decimate our industry in the state of Nevada.

For a small dollar loan, I represent the traditional installment lending association, and none of my members are payday lenders. We do not take titles to cars, and we do not have access to consumer checking accounts. These are pure signature loans, so the amount of underwriting and budgeting that we do with each customer is critical for our success. Without the customer paying us back, we do not make money. The problem with rate cap bills is that you are looking at an APR, which is a measurement of time—not a measurement of cost. I have had an opportunity to speak with most of the members on this Committee in detail about that, and I will not go into that detail again today. It is very much like comparing a 30-year mortgage to a 2-week payday loan, and those are two different products. A 4 percent mortgage is something that most of us are very comfortable dealing with, but it would be very similar to renting a DVD at Redbox for an annual rate of $711. That does not sound very profitable to individuals around this table because that is based on an annual percentage rate and you cannot do that. A Redbox video rental for $1.95 is something that we are more accustomed to.

The other component here is that if this bill does take effect, there is no need for a database. That would be a moot point. The state would save themselves a tremendous amount of energy and cost trying to pursue that database. In traditional installment lending, we report to credit bureaus, and that is more beneficial for the consumer because every successful payment they make, they get a benefit to their credit score.

000779

Even if we enacted both the rate cap and the database, we still would not capture two-thirds of the lending operations taking place on the Internet and offshore. The information gathered by the FID would be limited and would probably not paint a complete picture. I would urge the Committee to rethink this through quite clearly, and I would be glad to answer any questions following my testimony.

000779

Berlyn Miller, representing Sun Loan Company; OneMain; and Nevada Financial Service Association:

We are installment lenders, not payday lenders, but we do oppose A.B. 222, particularly the rate cap section. In 1983, for the first time in Nevada, the Legislature passed Senate Bill 124 of the 62nd Session, requiring those engaged in the business of making loans of $10,000 or less to be licensed and regulated. During that process, they did not cap interest on these loans and they stated that reason in the bill:

> The expenses of making and collecting installment loans are necessarily high in relation to the amounts lent . . . It is the purpose of this chapter to . . . attract adequate commercial capital to the business, so that the demand for such loans may be satisfied . . . and ensure the availability in this state of adequate, efficient and competitive financial services.

In 1984, I was involved in recruiting CitiBank to Nevada, and was also involved in the Special Session in 1984 where they passed Senate Bill 2 of the 15th Special Session, allowing Citibank to come into Nevada. When I hear someone talk about rate caps, I often think of a story that I have heard Harry Reid tell many times. In his first session in this

body—at that time Nevada had a usury rate—Harry had a group of pawnbrokers come to him and say, We cannot make someone come in and pawn a watch or a ring and then come back in two or three or four weeks and pay it off. We cannot charge them enough money in interest with a rate cap to cover our cost on this—the time spent and the paperwork. Harry agreed with them and said that he understood that we needed to do something about that, and he did. Unfortunately, he did not eliminate the usury rate—that was done around 1979 or 1981—but he did sponsor a bill and get it passed to exempt pawnbrokers from the rate so they could do that type of business.

CitiBank would never have come to Nevada if we had a usury rate, and fortunately, that was eliminated earlier. After that, several other credit card operations came to Nevada, along with other financial services that created thousands of jobs. Since then, Nevada has been a leader in economic development because of our probusiness attitude and laws, and I hope that this Legislature will continue that work. Thank you, and I would be happy to have Mr. Holt answer any questions you might have.

Dennis Shaul, Chief Executive Officer, Community Financial Services Association of America:

I just wanted to make a few points. First, the 36 percent interest rate cap is unworkable. The proof of that is that the Federal Deposit Insurance Corporation, itself, ran an experimental pilot program on payday lending and quit it because it could not operate at a break-even point. Their rate was higher than 36 percent. Second, the 36 percent rate cap was well-considered during the Dodd-Frank hearings but was rejected, in theory, because it is an attempt to ration credit that never works, and it is not a function of government to be doing that. Third, not only has this idea been rejected in many jurisdictions, but it was rejected by Congress in the run-up to Dodd-Frank, so there is no reason to think this is a good idea.

Beyond that, I would like to talk for just a minute about research, which has been all over the place. You have to be very careful when people come to you with conclusions. For example, most people do not realize that the Pew Charitable Trust is divided into several entities, only one of which is research. The research division has no role in the statistics that are put out by the Pew Charitable Trust—none whatsoever. How do I know this? I was so alarmed by their first report about payday lending that I went over to see the Pew Charitable Trust. I went to the research department, and they told me I was in the wrong place. They said I needed to go to the advocacy groups instead. I asked what the difference was, and they told me that Pew research, in a recent look at religious practices in America, interviewed 135,000 people. When Pew, the advocacy group, did their payday study, 437 people were interviewed over the phone, asking questions about a five-year period. These two studies are not comparable. We dispute nearly every conclusion that Pew has reached and it does not accord with three programs and reports put forward by the Federal Reserve System. You ought to bear that in mind. Moreover, you ought to bear in mind that the Consumer Financial Protection Bureau, in doing some of its own research, apologized to us because their initial report was deemed to be totally inaccurate.

000780
000780
000780

As far as what would happen in Nevada if there were a 36 percent rate cap, the industry would fold. I am confident that the idea that someone would be able to police the Internet is just totally fallacious. The problem is not the laws you have, the problem is in locating the Internet operator, because they are mobile. I can go down and inspect the payday lending store; I know the people there and I know their records are available—but by its nature, an unethical Internet operator cannot necessarily be located or disciplined. The only way to get at that question is, as I mentioned earlier, to ban loans that are made but not registered in the jurisdiction and to make them uncollectible. That will serve that purpose.

There is so much more I could say. There are parts of the bill that, of course, are worth discussing and parts that I would agree with, but the 36 percent rate cap, the idea that the Internet is capable of being policed, and the idea that research can be done by anybody who has a bias and then comes in and states conclusions, I am sorry, that does not work.

William C. Horne, representing Advance America, Cash Advance Centers Incorporated; and Jackson Vaughn Public Strategies:

I am respectfully testifying in opposition to A.B. 222. I would like to start by saying that I and other representatives of the industry have met with the sponsor of the bill and voiced our concerns about the bill. We have raised our concerns about the bill's effects on the industry. We have had difficulties in our discussions of this piece of legislation with the sponsor. It has been noted a couple of times that there are "good operators" in the business; we are good operators in the sense that we are always willing to come to the table. We sought out the sponsors and asked them what particular problem they were trying to solve. What exists that is not being effectively addressed by the 2007 regulations? With this piece of legislation in particular, we did not get a sound answer on what it was that the bill was trying to fix. Instead, we were sent away and instructed to tell the sponsors what we could live with.

000781

We still sit ready to work, but the problems that we face with this bill, such as the 36 percent rate cap, would be an industry-killer in this state. As I stated earlier in the other testimony, the elimination of the industry is not going to solve Nevada's problem; the people in need of credit will still seek it, but they will seek loans in unregulated areas. The cooling-off period in section 4 will likely cause borrowers to take out a maximum loan amount regardless of whether they need it. Limiting one-time outstanding loans would also cause borrowers to take out the maximum amount, which is 25 percent of gross monthly income, because you put these limits on instead of giving flexibility to the very consumers that you are seeking to assist.

The industry and the good operators in this industry have been at the table since 2005 and 2007, and they are here today. They are not quote-unquote good industry participants; they are genuinely good industry participants. To cite one industry, and then use one company who put a bill forth last session that was outwardly rejected to taint the entire industry, I think is unfair. Thank you.

Assemblywoman Carlton:
I have both a question and statement for clarification. Mr. Horne, you and I have known each other for a long time. With all due respect, I have not heard one person in this room talk about eliminating the payday lending industry. If you are going to draw that final conclusion, that is fine for you to draw. Please state it as a conclusion, but I have not heard one sponsor—and we have two very respected sponsors—state that their intent is to eliminate the industry. I think we need to make that very clear. Your purview is that you think all these provisions could possibly eliminate it, but no one has actually come out and said that is what they are trying to do. You said that many times, so I wanted to make sure for the record, and for those people listening on the Internet, that we are actually clear. That is not what we are trying to do. I know the installment loan people were drawn into something. Mr. Miller and I have debated the usury law for as long as I have been in this building so I am not interested in going down that road again. I just want to make it clear: we are not out to eliminate the payday lending industry; we are out to protect our constituents who we feel are not getting a fair shake in this. We heard from the regulator that he thinks there are problems, too. We are just trying to address issues. I want to make sure you and I are on the same page.

William Horne:
I agree with you, Assemblywoman Carlton, that the sponsors did not say their intent was to eliminate the industry. My proposition was that the provisions, particularly in this bill, particularly the 36 percent cap, would be an industry-ender. If that were the policy position of this Committee and this legislative body, the outcome would be the elimination of an entire industry and would bring harm to the very consumers which I know all of you are seeking to protect.

000782

000782

Assemblywoman Carlton:
In conclusion, that is Mr. Horne's opinion and although I respect his opinion, I disagree with it. I have lived through this debate throughout my legislative career, and if I had a nickel for every time I heard that, I would not be running for office again—I would be retired. We have heard this over and over again: if you do this, we are going to go away. We heard it loud and clear in 2007, and guess what? The industry did not go away. They figured out how to work within the rules. I think there are some issues that should be addressed—maybe not all—but I think there are some real concerns. When I hear a regulator say that he has a problem, I am going to pay attention. He is the person my constituents go to for help. I look forward to your working with the sponsor and seeing which parts of this will actually work well for us.

Chair Bustamante Adams:
Thank you for your institutional knowledge, Assemblywoman Carlton.

Assemblywoman Neal:
I have a question about section 5, the section that limits the ability for people to take multiple loans out. What issues or concerns does the opposition have with section 5?

William Horne:
What section?

Chair Bustamante Adams:
That is the section on the database, right? Is that the one you are referring to? It says "The Commissioner shall . . . maintain a database . . . ."

Assemblywoman Neal:
Right.

William Horne:
The database is being operated in other jurisdictions. We stand ready to work with the sponsor on what is the best way to move forward in collecting data, if that is the desire of this Committee.

Chair Bustamante Adams:
I do not see an objection, am I correct?

William Horne:
As for the database, the issues are about what we are collecting, how we are collecting it, and making sure it is not garbage in, garbage out. I do not necessarily know if we are there yet or know how we could make it work, but we are more than happy to sit down and discuss how we would implement such a database.

000783

000783

Phillip Holt:
The database is something that would be more pertinent to a different lending model. In the traditional installment lending model, we report to the credit bureaus, which is a broader and more knowledge-based way of collecting data, and that is a benefit to the consumer. The database would be another added level of regulatory burden. We would have to pass the cost to our consumer, which is already probably not a good idea.

Assemblywoman Neal:
What issues or concerns have come up in states that have the database? Other states are already doing this, correct?

Phillip Holt:
We do not adhere to that because we are typically not in the same section of law with the payday industry or the title lending industry. Nevada is a unique situation in that we are all lumped in under the same section, so I cannot speak to that. Perhaps the other gentlemen at the table can address your question.

Dennis Shaul:
I want to point out that the bill drafted by Community Financial Services Association of America contains a requirement that lenders would notify two or more credit bureaus but not necessarily the big three when loans are made, as an effort to get around problems with

the database. I think one of the problems the organization was wary of was that collection itself might lend itself to privacy concerns. We have been more or less waiting to see that issue clarified at the national level before we have a position; it is more or less a state-by-state issue.

Assemblywoman Neal:
I also had a question about section 19. The strikeout in that section changes the law so that the original term of a title loan must not exceed 30 days, and then strikes out the language allowing six additional periods of extension. What concerns or issues do you have with that section?

Phillip Holt:
Once again, that does not apply to traditional installment lending. Our terms are 180 days and longer, so I cannot address that. I would turn to others in the room.

Chair Bustamante Adams:
Does anyone at the table have an issue with section 19? I know I heard the 36 percent rate cap, but is there a problem with section 19?

William Horne:
I believe this goes to the issue for grace periods and extensions. We talked about this during the last hearing on Assembly Bill 163. The issue is taking away a consumer's flexibility when he or she cannot necessarily make the final payment throughout their initial term of the loan. Grace periods were put in place for consumer protection in 2007. Eliminating the grace period actually binds the consumer in a way that is not intended. I think allowing the industry and the consumer to work together in resolving paying their loan back is a good thing. As stated earlier, it is not a good business model to loan money to people who cannot afford to repay it. Payday lenders do not do that. The business model is to loan money and to receive that loan back with a fee, or interest, and to help the customer do that. Providing customers a measure of extension when they have trouble meeting that initial term, I think, is something that is prudent for the consumer.

Assemblywoman Neal:
I know you have all had the chance to see the complaint data from the Financial Institutions Division. One of the complaints, or a series of complaints—there were four or five—claim that the issue with high-interest loans was the debt treadmill and acquiring multiple loans from different payday lenders. The biggest issue, however, is the debt treadmill. What would you recommend as far as statutory language to help keep people off the debt treadmill and prevent them from getting multiple loans from payday lenders, especially if the situation was that they were getting multiple loans within a period of 30 days? What solutions would you propose?

Dennis Shaul:
I think the solution is to have an off-ramp. When it becomes apparent to the operator—and I think each state can pick the number—if the borrower is in the business of renewing a loan,

three, four or five times, it becomes obvious to everybody that the borrower is not in a position to repay that loan. Customers ought to be able to exit without any further interest payments and be given ample time to pay the original principal off. That is a legitimate concern, because obviously some people are in these loans too long.

Assemblywoman Neal:
Do you feel that the off-ramp for title loans in section 19 is inappropriate?

Dennis Shaul:
I am reluctant to comment on the title loan question because I so rarely deal with title loans. If, as most title lenders will tell you, the object is in no sense to capture collateral and then resell it, then the solution is an economic one whereby the borrower would be given more time without accruing more interest.

Assemblywoman Neal:
I want to talk about section 15, where it says the original term of the deferred deposit loan must not exceed 35 days. Then the bill strikes language that says the original term of a high-interest loan may be up to 90 days if the loan provides for payments in installments. What issues do you have with the strikeouts in section 15?

000785

Dennis Shaul:
I think there is a transition going on between the single-pay and the installment loan, and it creates a difference for the borrower in that they may very well be more comfortable with a situation in which they are making payments at regular intervals. For the lender it creates a whole new dynamic as to how to finance loans because money is outstanding for a greater length of time. I am not sure that this perfectly solves that dilemma, but I understand where you are headed.

000785

Chair Bustamante Adams:
Mr. Holt, I will let you answer that question, and then I have another Committee member who has a question.

Phillip Holt:
Once again, this is the problem with having so many different lending models lumped together in one section of the code. As I stated earlier, traditional installment loans begin at the 180 days and longer. All of our loans are reported to the national credit bureaus as well as being recognized by the National Black Caucus of State Legislators and the National Hispanic Caucus of State Legislators as the preferred lending model for their communities. Many of the issues you bring up are things that I cannot really address because that is not my business model. My business model is traditional installment loans; it has been that way for 110 years and it has not changed. Technology has changed a little bit, but our business model has not changed over the last 100 years. I apologize for not being able to answer those detailed questions about title lending or payday lending.

Assemblyman Ohrenschall:
I have a brief question for Mr. Shaul pertaining to section 5 and the database. People have come to my office and told me about 14 states that have a database similar to that described in section 5, in terms of the payday loans. I assume that members of your trade association, the Community Financial Services Association, operate in some of those 14 jurisdictions. Has operating in jurisdictions that have adopted the database proven harmful to them, in terms of having the knowledge of whether a customer is mortgaged up to the hilt when they come in and want to take out a loan, versus not knowing?

Dennis Shaul:
I can be totally candid with you on this and say that there is a real division of opinion. Some lenders believe that the database is indirectly helpful to them because they do not want to be the third lender, as it were, with the first two probably getting a preference in repayment. I have also been told that the database is an index of the borrower's real credit situation. Others find the database to be an increase in cost, which has to be paid for in some manner or another. Others find the database to be an opening step toward the collecting of more data, which raises problems with everything from hacking to privacy. There is no uniform opinion. The database has worked well in certain states and been a nonstarter in terms of public acceptance in others. The honest answer is that there is no uniformity of opinion. For now, at least, there is a feeling that whatever the fate of the CFPB may be, they are reluctant to involve themselves with a national database, and the question is going to be one that will be decided state by state.

000786

000786

Assemblyman Ohrenschall:
If someone came up to me and wanted to borrow $100, I would want to know if they were mortgaged up to the hilt or if I was the first person they had ever asked for a loan.

Dennis Shaul:
That is the sentiment of many in our organization. That is absolutely correct, but there are others who see the database as the very end of the slippery slope argument. Once this starts, there will be more data collection, which will put us in an impaired position of more legal liabilities and so forth. As far as the answer to your question about whether the database has proven effective, I think the jury is out. We do not have a large enough catalog of experience with databases at this point.

Assemblyman Ohrenschall:
If your trade association has any data pertaining to default rates for those jurisdictions you operate in that have these databases versus the other jurisdictions that do not have databases, I think that would be informative to the Committee.

Dennis Shaul:
It is my intention to pass along the research, and I will make a note that that be a part of it.

Chair Bustamante Adams:
We have some other people who would like to testify in opposition. As I said, it would help the Committee if you were very specific on which sections of the bill you disagree with so we do not have to take the bill section by section.

Berlyn Miller:
If I may, earlier I had a representative with me from the American Financial Services Association. She had to leave, but I would like to request that she be allowed to give her testimony, in writing, to the Committee.

Chair Bustamante Adams:
Yes, please. I would accept that.

Sean T. Higgins, representing Dollar Loan Center:
We are respectfully testifying in opposition to A.B. 222. Again, I need to start with having the Committee understand that we operate under NRS 604A.480, which is the installment loan section. In that section are requirements that we perform credit checks before we make loans, and report information related to the loan experience of the customer to major consumer reporting agencies. My point is that the protections currently in place, in Chapter 604A, are adequate. That being said, there are several sections of A.B. 222 that we take issue with.

000787

Section 3 and the 36 percent interest rate cap is one problem. Again, I will just say that this does not work for our business model or any other business model. We are required to report our annual percentage rate based on law. Under Chapter 604A, that has to be less than 200 percent. The fact of the matter is, if someone came in and borrowed $500 for a week, it would cost him or her $18.95. For one month, it would cost $80. Now, if you are late on your insurance payment, that is $35; if you are late on your rate, it is $75; if you bounce a check, it is $50. The point is that you have to look at these things—I think one of the previous people testifying said that the annual percentage rate is a misleading number to look at. The fact of the matter is that it is not how these loans are actually looked at.

Section 4, which deals with the 30-day waiting period, creates a problem rather than fixing one. By putting an artificial buffer between loans, we are basically telling people that if they have a problem in that 30-day period, it is their problem and not ours. Therefore, we are not fixing a problem; we are creating a problem where borrowers may then reach out to other types of loan sources.

As far as the database, which I believe is mentioned in both sections 4 and 5, again, we are opposed to it. We think it is unnecessary. The next step in enforcing this language could be requiring loans with traditional banks to also be included and subject to the database reporting requirements. We report our loans to consumer financial bureaus already.

As far as section 2 and the customer's ability to repay, we believe that NRS 604A.480 already has those safeguards in place and that the requirements are already there. Obviously, our overriding issue with A.B. 222 is that if you go to the last page, it eliminates NRS 604A.480 entirely. This bill completely eliminates installment loans from the section, which are the loans my client makes.

I am happy to answer any questions, and I appreciate your time today.

Susie Schooff, Director of Government Affairs, Advance America; and representing Cash Advance Centers Incorporated:

I am here before you to register our opposition to A.B. 222. As mentioned before by others, including William Horne who represents us here in Nevada, we are opposed to the bill as written. I apologize if I do not get the sections I object to correct. I would rather make a few points instead.

We have heard a lot about APR and I want to get back to the 36 percent interest rate cap on our short-term, payday loans. These are the two-week, traditional loans from the industry perspective. Assembly Bill 222 would use APR—which we are required to use—as a cap to lower payday loan fees to less than 14 cents a day on a two-week, $100 payday loan. Annual percentage rate is a yearlong issue, instead of a traditional two-week, 14-day loan. With all due respect, we cannot have a business here in Nevada if the cap is passed. Last fall there was a 36 percent interest rate cap bill passed in South Dakota. We no longer have our storefronts there. We are asking you to work with us and talk to us, as you are, about how to work through the language. The cap, however, essentially does ban regulated, short-term lending. We would have to pull out.

000788

000788

We have other issues with A.B. 222 as well. We have an issue with the 30-day waiting period. As Mr. Higgins brought up, the database is an interesting idea, but what are you really capturing here? As Mr. Shaul said, the jury is out on the effectiveness of the database. I would like to close by saying that, from Advance America's point of view, we oppose A.B. 222 but appreciate the ability to have a dialogue with all of you. As I mentioned before, any and all of you are welcome to do a store visit to see what we are talking about here. Come in to our stores, see what your constituents are dealing with, and feel free to contact Mr. Horne or us. Thank you so much for your time.

Alisa Nave-Worth, representing MultiState Associates Incorporated; Moneytree; Check City; Check-Into-Cash; and QC Financial:

I do not want to spend too much more of the Committee's time today, as you have been here a long time. We echo the specific concerns that have been outlined by not only William Horne and Dennis Shaul, but by others as well. Our concerns are specific to sections 4, subsection 1, paragraphs (b) and (c), which freeze borrowers from applying for new loans within 30 days and provide the limitation of three loans in six months. We believe that those limitations will not prohibit individuals from seeking capital in a critical market. Those that need the source of capital are going to seek capital in other places. That has been demonstrated, and we can show you that data. There are no other sources of capital.

Our customers cannot go to a typical bank and get a $200 loan; instead, they are going to be forced into an unregulated black market. This is not a scare tactic; it is just the honest truth. When you make decisions where you cap or create freezes, you just condition different behavior. People take out loans that are larger than what they need. They seek out capital from other sources that are not necessarily favorable or are often predatory in nature, and that is our concern with section 4.

I want to reiterate that, as said in our previous testimony on A.B. 163, as an industry, we have come together and we understand the need to codify the ability to repay. We have the same concerns with regard to section 2 that we did with the previous testimony on A.B. 163. We understand that this body is contemplative about the need to codify things which are not included in Nevada statute and that would be more protective of Nevadans, and we want to be a part of that process. While we do not fully support section 2 as currently drafted, we are looking forward to being a part of that conversation.

We also want to reiterate that we also believe that the 36 percent annualized interest cap, while not intended to cut down this industry, functionally does. This would lead to the elimination of this source of capital and this type of product for certain communities in Nevada.

Finally, we want to say with regard to section 15, we have concerns because we believe it eliminates ability and flexibility with regard to the consumer, and that it is a conditioning of behavior rather than the solution to the problem.

000789

000789

Chair Bustamante Adams:
Thank you for being concise. Is there anyone else who would like to testify in opposition? [There was no one.] Those who would like to testify in the neutral position, please come up to the table.

Erv Nelson, representing Harvester Funding, Limited Liability Company:
I represent Harvester Funding, LLC, which makes loans not to consumers, but to commercial businesses. I have the same comments for this bill as I would have to A.B. 163. We are not in opposition, because we do not think that we are affected by this. All of the discussion has been about consumer loans. We just want to clarify on the record our understanding that these bills do not apply to commercial loans.

Mike Hanna, representing Veritec Solutions, Limited Liability Company:
My comments apply specifically to section 5. Veritec Solutions provides real-time, regulatory technology in 14 states to help enforce laws surrounding payday loans, short-term installment loans, auto title loans, and predatory mortgage loans (Exhibit N). Although no two states that we operate in have identical laws, the commonality is a cap on the amount of money or loans that a person can have out at any given time. The laws passed by these states have not only resulted in protecting customers, but have created a secure and stable environment for lenders to continue to operate and profit. Our system does not simply track

loans; it will enforce all terms, restrictions, and consumer protections in real time, thus ensuring every loan issued is in full compliance with state law.

In 2001, the state of Florida passed a comprehensive payday loan reform law that enacted several key provisions. Florida consumers are limited to one loan outstanding at a given time, and the maximum amount that can be borrowed is $500. Florida lenders are prohibited from rolling or renewing a loan. If a consumer cannot repay a loan, they may enter a grace period where no additional fees can be added, and at the completion of the loan, there is a 24-hour, cooling-off period.

It has been 15 years since that Republican legislature and Republican governor enacted payday loan reform law in Florida. At the time, the payday industry said it would put them out of business. Not only has that not happened, the industry is thriving due to a level playing field for lenders and a secure and regulated environment for consumers. I will also note that the default rate in Florida, under the database, is 1.5 percent, and the default rate in states where there is no database is several times higher. It is not that Florida Republicans were not pro-free market, it is just that they saw there was no good to the economy if people could not get out of debt and contribute to the economy.

In conclusion, Veritec is neutral to the rates and terms in specific lending laws. We believe that is best left to the policymakers and citizens to decide. After being the database provider in 14 states, protecting millions of consumers and recording millions of loans, we can say that there is a need for this kind of access to credit that the banks and credit unions simply are not providing. We believe our system strikes the balance between allowing for such access to credit and ensuring consumers are protected from falling into a cycle of debt by appropriate and responsible regulation. Several of the lenders who have spoken today have actually supported legislation that included a database. A lot of them operate in several, if not all, of our states and it has worked. As I said, it has been that middle ground. Thank you.

Chair Bustamante Adams:
I appreciate your testimony. If you have any information on the Florida legislation, I would appreciate that.

Mike Hanna:
I can get you the legislation, and I think I did include in the handouts all the laws of the states we are in and I can get you the Florida statute (Exhibit O) and (Exhibit P).

Chair Bustamante Adams:
Thank you so much, I appreciate that. Is there anybody else in the neutral position on A.B. 222? [There was no one.] We will go to those in support of A.B. 222 as written.

Jim Dickey, Credit Manager, Western Nevada Supply, Sparks, Nevada:
I heard a lot of opposition about the rate cap, and I have a couple of suggestions for that. You might allow a loan fee to make up for charging a lower interest. The other thing you might be able to do is to have a sliding scale; in other words, you would allow a higher interest for really small loans and a lower interest rate for larger loans. I think that might resolve some of the issues about not being able to make a $100 loan for 14 cents a day.

Lynne E. Keller, Executive Director, Opportunity Alliance Nevada:
Nancy Brown spoke earlier on the first bill before you; I would like to speak on the current bill. We are also a lead organization for the Corporation for Enterprise Development (CFED), a national organization for financial stability for all Americans. They release an asset scorecard on policy issues, one of which is predatory, small-dollar lending. Their report just came out this week (Exhibit Q). Their report says that many states have recognized the harmful impact of predatory, small-dollar lending. The majority of states regulate these practices in some way, although laws offer varying degrees of protection. Overall, 17 states and the District of Columbia cap at 36 percent APR or lower or prohibit payday loans. Twenty-nine states and the District of Columbia cap or prohibit auto title loans, and seven states protect against high-cost installment loans. Five states—Connecticut, New Jersey, New York, North Carolina, and Pennsylvania—have prohibited or capped all three types of predatory loan products. Thank you.

000791

Shane Piccinini, Government Relations, Food Bank of Northern Nevada; and representing Three Square:
I represent the Food Bank of Northern Nevada and Three Square, a food bank in Las Vegas. We are supporting this bill for exactly the reasons that are outlined in Assemblywoman Swank's presentation, so I will not go into that. I will tell you that in the programs that we serve, such as the Getting Ahead in a Just-Gettin'-By World Program, that helps people develop the life skills and the financial literacy that is required for them to get out of poverty and move up into a middle-class lifestyle, these loans are one of the biggest impediments of getting out of that cycle of poverty. Our clients specifically asked us to represent that today. Thank you.

000791

Marlene Lockard, representing Nevada Women's Lobby; and Service Employees International Union Local 1107:
In my earlier testimony, I neglected to put on the record that I am also representing the Service Employees International Union Local 1107. Both of my clients are in support of both bills.

Jim Sullivan, representing Culinary Workers Union, Local 226:
I would like to read a short statement from our secretary-treasurer in support of A.B. 222.

> The culinary union represents 57,000 working men and women in Nevada, and we are opposed to predatory lending practices. Payday lenders make billions of dollars in fees by trapping hard-working Americans in a cycle of debt. This is unacceptable. We applaud and support any efforts to regulate this exploitative industry that primarily targets communities of color.

Thank you.

Megann Johnson, Intern, Progressive Leadership Alliance of Nevada; and representing United for Undergraduate Socioeconomic Diversity Students for Social Change:
I represent Progressive Leadership Alliance of Nevada, and I am also here to represent Students for Social Change, a student organization at the University of Nevada, Reno that has chosen payday lending as one of its priorities. Payday lending has proven to be a socially irresponsible industry. They hurt low-income individuals and families by trapping them into high-interest, short-term, unsecured loans, where they have to continually borrow to pay off the previous loan. When people have to take out loan after loan in order to pay back an outrageous 521 percent, this lending practice can only be called a debt trap and is the definition of predatory lending. Payday lenders are taking fees out of the pockets of working families at a time when working families need every penny to make ends meet. Nevada borrowers need access to loans with reasonable interest rates that they can successfully pay off, but instead we are setting them up for failure.

000792

Daniel R. Feehan, the former chief executive officer of Cash America, said, "The theory in the business is [that] you have got to get that customer in, work to turn him into a repetitive customer . . . [and] that is really where the profitability is." This quote shows the exploitation of vulnerable customers. This industry relies on people not paying their loans. Additionally, this industry is preying on people with a low financial literacy rate. Nevada ranked 49 out of 50 states in financial literacy. There is no question that people who take out payday loans need the money, but this is not an ethical way to help these people. These loans push people deeper into poverty.

Today you have the opportunity to help these people by passing a sensible bill to close these loopholes. Please pass A.B. 222.

Jared Busker, Policy Analyst, Children's Advocacy Alliance:
I have written testimony (Exhibit R) but, in the interest of time, I will just quickly summarize. We are in support of this legislation. Payday loans directly affect parents and affect their children. When they are paying this high interest, that is taking away from other necessary things that they need to pay for such as diapers, child care, or food to feed their children. We are 100 percent in favor of this.

Chair Bustamante Adams:
Thank you for being concise, and we will include your written testimony as part of the record. Is there anybody else in support of A.B. 222? [There was no one.] Assemblywoman Swank, do you have any closing comments?

Assemblywoman Swank:
Thank you, Madam Chair. I will just make a few closing remarks. First, as far as the rate cap, I am happy to entertain rates other than the 36 percent. I hope that the industry would come back with a proposal so we can further that discussion.

I would like to just touch on a few things that the opposition stated. I think they are setting up a bit of a false dichotomy. There are many other places that people go if they do not have access to payday or title loans, and most often they go to family. I think the intent of this bill is to encourage people to look for other options before this, because we know that most often, when they get into a debt spiral, they end up going to friends and family to borrow money to pay it off.

As far as the confusion about what problem I was trying to solve, I feel like I have been asked that question and I have replied to that question several times. The intent of this bill, and I will say it one more time—although I did say it at the beginning of this bill's presentation—is to make sure that people are using these loans for what I was originally told by payday lenders, that they are for—short-term, one-shot, have-to-get-through-this, need to make payroll—emergencies. I have said that multiple times to multiple people who I have been having meetings with, so I find it a little frustrating that that is not sticking.

000793

I also would say that I never said that the entire industry, in the 2015 Session, was trying to put through that bill. I would say that, actually, I worked with those people and we made sure that that did not happen. There was a particular entity that did try to put through some legislation that would allow for prosecution of people who do not pay their payday loans off.

As far as the database not being able to capture anything, I always call that my "speed limit" argument. That means that we all know that we all speed, but we still have 55-mile-per-hour speed limits even if we do not all get caught speeding.

Last, as far as being careful about what conclusions to draw from data, I just want to reassure Mr. Shaul that I have a joint doctorate in anthropology and linguistics from Northwestern University. I have spent about 20 years doing research and looking at data. I am very good at making sure that data is good, and I am very careful about what data I present.

There are a couple of other points that Ms. Pereira would like to address, but I really look forward to the discussions with the stakeholders going forward. Thank you so much for your time.

Tennille Pereira:
I just want to clarify what many of the lenders were calling "installment lending," and asserting that they do not need to be a part of this database. I have several clients' files sitting in my office right now that have these types of loans and other loans from other payday lenders, and they are in this cycle. Whether it is the installment loan or the two-week loan, they all become a problem. If we make them all be a part of this database, it takes the blinders off of everyone and everyone sees each other. The installment loans are for a period of 150 days minimum. These are long-term loans, but the important part of this is they are for under 200 percent. Every single one of these that I have seen in my office has been for 199 percent. These are not low-interest loans that should be carved out because we are not worried about these types of things happening. These are high interest loans: 199 percent interest for at least 150 days. We do not want them hidden because they check the credit. None of the other people are going to see them just because they checked the credit. None of the others are checking the credit; they are the only ones, so the only type of loan that they would catch would be their type of loan. If there are several other payday loans out there that a customer has, they would never see them and never be alerted to giving them another loan that would violate NRS Chapter 604A. We do not want anyone to have blinders on. We want this to be full disclosure, everyone on the database, so we can stop this once and for all.

[Additional exhibits include written testimony in support from Pamela Tillman (Exhibit S), and written testimony in opposition from Wendy Corson (Exhibit T) and Mike Byrne (Exhibit U).]

000794
000794

Chair Bustamante Adams:
Thank you. With that, we are going to close the hearing on A.B. 222. Is there anybody here for public comment? [There was no one.] I want to tell the Committee that on Friday we will have several items on work session. If you would be mindful and make sure, if you are a yes or a no, please let the bill sponsor know so that we do not blindside anybody, and professional courtesy is to let the Chair know as well. Thank you and with that, we will adjourn [at 5:40 p.m.].

RESPECTFULLY SUBMITTED:

_____
Pamela Carter
Committee Secretary

_____
Devon Isbell
Transcribing Secretary

000795

APPROVED BY:

000795

_____
Assemblywoman Irene Bustamante Adams, Chair

DATE: _____

EXHIBITS

Exhibit A is the Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is a document titled "NRS 604A Complaint Data Information for A.B. 163 and A.B. 222," dated March 15, 2017, submitted by the Division of Financial Institutions, Department of Business and Industry; presented by George E. Burns, Commissioner, Division of Financial Institutions, Department of Business and Industry.

Exhibit D is written testimony in support of Assembly Bill 163, dated March 15, 2017, submitted by Tennille K. Pereira, Attorney, Consumer Rights Project, Legal Aid Center of Southern Nevada.

Exhibit E is written testimony in support of Assembly Bill 163, dated March 15, 2017, submitted by Venicia Considine, Attorney, Legal Aid Center of Southern Nevada.

Exhibit F is a report titled "Payday Lending in America: Who Borrows, Where They Borrow, and Why," authored by The Pew Charitable Trusts, submitted by Tennille K. Pereira, Attorney, Consumer Rights Project, Legal Aid Center of Southern Nevada, available at http://www.pewtrusts.org/~/media/legacy/uploadedfiles/pcs_assets/2012/pewpaydaylendingreportpdf.pdf.

000796

Exhibit G is a copy of a Title Loan Agreement and Security Agreement, submitted by Tennille K. Pereira, Attorney, Consumer Rights Project, Legal Aid Center of Southern Nevada.

Exhibit H is a copy of a Deferred Deposit Loan Agreement, submitted by Tennille K. Pereira, Attorney, Consumer Rights Project, Legal Aid Center of Southern Nevada.

Exhibit I is a copy of an Installment Loan Agreement and Disclosure Statement, submitted by Tennille K. Pereira, Attorney, Consumer Rights Project, Legal Aid Center of Southern Nevada.

Exhibit J is written testimony in opposition to Assembly Bill 163, dated March 15, 2017, submitted by Wendy Corson, Divisional Director of Operations, Advance America.

Exhibit K is written testimony in opposition to Assembly Bill 163, dated March 15, 2017, submitted by Mike Byrne, Regional Director of Operations, Advance America.

Exhibit L is a copy of a PowerPoint presentation titled "A.B. 222: Payday Lending Reform," presented by Assemblywoman Heidi Swank, Assembly District No. 16.

Exhibit M is written testimony in support of Assembly Bill 222, dated March 15, 2017, submitted by Tennille K. Pereira, Attorney, Consumer Rights Project, Legal Aid Center of Southern Nevada.

Exhibit N is a copy of a PowerPoint presentation titled "Nevada Assembly Commerce and Labor," presented by Mike Hanna, representing Veritec Solutions, Limited Liability Company.

Exhibit O is a document titled "Frequently Asked Questions," submitted by Mike Hanna, representing Veritec Solutions, Limited Liability Company.

Exhibit P is a document showing statutory limitations for payday lenders, dated March 14, 2017, submitted by Mike Hanna, representing Veritec Solutions, Limited Liability Company.

Exhibit Q is a letter dated March 15, 2017, in support of Assembly Bill 222, to Chair Bustamante Adams and members of the Assembly Committee on Commerce and Labor, authored by Lynne E. Keller, Executive Director, Opportunity Alliance Nevada.

Exhibit R is written testimony in support of Assembly Bill 222, dated March 15, 2017; presented by Jared Busker, Policy Analyst, Children's Advocacy Alliance.

000797

Exhibit S is written testimony in support of Assembly Bill 222, dated March 13, 2017, submitted by Pamela Tillman, Private Citizen, Las Vegas, Nevada.

000797

Exhibit T is written testimony in opposition to Assembly Bill 222, dated March 15, 2017, submitted by Wendy Corson, Divisional Director of Operations, Advance America.

Exhibit U is written testimony in opposition to Assembly Bill 222, dated, March 15, 2017, submitted by Mike Byrne, Regional Director of Operations, Advance America.

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

000798
000798

000798

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.

000799

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.

000799

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

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.

000800

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 is 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"?

000800

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.

000801
000801

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.

000802

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.

000802

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.

000803

000803

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?

000804
000804

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.

000805

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.

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.

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.

000808

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.)

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.

608000
000809

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.

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.

000810

000810

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.

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.

000811

000811

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.

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.

000812

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

ASSEMBLYMAN FRIERSON SECONDED THE MOTION.

000812

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.

000813

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.

000813

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)

000814

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.

000814

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.

000815

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.

000815

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?

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.

000816

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

ASSEMBLYMAN PAUL ANDERSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

000816

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.

000817

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

000817

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.

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?

000818

000818

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?

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.

000819

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.

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?

000820

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?

000820

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.

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:

000821

000821

_____
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.

000822

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.

000822

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.

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.

000823

000823

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.

000824

000824

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.

000825

000825

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.

000826

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

Section 1. Chapter 604A of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 1.3 and 1.7 of this act.**

Sec. 1.3. ~~[]~~***1. A licensee shall not make a loan pursuant to this chapter unless the licensee determines pursuant to subsection 2 that the customer has the ability to repay the loan.***

2. For the purposes of subsection 1, a customer has the ability to repay a loan if the customer has a reasonable ability to repay the loan, as determined by the licensee after considering and verifying the following underwriting factors:

(a) The current or reasonably expected income of the customer;

(b) The current employment status of the customer ~~[;]~~ based on evidence including, without limitation, a pay stub or certificate of deposit;

(c) ~~***[The monthly residual income of the customer;***~~

~~***(d)]***~~ ***The credit history of the customer;***

000826

~~*[(e)]*~~ *(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 ~~[or 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~~

000827

000827

~~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 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.***

000828

000828

000828

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

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

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

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

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

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

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

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

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

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

(a) The loan provides for payments in installments;

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

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

(d) The loan does not require a balloon payment of any kind ~~[.]~~ ***; and***

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

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

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

604A.440 A licensee shall not:

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

000829

000829

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

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

4. Include in any written agreement:

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

(b) A confession of judgment by the customer;

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

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

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

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

7. ***Reinitiate 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.***

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

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

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

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

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

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

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

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

000830

000830

3. The original term of a title loan may be up to 210 days if:

(a) The loan provides for payments in installments;

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

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

(d) The loan does not require a balloon payment of any kind ~~[.]~~ ***; and***

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

Sec. 7. NRS 604A.450 is hereby amended to read as follows:

604A.450 A licensee who makes title loans shall not:

1. Make a title loan that exceeds the fair market value of the vehicle securing the title loan.

2. ***Make a title loan to a customer secured by a vehicle which is not legally owned by the customer.***

3. Make a title loan without ~~[regard to the ability of the customer seeking the title loan to repay the title loan, including the customer's current and expected income, obligations and employment.~~

~~3.]~~ ***determining that the customer has the ability to repay the title loan, as required by section ~~[1]~~ 1.3 of this act. In complying with this subsection, the licensee shall not consider the income of any person who is not a legal owner of the vehicle securing the title loan ~~[.]~~ but may consider a customer's community income and the income of any other customers who consent to the loan pursuant to subsection 5 and enter into a loan agreement with the licensee.***

4. Make a title loan without requiring the customer to sign an affidavit which states that:

(a) The customer has provided the licensee with true and correct information concerning the customer's income, obligations, employment and ownership of the vehicle; and

(b) The customer has the ability to repay the title loan.

5. Make a title loan secured by a vehicle with multiple legal owners without the consent of each owner.

Sec. 8. NRS 604A.930 is hereby amended to read as follows:

604A.930 1. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, if a person violates any provision of NRS 604A.400, 604A.410 to 604A.500, inclusive, ***and section ~~[1]~~ 1.3 of this act,*** 604A.610, 604A.615, 604A.650 or 604A.655 or any regulation adopted pursuant thereto, the customer may bring a civil action against the person for:

(a) Actual and consequential damages;

(b) Punitive damages, which are subject to the provisions of NRS 42.005;

(c) Reasonable attorney's fees and costs; and

(d) Any other legal or equitable relief that the court deems appropriate.

2. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, the customer may bring a civil

000831
000831

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

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

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

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

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

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

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

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

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

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

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

(a) Was not intentional;

(b) Was technical in nature; and

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

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

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

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

000832

000832

000832

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

000833

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

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

000834

000834

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

000835

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

000835

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.

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.

000836

000836

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.

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.

000837

000837

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.

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.

000838

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.

000838

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.

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.

000839

000839

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.

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.

000840

000840

RYAN UHLMEYER (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. UHLMEYER:
I have not personally had anyone tell me this exactly.

SENATOR SPEARMAN:
Anything similar?

MR. UHLMEYER:
No, not to me personally.

SENATOR SPEARMAN:
How did you arrive at your conclusions?

MR. UHLMEYER:
"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. UHLMEYER:
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).

000841

000841

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?

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.

000842

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.

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.

000843

000843

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

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.

000844

000844

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.

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.

000845

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 disproportionally 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.

000845

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

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.

000846

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

000846

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

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.

000847

000847

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

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.

000848

000848

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.

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?

000849

000849

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?

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.

000850

000850

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

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.

000851

000851

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.

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.

000852

000852

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.

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).

000853

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.

000853

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?

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.

000854

000854

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?

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

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.

000856

000856

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.

SENATOR HARDY:
If LVMPD does not have the packet for whatever reason, is the person a squatter?

MR. SANDERS:
Are you asking, without the packet, is the individual in the property already deemed to be a squatter? The documents are for the use of the membership to submit to police when they have a property they are managing and see there is an unauthorized individual living on a property. The members are instructed to take the paperwork to the local police department and have the police conduct an investigation.

CHAIR ATKINSON:
So, in your scenario, would the person in the home have to have his or her lease and the documents you are describing?

000857

MR. SANDERS:
The documents we provide are to assist the police. The property manager or the real estate professional managing the property will know if a person is unlawfully occupying one of these properties. The manager will then gather the paperwork and submit a victim's report based on the municipality and turn it into the police department for its investigation. By turning in the paperwork, he or she has already made the decision that whoever is occupying the property is not an authorized tenant.

000857

CHAIR ATKINSON:
You keep saying LVMPD and North Las Vegas, but both of those agencies have testified that they would like to see this additional tool. I take their word for it that this tool will be helpful.

MR. SANDERS:
The members of the Greater Las Vegas Association of Realtors are providing the information needed for law enforcement to proceed with its investigations without the additional burdens of notarization and disclosure.

CHAIR ATKINSON:
Are you saying because you are providing everything to LVMPD, then LVMPD should not need anything else and they do not need this additional tool?

MR. SANDERS:
The tool is not necessary if LVMPD is working in conjunction with licensed professionals pursuant to NRS 645. Working with other landlords, LVMPD might need extra documentation. The real estate professionals are already giving the information and have been since 2015.

CHAIR ATKINSON:
The LVMPD is saying this could be an extra tool they could use. What am I missing?

MR. O'CALLAGHAN:
Mr. Sanders is correct. When there is an identified squatter, the real estate people put together the paperwork which makes it easier for detectives. Other cases of foreclosures and probate require investigations, and the provisions in the bill will help detectives.

000858

SENATOR SPEARMAN:
Are you against the bill or the process? The bill will give law enforcement additional tools to handle squatters. Are you against the bill? Or are you against the process by which the elements of the bill would be carried out?

000858

MR. SANDERS:
The amendment proposed by the Nevada Association of Realtors wants exemption for licensees from the notarized document requirement. This requirement is the crux of its position.

MS. BANKS:
The portion of the bill the Association is opposed to is the disclosure portion. Section 1, subsection 4 states, "In addition to the provisions required by subsection 3, any written rental agreement for a single-family residence must contain a disclosure at the top of the first page of the agreement ... ." The members have a problem with putting the disclosure language on every lease agreement. Many leases are renewals, and there are already standardized leases without the disclosure language. The Association wants its licensees to be exempt from that portion of the bill. The Amendment, Exhibit K, reads:

> In addition to the provisions required by subsection 3, any written rental agreement for a single-family residence, which is not signed

> by an authorized agent properly licensed pursuant to NRS 645, must contain a disclosure ... .

SENATOR HARDY:
Do you want to delete all of section 1, subsection 4?

MS. BANKS:
We do not want to delete all of that section. We want to add, "... which is not signed by an authorized agent property licensed pursuant to NRS 645." If agreements are signed by property managers or licensees under NRS 645, they are exempt from the requirement for the agreements to contain the disclosure on the top of the first page in the required font size. A mom-and-pop business and other landlords will be required to include the disclosure on agreements, but real estate licensees would not.

000859

SENATOR HARDY:
Are you okay with section 1, subsection 4, paragraph (a) stating "There are rebuttable presumptions" and so forth to the end of that subsection?

000859

MS. BANKS:
If an agreement is signed by an authorized agent properly licensed pursuant to NRS 645, it is requested that notarization be waived.

SENATOR GANSERT:
Is the reason for the exemption request because it would be confusing to a renter who might think it is not a valid document unless it is notarized?

MS. BANKS:
The disclosure on the top of the first page, saying that if a lease is not notarized, it creates a rebuttable presumption and so on, is the biggest concern for our members. Licensees will get the notarization in order to cover all bases.

SENATOR GANSERT:
Is their issue with taking the extra step of notarization since they have valid agreements and documents worked on with and provided to LVMPD?

MS. BANKS:
Yes. Having to add the disclosure portion to leases as they are renewed and redoing all of the standard leases are issues for the members.

SENATOR SPEARMAN:
Speaking to the objection of getting the documents notarized, are there not notaries inside real estate offices or notaries your agents work with?

MS. BANKS:
Offices vary, some have notaries and some may not. Not all offices have notaries readily available. Sometimes there are landlords living in other states, and this would be more difficult.

SENATOR GANSERT:
When you have an absentee owner who hires an agent, does that agent have the right to sign on behalf of the landlord on an agreement?

MS. BANKS:
Yes. The property management agreement sets forth the duties and obligations of the property manager.

000860

SENATOR GANSERT:
The notarization requirement must be with the two parties to the agreement who could be a representative and an individual. I think the disclosure makes it more complex for mom-and-pop businesses.

MS. BANKS:
I agree. It is difficult for property managers and mom-and-pop businesses.

ASSEMBLYMAN FLORES:
I agree it is going to be a little more difficult for the mom and pops to add the disclosure language than the property managers. I want to make some clarifications on what the bill does. It does not say anything has to be notarized. It clearly states in section 1, subsection 4, paragraph (b), "The agreement is valid and enforceable against the landlord and the tenant regardless of whether the agreement: (1) Is notarized; … ." Even if the agreement is not notarized, it is valid. Whatever property managers are using now is enforceable. The bill addresses that concern.

The mom-and-pop landlords can continue to use what they are using now for their leases. We are creating a rebuttable presumption. I want a savvy renter to see the notarization language and not want a rebuttable presumption placed against him or her. The renter will be happy to get it notarized. The notarization

adds another layer of protection. There is a notary journal with landlord information and renter information which aids law enforcement in investigations. If a notary stamp is fake or falsified, it allows law enforcement another tool to seek action against the perpetrator for falsifying a document. I want to encourage leases to be notarized, but it is not mandated. If a person chooses not to notarize a lease document, it creates a rebuttable presumption.

It is not true that property managers will have a difficult time adding disclosure language to leases. It is adding a paragraph to what they are using now. They use the same document over and over again. It is an easy process to add language to a document on a computer. The idea that this is complex for a property manager who does this all the time is not true. It might be more difficult for a mom-and-pop landlord. I have more concerns about them.

I took a class online and became a notary. I have a stamp and can now notarize documents. I do it often in my law practice. Realtors are on both sides of the discussion. I am told most Realtors have a notary on-site. They are required to have documents notarized often, and it is rare not to have a notary on-site.

000861

000861

I am committed to working with the Nevada Realtors Association. Law enforcement and I have looked at the squatting problem where a property manager was involved, and the police still could not do what they needed to do. We are investigating how often this happens, and that is why I am not considering it a friendly amendment at this time.

SENATOR HARDY:
I do not see where it says without the provision, it is an enforceable lease or agreement.

ASSEMBLYMAN FLORES:
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 a current address and telephone number of the landlord or his or her authorized representative.

SENATOR HARDY:
Subsection 4 uses the words "must contain a disclosure" on the agreement. So, does everything fall under the "must" thing?

ASSEMBLYMAN FLORES:
The only "must" the bill addresses is the disclosure. There must be a disclosure letting the renter know that if the lease is not notarized and does not have landlord information, there is a rebuttable presumption the renter does not have the right to be there. That disclosure is a requirement. The bill clarifies in the absence of that disclosure that the lease is still enforceable. The only mandatory requirement in the bill is the disclosure information to the renter.

SENATOR GANSERT:
The information you talked about would be helpful as far as incidents involving licensed agents. The licensed agent is the easiest to track and verify. I recognize the disclosure is the requirement and the agreements are enforceable. The language is confusing and could be misleading, and some might think the lease is not enforceable if not notarized because of the disclosure. My concern is the confusing language.

000862

000862

ASSEMBLYMAN FLORES:
I disagree that the language is confusing. It does not say it is not an enforceable lease. It just says if not notarized, the lease is a rebuttable presumption. That is meant to encourage notarized leases.

SENATOR GANSERT:
The term "rebuttable presumption" is not something most people will understand.

CHAIR ATKINSON:
We will close the hearing on A.B .161 and open the hearing on A.B. 163.

ASSEMBLY BILL 163 (2nd Reprint): Revises provisions governing certain short-term loans. (BDR 52-737)

ASSEMBLYMAN EDGAR FLORES (Assembly District No. 28):
I will present A.B. 163. The genesis of this bill began when I found out who the people are that are securing payday loans, when they are becoming victims of the never-ending debt treadmill and why and what loopholes exist in NRS that

keep these people on this treadmill. Many of my constituents use payday lending and perhaps the lack of jobs and lack of financial literacy are part of the problem. As a Legislator, I am not doing enough in Nevada and Assembly District No. 28 to protect individuals from having to go to a payday lending company to pay bills. I am not saying payday lending is evil. There are over 400 branches of payday lending companies in Nevada. There are some bad actors among these lenders who are taking advantage of our laws. They are reading our laws in ways which help them keep people on the debt treadmill.

It has taken many hours and months of meetings with the good stakeholders to put this bill together. The three issues we are addressing in the bill are: ability to repay; assets being determined in loans; and defaults, what triggers them and what they mean.

000863

When a high interest loan is issued, it is important the borrower has the ability to repay. Ability to repay has never been defined in statute. Individuals request loans and determining their ability to repay is as simple as signing affidavits saying the individuals have the ability to repay. Or, an individual shows the title of a vehicle and requests a loan, even though that person is unemployed, has significant debt and no income. It is obvious the person will not be able to pay back the loan. The lender accepts the title of the vehicle as collateral and uses that as the ability to repay the loan. I disagree that the individual will have the ability to repay the loan. Assembly Bill 163 creates a definition of ability to repay.

000863

There are individuals requesting loans using assets they do not own. The person requests a loan on a vehicle. That person's name is not on the vehicle title. The loan is still granted. Another scenario is a person requests a loan of a certain amount and does not have the income to pay it. The spouse of this person has a job and has a certain income, and that income is taken into account for the loan. A loan should not be granted to a person who does not have income.

Another issue is the default trigger protection. If a person is in default on a loan, a protection is triggered. Some payday lenders are choosing when defaults get triggered. The protections then do not come into play immediately. The default is supposed to stop extreme interest rates from multiplying. Assembly Bill 163 clarifies when defaults are to be triggered. There is specific language in the bill breaking this down. The issues are led by victims' real life situations, and these were used to craft the language in the bill.

TENNILLE PEREIRA (Legal Aid Center of Southern Nevada):
I am a consumer litigation attorney at the Legal Aid Center of Southern Nevada. I will summarize my written testimony (Exhibit L). I work with consumers who have found themselves in debt cycles with payday and title loans. It is a familiar problem. Prior to law school, I was on active duty in the military for ten years. I had some financial difficulties. I found myself securing payday loans, and this began my payday loan debt cycle. I know how my clients feel when they bring these problems to me for help. I want to help protect consumers on this issue.

Section 1 of A.B. 163 requires an analysis of ability to repay. It requires a lender to look deeper into the customer's ability to repay. In working with the members of the industry, language was drafted to provide customer protections and ensure the ability to repay. The lenders are required to consider a consumer's current or reasonably expected income, current employment status, credit history, monthly payment and the amount due. These are factors considered in the general underwriting of loans.

000864

A recent client works in sales and his wages fluctuate from month to month. He secured 12 payday loans in 18 months. When this person could not pay one loan, he secured another. The cycle continued and the amounts increased, and he did not have the ability to repay the loans. Statute requires a cap of 25 percent of the monthly income for payments. The lender used a two-week time period from nine months earlier indicating the customer made enough to pay the loans. The new language in A.B. 163 will shore up this issue. The lender will need to ensure a borrower has current ability to repay.

000864

Section 1.7 provides the provision for an extended payment plan for deferred deposit loans. These loans are considered the traditional payday loans. The loans are offered for short periods of time allowing borrowers time to make it through to the next payday. The problem with these loans are the paybacks of the loans are lump-sum payments. If the customer cannot make it to the next payday and a huge payment is taken out of the customer's bank account, it will be difficult to make it to the next payday and the customer will continue to struggle to pay the loan. This provision in A.B. 163 gives the borrower the option to request an option to pay. This will allow for an extended payment plan. The borrower will not be required to pay additional interest, but the bill will allow the borrower more time to pay the loan. This should cut down on the number of defaults for deferred deposit loans.

Title loans are nonrecourse loans. The titled owner of a vehicle is the only person losing if there is a default. The bill ensures the titled owner has the ability to repay the loan and is the only one putting the title up for the loan. This helps a co-borrower from losing his or her vehicle.

I had a client who had only her car as an asset. She used the vehicle to look for work. She used the title of her car for a loan. She lived in the same household as a person with income and used that person's income to help secure the loan. When the loan came due, the other individual refused to pay the loan, having not known about the loan or felt the need to pay it. The bill will prevent this by not allowing the lender to consider the income from an individual who does not have an interest in the loan.

Another client purchased a vehicle with her live-in boyfriend. They were both on the title. She used the vehicle for her job. Her boyfriend got a title loan using this vehicle without her knowledge. He did not pay the loan, and her vehicle was repossessed. A provision in the bill will require both titled owners to sign for the loan.

000865

000865

The bill seeks to clarify defaults. By law, contract interest rates drop on a default to prime plus 10 percent, approximately 15 percent interest. It allows a borrower unable to make payments an off-ramp. A repayment plan is offered at 15 percent interest to allow the borrower to become debt-free. Lenders are circumventing this provision by not declaring the person in default. The bill clarifies statute to define when a borrower goes into default. This will trigger current protections to help borrowers get out of the debt cycle.

One of my clients was a small business owner who was on the verge of going out of business due to lack of revenue. To make payroll, he secured a title loan on his family vehicle. He was able to make only one payment. The lender allowed him to just pay what he could. The lender never put him in default. He received a letter saying he was in default and he was entitled to a repayment plan. He contacted the lender. The lender told him to disregard the letter and just pay when he could and would consider the loan in good standing. He attempted to do this but was unable to come current on his loan. The loan ran 210 days with 300 percent to 400 percent interest. When the lender was unable to charge any further interest on the contract, the lender declared him in default. If the default had been declared from the first time he was unable to

make the payment, he could have paid off the loan and the family car would not have been put in jeopardy.

The grace period in law is being clarified in the bill. The term grace period has created confusion in the industry. Lenders continue to charge the contract interest by not recognizing the grace period. The grace period is designed to be a gratuitous time period with no charges to the borrower during that period. The TitleMax case is the best example of this issue. It was found a grace period was being offered that violated law or was an unlawful extension of the loan. Title loans can only be for 210 days. TitleMax offered a grace period addendum to a contract for an additional 210 days. During the addendum grace period, the charge was 210 days of contract interest at the beginning of the loan. The borrower was forced to pay 210 days of high contract interest, then would be required to pay an additional 210 days of contract interest plus the principal. The company was unable to pay this. Clarifying the grace period will help lenders and borrowers avoid these issues.

The bill attempts to educate consumers on payday loans, what their rights are and who they can contact when they have a problem. The bill restricts the number of times an electronic debit can be passed through borrowers' accounts. I had a client with $2,000 in bank charges because the lender continued to pass the debit transaction through, even though the client notified them there was no money in the account.

These client stories are just a small sampling of what I see on a consistent basis when dealing with payday loans. For the protection of my clients and all consumers, I strongly urge the passage of A.B. 163.

JON SASSER (Legal Aid Center of Southern Nevada):
In section 4, subsection 1, paragraphs (a) and (b) of A.B. 163, the language may not accomplish the intent of the bill. Further clarification may be needed to ensure the intent has been accomplished. This section refers to extensions and grace periods.

Section 1.3 addresses the various factors the lender must consider for a borrower's ability to repay a loan. Subsection 2, paragraph (e) of section 1.3 is a list of things that should be considered. No one factor should be controlling.

There was concern by one of the stakeholders. The question asked regarding section 7 was,

> I understand from the discussion below that if an individual's income is to be considered, they must be on the loan agreement as a signer or co-signer. Is the intent to preserve the option of allowing a co-owner to consent to the pledge of the co-titled vehicle without signing the loan agreement providing that income is not considered?

The answer is yes. Another person's income may be considered, but if he or she is co-titled on a vehicle, he or she can sign and consent for the vehicle to be pledged as income.

Another remark made from a stakeholder was, "If a borrower independently qualifies for a loan and does not need a co-borrower to qualify, making a co-owner sign the note as obligor will violate a federal regulation." Our response is we are not asking the co-owner of the vehicle to sign as an obligor but would allow a co-owner to consent to the pledge of the co-titled vehicle.

000867

000867

Section 7, subsection 3 refers to community property income under law. Any concerns raised are covered in the bill without the need for additional language.

SENATOR SPEARMAN:
You mentioned lack of jobs as one of the reasons people are getting into the payday situations. Are low wages a factor in this? Even a person working full time could be forced into the loan cycle.

ASSEMBLYMAN FLORES:
Yes, low pay is a problem. In Nevada, we must ask is the present minimum wage what a human hour is worth to us? My answer is absolutely not. Part of the equation when we talk about why people go to payday lenders and how to stop it is to ensure people get paid a livable wage. It is ensuring people have financial literacy and for people to understand that this model of asking for what you need and buying what you want is incorrect. Things need to be fixed in our State and in our communities. As Legislators, we are accountable for that. It is important to find the loopholes in the payday industry and provide whatever protections we can to help people get out of the debt treadmill. For me, part of

that is being fully vested in addressing larger questions needing drastic changes in Assembly District No. 28.

MR. SASSER:
To clarify a concern of the title loan lenders, if a spouse is not on the title to a vehicle being considered for a loan but consents his or her income be considered, the loan can be made.

MIKE DYER (Director, Nevada Catholic Conference):
The Nevada Catholic Conference strongly supports A.B. 163.

WILLIAM HORNE (Advanced America; Enova International):
Advanced America and Enova International worked with Assemblyman Flores and Legal Aid Center of Southern Nevada and support A.B. 163. If section 4 is written as intended, it will not be necessary to submit an amendment.

000868

ALISA NAVE-WORTH (Moneytree; Check City; Check-Into-Cash; QC Financial):
Moneytree, Check City, Check-Into-Cash and QC Financial work hard to ensure compliance with existing law and with best practices in the Nation. These companies worked with the Legal Aid Center of Southern Nevada to craft A.B. 163. Section 1.3 was improved by the industry to clarify the heart of the challenge before us. The extended payment plan in section 1.7 is a best practice implemented by these companies and is a national best practice. The automatic withdrawal provision is a platinum practice executed by these companies and implementing it takes the bill from good to great. The companies are concerned with any legislation seeking to limit access to critical capital in a highly regulated market. There is a role for deferred deposit loans for those in emergency situations or who do not have the income to make ends meet or to fill a gap created by loss of income due to a job loss. That service and source of capital should be accessible to all Nevadans.

SEAN HIGGINS (Dollar Loan Center):
The Dollar Loan Center supports A.B. 163. This industry is highly regulated in Nevada. Payday lending is a tool used by many Nevadans. The stories of people who have suffered by the industry are real, but these are limited. The industry does not want these incidents to occur because it puts a black eye on the entire industry. The bad lending practices creating these incidents are used by a limited number of lenders in the industry. We thank the sponsors for working with the Dollar Loan Center.

STACEY SHINN (Progressive Leadership Alliance of Nevada):
On average, a payday loan borrower takes out 8 loans of $375 each year and spends $520 on interest. There are 5 groups with higher odds of taking out payday loans: those without a 4-year degree, home renters, those earning less than $40,000 per year, African Americans and those who are separated or divorced. Most borrowers are young women. Parents are more likely than nonparents to use payday loans. Twelve percent of people with disabilities have used payday loan services. This is an economic issue and a gender and racial justice issue.

MICHAEL HILLERBY (LoanMax Title Loans):
Payday lending and title lending are different parts of the larger industry regulated by NRS 604A. LoanMax Title Loans supports the bill if it is to be interpreted and enforced in the spirit in which Mr. Sasser described it. The provisions in section 1.3 apply to all of the lenders under NRS 604A. Title loans tend to be different. They are not payday advances or check cashing and do not automatically deduct payments out of bank accounts. The existence of the bank account is not part of the title lending process. The language in section 1.3, subsection 2, states "and" and "without limitation." This concerned LoanMax. It understood each of those items had to exist for the loan. Federal regulations require no discrimination based on age or employment status. If the bill is to be interpreted and enforced that way, those are things to be considered.

698000

000869

If there is an amendment to be considered by the Committee, LoanMax would like the words "to the extent available" be added after the word "consider" in section 1, subsection 3. This would clarify for LoanMax the ability to look at any or all of the evidence necessary but not a mandated list.

KEITH LEE (Community Loans of America, Inc.):
Community Loans of America, Inc., does business in Nevada in 12 different locations as Nevada Title and Payday Loans. The vast majority of its portfolio are title loans, and it is considered a title lender under NRS 604A. It also offers other products available under NRS 604A. It appreciates the clarification supplied by Mr. Sasser on some issues. Nevada Title and Payday Loans considers itself one of the good actors in the industry. It abides by and helps adopt the national best practice rules. This company does not want to repossess an automobile. It wants the person to repay the loan in a timely fashion. Only 5 percent of defaults require repossession. Things are worked out with the borrower to whatever extent possible. The underwriting criteria in

section 1.3 do not prohibit or limit who can be granted a loan. Forty percent to 50 percent of this company's customers are unbanked or underbanked and do not have bank statements. The clarification in section 7, subsection 3 is appreciated with respect to the community property of a spouse who is not on the title of a vehicle but consents to sign a loan agreement, and community income can be considered.

ALLAN SMITH (Lutheran Engagement and Advocacy in Nevada):
The Lutheran Engagement and Advocacy in Nevada supports A.B. 163.

ASSEMBLYMAN FLORES:
I am grateful to Legal Aid of Southern Nevada and the stakeholders who have been working together on the process. We will check section 4 to be sure the spirit of the intent was captured, or we may have an amendment to adequately reflect the intent of what was agreed to.

000870

CHAIR ATKINSON:
We will close the hearing on A.B. 163 and open the hearing on A.B. 267.

ASSEMBLY BILL 267 (1st Reprint): Revises provisions governing industrial insurance. (BDR 53-650)

ASSEMBLYMAN NELSON ARAUJO (Assembly District No. 3):
I will highlight the provisions in A.B. 267. If an industrial insurance claim is denied for firefighters, arson investigators or police officers suffering from cancer, lung disease or heart disease and ultimately that claim was found to be legitimate, the party who denied the claim would be required to pay reasonable legal fees and back pay to the claimant. There is an amendment that will change some of the language.

The bill will change the process of dissemination and usage of physical examinations done on firefighters, arson investigators and police officers suffering from cancer, lung disease or heart disease.

The bill exempts firefighters, arson investigators and police officers suffering from cancer, lung disease or heart disease from the requirement that an occupational injury and or disease incapacitates an employee for at least 5 consecutive days or 5 cumulative days within a 20-day period from earning full wages.

RUSTY MCALLISTER (Nevada AFL-CIO):
Assembly Bill 267 addresses several issues with getting coverage for workers' compensation for various types of claims. It concerns NRS 617.455 and 617.457 for lung and heart disease for firefighters and police officers. Years ago there were problems getting the claims accepted. The 1989 statute provided that these occupational diseases are conclusively presumed to have arisen out of and in the course of the employment under certain circumstances. Claims are continually denied and are extended over long periods of time.

Existing law states an employee must be off work for at least 5 cumulative days within a 20-day period for a disability claim. Police officers and firefighters work 24-hour shifts, and many have a problem getting 5 consecutive days off. If a firefighter or police officer has a problem with atrial fibrillation, he or she visits the doctor on his or her days off. The doctor will diagnose, treat, prescribe medication, and the employee can return to work. Yet, he or she may be on medication for the remainder of his or her life. This employee is suffering from some form of disability. Not taking the five consecutive days off disqualifies the employee for disability. Section 1 of this bill exempts a claim for compensation under chapters 616A to 616D of NRS for disability for the occupational diseases of cancer, lung disease and heart disease from the 5-day prohibition.

000871

000871

Section 2 provides for medical benefits for employees under NRS 617.453, 617.455 and 617.457. Section 3, subsection 3, adds new language. The problem has arisen in some locations, though not the majority, when firefighters or police officers get their annual physical exams as required by statute. The results of the exams are then shared with multiple people outside of the process of physician, employee or workers' compensation or risk management personnel. The results of the exams have been shared with the fire chief, chief of police, town board members who are being brought in if there is a controversy within the department, and some even will dress down the employee about his or her exam results. Some have had their jobs threatened. This section attempts to fix this. It follows the Health Insurance Portability and Accountability Act (HIPAA) privacy rule. Exam results can only be shared with the employee, the doctor and insurer or workers' compensation insurer or the risk management person of the local governmental entity if a claim is filed.

Since it moved out of the State Assembly, an unsolicited fiscal note has been put on the bill by the Department of Administration regarding section 3. Our

intent is not to create more work or the need to hire additional employees to address this issue. We will work to find a way around this if possible.

Sections 4 and 5 attempt to stop insurers and third-party administrators from denying claims arbitrarily. These actions put claimants into the appeals process. Claimants ultimately prevail but only after a long time and with large attorney's fees. The intent in these sections of the bill is to create disincentives for insurers to arbitrarily deny claims. The measure applies to NRS 617.455 and NRS 617.457 regarding lung and heart disease. If a claim is denied for a conclusively presumed benefit and the claimant prevails, the claimant would be awarded reimbursement of his or her attorney's fees. A number of insurance companies have recently approached, asking if we would be willing to consider replacing the attorney's fees with a benefit penalty. The conceptual amendment (Exhibit M) addresses this.

Another issue arose and became obvious that some insurers are using the denial and appeal process to avoid paying medical benefits for the claimants of heart or lung disease. An additional part of Exhibit M states from the time the claim is denied and an appeal is requested, the workers' compensation insurer is responsible for paying the medical expenses of the injured worker. Workers' compensation exists to take care of injured workers. The system has been denying claims and expecting other health insurers to pay the medical charges. There is a provision in the amendment saying if the insurer were to prevail, it would be reimbursed by the responsible insurer for the cost paid out on behalf of the employee. It will allow the injured worker to get necessary medical treatment immediately.

JASON MILLS (Nevada Justice Association):
The primary issue is the distinction between claims being denied because of the five-day hurdle. It was never the intent of our law to deny occupational disease claims if a person is not disabled for a period of five or more days. The bill is attempting to rectify this provision. The five-day requirement is designed for short-term disability compensation, not the compensation of the claim itself or to receive medical benefits. The courts, third-party administrators (TPA) and insurers are interpreting the five-day hurdle as a hurdle to get a compensable claim that is wrong for these heart, lung and cancer claims.

MARK JOSEPH:
I retired in September 2014 as Captain of the Operations Division at the Churchill County Sheriff's Department. One month prior to retiring, my cardiologist completed form C-4, an employee's claim for compensation and report for initial treatment. The doctor told me I had aortic stenosis and aortic insufficiency and gave me a projected timeline for surgical intervention. If it followed a normal course of transition, that would be five to six years. My claim was immediately denied, and it has been denied seven times. There have been seven hearings. My health is continuing to deteriorate with no improvement. I was hospitalized in the cardiac ward in January at St. Mary's Regional Medical Center. I have not received and am not receiving any benefits to pay for my medical care for my heart disease. It has been a long process, and I have thousands of pages of documents and at least 50 individual legal processes, including delays, postponements, cancellations and conferences with no resolution. I cannot return to work according to my doctors. I am not here to benefit myself. My situation happened prior to the introduction of A.B. 267. I support the bill for future firefighters and police officers in hopes they will not be denied medical care or benefits.

000873

000873

SENATOR SPEARMAN:
When your claim was denied seven times, was it for the same thing or were different reasons cited?

MR. JOSEPH:
My claim was denied for multiple reasons. There were several times it was denied for the same reason. It was denied at least five times for different reasons.

RON DREHER (Nevada Law Enforcement Coalition; Police Officers Research Association of Nevada):
The Nevada Law Enforcement Coalition and Police Officers Research Association of Nevada support A.B. 267 and the conceptual amendment. I met Mr. Joseph a few years ago, and he has given me permission to comment on his story. I am a retiree of the Reno Police Department, have heart-lung coverage and will address the conclusive presumption issue. Mr. Joseph has heart disease. The Public Agency Compensation Trust (PACT) is the third-party agency which covers many of the rural counties for workers' compensation. This agency has been fighting Mr. Joseph. If someone has a conclusive presumption claim, why is it being denied? Why has Mr. Joseph's claim been

denied seven times? Mr. Joseph and his wife are close to succumbing to their illnesses. It is unfortunate A.B. 267 will not be retroactive because Mr. Joseph has been denied medical benefits for three years. It is important that the Committee realize as law enforcement officers, the conclusive presumption was put into law to protect us from the kind of situation Mr. Joseph is going through. Many other law enforcement individuals are going through similar ordeals. Assembly Bill 267 provides a fix, a penalty on behalf of a person who has been repeatedly denied benefits.

MICHAEL SEAN GIURLANI (President, Nevada State Law Enforcement Officers' Association):

I am President of the Nevada State Law Enforcement Officers' Association and a member of the Nevada Law Enforcement Coalition. I am a 25-year retired veteran of the Nevada Highway Patrol. The Nevada State Law Enforcement Officers' Association supports A.B. 267. Most perceive the law on heart and lung disease as good and if something happens, the person often believes he or she is covered under the law. It is a perception that is far from the truth. January 26, 2012, I suffered a heart attack on duty on a traffic stop. Two weeks prior to that, I had my heart-lung exam with the treadmill and passed the exam. The doctors and I were surprised by my heart attack. I was off work for a few months and eventually went back on light duty and then full duty.

000874

Unfortunately, after the event, I was contacted by a representative of the Cannon Cochran Management Services, Inc. (CCMSI) and told my claim would be denied. I was going to be forced to fight the process. I hired an attorney and for 14 months went through the process and prevailed. A lot of money was spent on both ends to get through the process. I should have been awarded immediately. That is not the end of the story. Just two weeks ago, while attempting to fill a prescription granted by workers' compensation, I was denied the prescription by Cypress Care. They terminated my claim. Again, I had to contact CCMSI and jump through hoops to get my claim reestablished in order to fill my prescriptions. Over the past five years, it has happened almost monthly. This emphasizes the need for your support of this bill for those who may have to go through similar situations. I have been contacted recently by two deputies suffering similar events who have been denied coverage. It is an ongoing process where these wrongs are continuing.

PAUL ENOS (Nevada Self-Insurers Association):
The members of Nevada Self-Insurers Association are comprised of some of the TPAs who administrate these claims. There are some issues that A.B. 267 addresses and need to be addressed in terms of scheduling and the five-day provision. The Association has worked with the sponsor of the bill to address issues we had which disallowed a TPA or risk manager from accessing medical records. Access to the records is needed to adequately administer claims. The Association appreciates working with the sponsor and the proponents of the bill. It has issues with the conceptual amendment regarding the benefit penalty. It wants to work with the sponsor to see if compromise language in terms of scheduling can be agreed to. A $200 per day benefit penalty the Association is being held to is an issue because it has no control over the scheduling of the appeal process, the appellate officers or the attorneys.

JIM WERBECKES (Employers Insurance Group):
Employers Insurance Group supports A.B. 267 and the conceptual amendment. Employers was one of the carriers that had concerns about attorney's fees and bringing these fees into the workers' compensation system. The amendment has a substantial penalty and incentive for insurers and TPAs to do the right thing and pay these claims and move them along in a timely manner. It provides the injured workers with treatment beginning Day One instead of them having to fight for medical care.

000875

000875

PRISCILLA MALONEY (American Federation of State, County and Municipal Employees - Retirees):
The American Federation of State, County and Municipal Employees supports A.B. 267. Multiple members, both active and retirees, are subject to the heart-lung statutes. My first job was as a legal researcher at Nevada Attorney for Injured Workers (NAIW), an agency which provides a court-appointed attorney without an indigency requirement on an administrative appeal through the workers' compensation system. I am familiar with the technical and policy issues encapsulated in the language of this bill. The reason for a penalty statutory scheme in workers' compensation is because Nevada does not allow a cause of action referred to as a bad faith failure to settle a claim. Bad faith failures to settle claims are prevalent in Nevada. This is what NRS 616D is designed to prevent.

MARLENE LOCKARD (Service Employees International Union Local 1107; Las Vegas Police Protective Association Civilian Employees):
The Service Employees International Union Local 1107 and the Las Vegas Police Protective Association Civilian Employees support A.B. 267.

RYAN BEAMAN (Clark County Firefighters Union Local 1908):
The Clark County Firefighters Union Local 1908 supports A.B. 267. Many police and firefighters with denied claims try to get medical treatment. It is very difficult. My father-in-law was a firefighter and went through claim denial for an occupational disease. He fought and spent a lot of time trying to get his claim accepted. I know from this personal experience what a person must go through to get needed treatment.

MR. RAMIREZ:
The Las Vegas Police Protective Association Metro, Inc. supports A.B. 267.

000876

RICK MCCANN (Nevada Association of Public Safety Officers):
The Nevada Association of Public Safety Officers supports A.B. 267. This is an opportunity to take care of Nevada's police and firefighters.

000876

TODD INGALSBEE (Professional Fire Fighters of Nevada):
The Professional Fire Fighters of Nevada support A.B. 267. The bill does not seek to add additional benefits but to stop the games being played with the members of the profession and allow for the medical treatment which is being withheld.

ROBERT BALKENBUSH (Public Agency Compensation Trust):
The PACT is a self-insured association of rural counties and municipalities for workers' compensation. I will highlight the PACT's opposition to the bill from the written testimony of Wayne Carlson, Executive Director (Exhibit N).

I will address the disability component in sections 1 and 2 of the bill. There are two requirements which make benefits for work-incurred diseases compensable. This disease has to rise out of and in the course of employment. Second, a person has to be disabled by the disease.

Assembly Bill 267 seeks to eliminate the disability requirement. The disability component is what precludes these claimants from getting medical benefits they believe would follow from the conclusive presumption. The statute which

covers lung and heart disease and cancer has in it the word "disablement." The claimant must be disabled by the disease. The act, which has been on the books for decades, defines what disability is. This policymaking body can remove disability. If that is removed, it must be removed from the coverage provisions, not just the temporary compensation provisions. Otherwise, courts will be asked to award benefits without having a disability component. Removing the disability requirement eliminates all vestiges of work relatedness. Funding will have to be provided outside of the acts that provide benefits for work-related injuries and diseases. The disability requirement says there is an irreconcilable conflict between the coverage provisions, which require disablement, and the amendment.

Section 3 refers to annual examinations. The PACT opposes this because its members are rural counties and municipalities. It is unlike the large cities in Nevada. The PACT funds a cardiac wellness program and wants this information disseminated to the proper people to allow firefighters and police officers to get help to avoid lung or cardiac events. Putting any limitation on the use of the reports that would interfere with that would frustrate what the PACT has tried to put in place to assist firefighters in avoiding catastrophic events from lung and heart disease. Putting a limitation on the use of the annual physical examinations will interfere with existing policy dealing with subsequent injury fund accounts. If a firefighter or police officer is disabled by heart or lung disease, but only partially, and he or she returns to work, if he or she has a subsequent event and another claim, there is a provision that says there is a subsequent injury account to which everyone contributes. An employer can access this for reimbursement for the cost of the claim. Knowledge of the previous disease and health information has to be provided in a comprehensive way. Knowledge of the percentage of disability is necessary in these cases.

The PACT opposes the limitation on the contents of any report created from the annual physical examination. To be consistent with existing public policy established by the Legislature in 2015, the limitation on any report must include information about tobacco usage and whether the respective police officer or firefighter has a preexisting condition that predisposes him or her to heart disease which is correctable and has been corrected.

The PACT also opposes the reference to the HIPAA privacy rule as unnecessary because this rule permits covered entities to disclose protected health information to workers' compensation insurers without the individual's

000877

000877

authorization. Much of the information in section 3 should be part of collective bargaining agreements, not part of statute.

SENATOR SPEARMAN:
Would you repeat your reference to HIPAA?

Mr. BALKENBUSH:
The PACT opposes the reference to the HIPAA privacy rule as unnecessary because the privacy rule permits covered entities to disclose protected health information to workers' compensation insurers, State administrators, employers and other persons or entities in workers' compensation systems without the use of the HIPAA compliant authorization.

SENATOR SPEARMAN:
Are you saying it is okay to share physical examination information with members of a board or city employees?

000878

MR. BALKENBUSH:
That portion of the bill is unnecessary because the federal privacy rule permits covered entities to disclose the protected health information to workers' compensation insurers, State administrators, employers or other persons or entities involved in the workers' compensation system.

000878

SENATOR SPEARMAN:
So, someone who is a member of a board, on a city council or who is a fire chief has the right to that information? Yes or no?

MR. BALKENBUSH:
It is not a yes or no question.

SENATOR SPEARMAN:
Then you cannot answer it.

MR. BALKENBUSH:
I can partially answer it. You do not have all the facts you need. If the fire chief has to make a decision as to whether or not the condition is correctible, he has to sit with the employee after the annual exam and discuss the predisposing condition the doctors have said is correctible. If the employee does not get it corrected, the employee could lose his or her benefits. Under existing law, the

fire chief is entitled to that information. As far as a town council person, it depends on what role that person has in the event.

Sections 4 and 5 of the bill have to do with attorney's fees. I have not seen the latest amendment. Regarding workers' compensation, the Legislature has maintained for nearly 40 years that costs and attorney's fees are permitted only for frivolous petitions for judicial review. None of the information in support of the bill provides an evidentiary metric or constitutional demand that would require attorney's fees be inserted here. Every employer and insurer who participates in the system pays for free attorneys for injured workers.

When the Legislature is asked to amend existing law, which is public policy, it should be done not on the basis of anecdotal stories but on the basis of evidentiary metrics. Metrics are based on workers' compensation claims over the course of time. I will comment on the testimony of Mr. Joseph, a claimant, and the derogatory remarks made about the PACT by Mr. Dreher. The process of workers' compensation claims includes judges, and we must trust the process that has been put in play by law. On the first claim that Mr. Joseph made, an appeals officer decided the PACT was correct. I feel I must address the statements made in favor of the bill and the attacks on the PACT.

000879

000879

CHAIR ATKINSON:
Please finish with your testimony.

MR. BALKENBUSH:
"The final anecdotal story was from a highway patrolman retiree and …"

CHAIR ATKINSON:
These people are going to want to refute what you are saying, and I do not want to get into that. This is your opinion.

SENATOR CANCELA:
Have you met with any of the bill sponsors on your concerns?

MR. BALKENBUSH:
I do not know who the bill sponsors are. There may be ten Legislators.

SENATOR CANCELA:
The sponsor is sitting behind you. Have you met with him?

MR. BALKENBUSH:
I have not met with this particular Legislator and am happy to do that. He has the written testimony provided.

CHAIR ATKINSON:
There is a sponsor of a bill and there are cosponsors. The sponsor is usually the person who presents the bill. In the future, you should reach out to the sponsor and try to air out your differences. These are our procedures. You should at least reach out to the sponsor.

LES LEE SHELL (Director, Office of Risk Management, Department of Finance, Clark County):
Clark County is concerned with the disability provision going from five days to no disability. This would be unusual in the workers' compensation world. In the research I have done on 50 states, the average waiting period is between 3 and 7 days. The County does not have concerns with section 3 regarding the physical exam reporting requirements. This is dictated through its collective bargaining agreement process. The County continues to have issues with the provision on attorney's fees. As an employer, it pays an assessment to a fund for employees to access attorney services in these processes for free. A person has the right to choose not to use this service and seek other counsel. I have reviewed the amendment, Exhibit M, and there is opposition to that as with the attorney's fees, but the County will continue the conversation with the sponsor of the bill.

SENATOR CANCELA:
Is your interpretation of the amendment the attorney's fees have been stripped from of the bill?

MS. SHELL:
Yes, that is true. However, it puts a benefit penalty into the bill and adds a requirement that the County would be responsible for medical coverage on a denied claim during the appeals process. I am not sure what the benefit penalty would be based on, and I am willing to discuss this with Mr. McAllister.

SENATOR GANSERT:
With regard to the correctible medical condition, if a correctible condition is added to the bill, this may solve one of the issues. In these cases, it seems the

correctible condition is the only issue an employer needs to know besides the other limited information as provided in the bill.

BRYAN FERNLEY (Counsel):
That is an option to pursue. I am not sure that would address their concerns.

SENATOR GANSERT:
Sections 3 and 4 state that insurers have access to medical records.

SENATOR CANNIZZARO:
In the written testimony submitted by Mr. Carlson, Exhibit N, relating to the attorney's fees, there is a portion that says "... the fact that one party prevails by use of a private attorney versus use of the NAIW attorney creates a conflict of interest ... ." What is the conflict of interest?

000881

MR. BALKENBUSH:
Mr. Carlson was intending to communicate that workers' compensation is not supposed to be common law litigation. It is supposed to be an expedited process for people who are hurt on the job to get benefits both monetary and medical. Adding attorney's fees as a penalty tends to encourage people to hire private lawyers. Employers and insurers pay into the fund for government lawyers.

000881

SENATOR CANNIZZARO:
How is this a conflict of interest?

MR. BALKENBUSH:
If would facilitate more litigation by providing incentive to people to hire private lawyers.

SENATOR CANNIZZARO:
That is not a conflict of interest. It is important to realize this because the rest of the sentence says, "... thus encouraging more private attorney usage, not less, due to the incentive to prevail." If I read this correctly, the conflict of interest is hiring a private attorney which means the worker fighting the workers' compensation decision is more likely to prevail with private counsel than with an NAIW. I take issue with this considering the opposition expressed to ensuring reasonable attorney's fees. I understand the workers' compensation process is meant to be an expedited process. Once it is appealed to a court and

engaged in litigation, there are some aspects that do become common law litigation. One of the major points of contention, that there should not be attorney's fees because there is a payment into the NAIW fund and the issue is private attorneys are more likely to prevail, is problematic.

MR. BALKENBUSH:
Mr. Carlson added that sentence to his written testimony at the end of the day. I have been in this industry for 25 years, the current cadre of lawyers in NAIW are very competent.

SENATOR CANNIZZARO:
I am not disputing that. It is interesting that the objection is to awarding reasonable attorney's fees and costs. This is something attorneys and judges are very familiar with. There is objection to that because of the existence of another fund which workers can choose to use or not. The idea that there might be an additional incentive to hire outside counsel because that counsel is more likely to prevail is a problem.

000882

000882

DAVID CHERRY (City of Henderson):
With regard to the new amendment, Exhibit M, the City of Henderson has an issue with the benefit penalty. Sometimes, delays are beyond the control of those involved, and the City would be penalized because of the delays. The City appreciates firefighters and law enforcement officers for keeping the community of Henderson safe. The City of Henderson wants to make this the best bill possible. The City met with the bill sponsor and made a change which allows it to continue to use its TPA. There is only one small issue that is still a concern, which is the reasonable attorney's fees.

SENATOR SPEARMAN:
When we speak of people who are protecting the public, any suggestion these people might not be due what we are obligated to provide sets my hair on fire. In section 3, subsection 3, paragraph (c) states:

> The report must only contain the following information: (1) The name of the employee who was the subject of the physical examination; and (2) A statement that the employee, as applicable: (I) Satisfies the physical qualifications required for his or her employment; or (II) Does not satisfy ...

Any information beyond that is a violation. I do not understand how a member of a town board needs to have this information. In the military, we have something called "need to know basis." If there is no need to know, that person should not know.

MR. MORADKHAN:
Las Vegas Metro Chamber of Commerce has concerns with the conceptual amendment, Exhibit M. We will follow up with the bill sponsor.

JEFF FONTAINE (Nevada Association of Counties):
The Nevada Association of Counties agrees with the sentiment of Senator Spearman. Police and firefighters deserve what is due them. The concern of the Nevada Association of Counties is with the five-day period. In reference to section 3, the Association agrees with the need to know basis. It is necessary to be sure the language in section 3 regarding who can receive the information will work for the rural counties. There are a number of rural counties without county managers, human resources or risk management managers. It is important the appropriate person is allowed to receive the information.

000883

000883

ANA M. ANDREWS (Risk Manager, Risk Management Division, Department of Administration):
The Risk Management Division has reviewed A.B. 267 as amended. I will read from my written testimony (Exhibit O). We have submitted an unsolicited fiscal note asking for an additional position.

ASSEMBLYMAN ARAUJO:
I am happy to continue the dialogue and the discussions with all interested parties. We will have discussions on the fiscal note and see how it can be worked out. We will provide updates to the Committee.

CHAIR ATKINSON:
We will close the hearing on A.B. 267 and open the hearing on A.B. 339.

ASSEMBLY BILL 339 (1st Reprint): Revises provisions relating to health care. (BDR 54-729)

SENATOR JOSEPH P. HARDY (Senatorial District No. 12):
Assembly Bill 339 is sponsored by Assemblywoman Melissa Woodbury. I will allow the bill to be presented by the Board of Medical Examiners.

KEITH LEE (Board of Medical Examiners):
I will present A.B. 339 and Proposed Amendment 4519 (Exhibit P). Section 1 refers to a situation years ago with respect to an infamous doctor in Reno being arrested. It was discovered the Board of Medical Examiners had no way to seize control of records of a physician or licensee who becomes incapacitated, incarcerated or otherwise unable to practice medicine and closes his or her practice. This bill allows the Board to gain access to the closed practice since there are no personnel to assist the Board in seizing the records. The purpose of taking control of the records is to keep them or keep them with a third-party contractor to do with the records as the patient, who is the owner of the record, directs the Board to do. Patients of the aforementioned physician could not get their records to send to other physicians. This bill will allow the Board to get patient records and to adopt certain regulations in terms of notifications.

Section 3 amends current language which requires the Board to approve information being put on its Website. Since the Board meets quarterly, it is often difficult to put information on the Website in a timely fashion. This bill proposes to allow the Board to adopt policies and procedures for placing information on its Website. It provides for the executive director or staff to place information on the Website following the criteria adopted by the policies. Section 3 changes the word "physician" to "licensee" to encompass all professions licensed by the Board.

000884

000884

Section 3.5 includes a requirement prompted by Board dealings with the federal government. The Legislature adopted the Interstate Medical Licensure Compact, which has several expedited licensing procedures. The FBI informed the Board it could not process fingerprint information for the expedited license procedures. Language is included in section 3.5 to address the concerns of the FBI. This change will allow the Board to provide fingerprint information on an expedited license basis and get return information.

This bill changes the word "registrant" to "licensee" in section 6, since registrant has no meaning. Section 7 clarifies the date of issuance of the renewal license, not the issuance of the initial license.

The deletions of section 8.5, subsections 2 and 3 of Proposed Amendment 4519 are in regard to legislation adopted requiring physicians to report to the Board the occurrence of any sentinel events as a result of sedation. Every physician is required to make the report even if that physician

does not perform any sedation in his or her office. Often, a renewal license is delayed because a physician is unaware of this requirement. In working with Director Richard Whitley of the Department of Health and Human Services, it was determined the information being reported to the Division of Public and Behavioral Health is of no value. The requirement to submit this information to the Division has been removed. The Board will continue to provide the reported information to the Legislative Counsel Bureau and the Governor's Office as required every odd-numbered year.

SUSAN FISHER (State Board of Osteopathic Medicine):
The change in the bill which includes doctors of osteopathic medicine being able to participate in the Interstate Medical Licensure Compact is much-appreciated by the State Board of Osteopathic Medicine.

CATHERINE M. O'MARA (Executive Director, Nevada State Medical Association):
The Nevada State Medical Association supports A.B. 339. It had an issue in Washoe County where a physician was unavailable and the Association tried to help re-refer patients to other physicians. The most difficult part was accessing patient records for transfer. The records portion of the bill is a very important section.

000885

000885

CHAIR ATKINSON:
We will close the hearing on A.B. 339.

Remainder of page intentionally left blank; signature page to follow.

CHAIR ATKINSON:
Hearing no further testimony, we will close the meeting at 12:13 p.m.

RESPECTFULLY SUBMITTED:

_____
Christine Miner,
Committee Secretary

APPROVED BY:

000886

_____
Senator Kelvin Atkinson, Chair

000886

DATE: _____

EXHIBIT SUMMARY				
Bill	**Exhibit / # of pages**		**Witness / Entity**	**Description**
	A	1		Agenda
	B	7		Attendance Roster
S.J.R. 6	C	1	Ruben Murillo / Nevada State Education Association	Written Testimony
S.J.R. 6	D	3	Janette Dean	Written Testimony
S.J.R. 6	E	11	Ryan Uhlmeyer / Americans For Prosperity	Written Testimony
S.J.R. 6	F	2	Ronald Najarro / The LIBRE Initiative	Written Testimony
S.J.R. 6	G	3	Randi Thompson / National Federation of Independent Business	Written Testimony
A.B. 161	H	16	Brian O'Callaghan / Las Vegas Metropolitan Police Department	Presentation
A.B. 161	I	1	Chris Giunchigliani / Clark County Board of County Commissioners	Written Testimony
A.B. 161	J	2	Chris Giunchigliani / Clark County Board of County Commissioners	Written Testimony 2
A.B. 161	K	2	Tiffany Banks / Nevada Association of Realtors	Proposed Amendment
A.B. 163	L	20	Tennille Pereira / Legal Aid Center of Southern Nevada	Written Testimony
A.B. 267	M	2	Rusty McAllister / Nevada AFL-CIO	Conceptual Amendment
A.B. 267	N	3	Wayne Carlson / Public Agency Compensation Trust	Written Testimony

000887

000887

A.B. 267	O	2	Ana Andrews / Risk Management Division, Department of Administration	Written Testimony
A.B. 339	P	8	Keith Lee / Board of Medical Examiners	Proposed Amendment 4519

000888

000888

MINUTES OF THE
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY

Seventy-ninth Session
May 19, 2017

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Kelvin Atkinson at 9:07 a.m. on Friday, May 19, 2017, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4404B 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 James A. Settelmeyer
Senator Heidi S. Gansert

000889
688000

GUEST LEGISLATORS PRESENT:

Assemblywoman Ellen B. Spiegel, Assembly District No. 20
Assemblywoman Heidi Swank, Assembly District No. 16

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Bryan Fernley, Counsel
Daniel Putney, Committee Secretary

OTHERS PRESENT:

Jon Sasser, Legal Aid Center of Southern Nevada

CHAIR ATKINSON:
I will open the work session 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)

MARJI PASLOV THOMAS (Policy Analyst):
I will read the summary of the joint resolution from the work session document (Exhibit C).

SENATOR CANCELA MOVED TO DO PASS S.J.R. 6.

SENATOR CANNIZZARO SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS GANSERT, HARDY AND SETTELMEYER VOTED NO.)

* * * * *

CHAIR ATKINSON:
I will open the work session on Assembly Bill (A.B.) 83.

ASSEMBLY BILL 83 (1st Reprint): Makes various changes relating to insurance. (BDR 57-159)

MS. PASLOV THOMAS:
I will read the summary of the bill and proposed amendment from the work session document (Exhibit D).

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED A.B. 83.

SENATOR SETTELMEYER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR ATKINSON:
I will open the work session on A.B. 160.

ASSEMBLY BILL 160 (1st Reprint): Requires consideration of alternatives to window replacement in certain state buildings. (BDR 58-725)

MS. PASLOV THOMAS:
I will read the summary of the bill and proposed amendment from the work session document (Exhibit E).

SENATOR GANSERT:
I researched the performance contract aspect of this bill, and 25 years is really far out when looking at the payback on energy conservation measures. I have an issue with the 25-year payback period. Also, this bill requires approval by the Office of Historic Preservation before replacing the windows of a public building that is 50 years old or older. I agree that the State Public Works Division should be working with the Historic Preservation Office and vice versa, but the threshold of making sure there is approval is further than what I agree with. I will not be supporting this bill.

000891

CHAIR ATKINSON:
I thought Assemblywoman Heidi Swank, the sponsor of A.B. 160, worked with you on this bill.

000891

SENATOR GANSERT:
We have talked.

CHAIR ATKINSON:
Are you telling me Assemblywoman Swank was unable to persuade you to support this bill?

ASSEMBLYWOMAN HEIDI SWANK (Assembly District No. 16):
I have spoken to Senator Gansert, the State Public Works Division and the Historic Preservation Office. The State Public Works Division and the Historic Preservation Office are comfortable with the language in this bill, and they have a good relationship with each other. The approval aspect only applies to buildings that are 50 years old or older. The Historic Preservation Office is the State's expert on old buildings. If the Chair would like to change the approval aspect, I am fine with that, but I am comfortable leaving the language the way it is.

CHAIR ATKINSON:
Did you say the approval aspect only applies to buildings that are 50 years old or older?

ASSEMBLYWOMAN SWANK:
Yes.

SENATOR GANSERT:
Assemblywoman Swank and I have not reached an agreement on the approval aspect. Having one agency micromanage a part of a project of another agency is not a good idea.

SENATOR SPEARMAN:
This is a good bill. At this point in the Session, we always talk about how we are going to get more money. Research has shown us multiple times that if we could save on energy costs, particularly through government entities, then the projected savings could be applied elsewhere. This bill gives us another way to save money without having to raise taxes. My dad used to tell me, "If you want to be rich, it's not about how much you make—it's about how much you save."

000892

000892

SENATOR GANSERT:
I am also opposed to the performance contract aspect of this bill. The payback period in statute is currently 15 years. I agree that we need more energy conservation measures, but the 25-year payback period is unreasonable. We need to make sure the payback period is reasonable considering how long the upgrades are in use. There are so many changes in technology, so what we think may last 20 years could be replaced earlier with something less expensive and much better in regard to energy conservation.

SENATOR SPEARMAN MOVED TO AMEND AND DO PASS AS AMENDED A.B. 160.

SENATOR CANNIZZARO SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS GANSERT, HARDY AND SETTELMEYER VOTED NO.)

* * * * *

CHAIR ATKINSON:
I will open the work session on A.B. 194.

ASSEMBLY BILL 194 (1st Reprint): Provides for the certification of behavioral healthcare peer recovery support specialists. (BDR 54-712)

MS. PASLOV THOMAS:
I will read the summary of the bill and proposed amendments from the work session document (Exhibit F).

SENATOR HARDY:
I appreciate the sponsor of A.B. 194, Assemblywoman Daniele Monroe-Moreno, walking through this bill with me. As I read through it, however, I realized it would put some people who are volunteering and those who are working on 12-step programs at risk. I will not be supporting this bill.

000893

SENATOR GANSERT:
I commend Assemblywoman Monroe-Moreno for her work on this bill, but I will not be supporting it. Assemblywoman Monroe-Moreno worked hard to try to bring the Republicans and Democrats together.

000893

SENATOR SETTELMEYER:
I echo the comments of Senator Hardy and Senator Gansert. Before A.B. 194 moves to the Floor, I hope there is an opportunity to address some of the issues in this bill. The National Alliance on Mental Illness Northern Nevada has some concerns that have not been addressed. Until these concerns are addressed, I cannot support this bill.

CHAIR ATKINSON:
Assemblywoman Monroe-Moreno is committed to continue to work on this bill. This is good legislation, and we need to move it to the Floor. I believe Assemblywoman Monroe-Moreno knows the challenge she has in front of her because this bill requires a two-thirds majority vote. I have faith she will be able to make this bill work.

SENATOR SPEARMAN:
I have spoken to Assemblywoman Monroe-Moreno and some of the opponents of this bill. I commend Assemblywoman Monroe-Moreno's efforts, and I commend those in opposition because they presented cogent arguments.

However, the opposition's arguments were not persuasive because what the opposition is against is not in this bill. It is necessary for us to elevate volunteers. We heard similar arguments for a bill from Senator Gansert about behavioral health specialists. It would be disingenuous of me to support one behavioral health bill but not the other.

SENATOR GANSERT:
I have not sponsored a bill this Session about licensing behavioral health specialists.

> SENATOR SPEARMAN MOVED TO AMEND AND DO PASS AS AMENDED A.B. 194.
>
> SENATOR CANNIZZARO SECONDED THE MOTION.
>
> THE MOTION PASSED. (SENATORS GANSERT, HARDY AND SETTELMEYER VOTED NO.)

* * * * *

000894

CHAIR ATKINSON:
I will open the work session on A.B. 359.

ASSEMBLY BILL 359 (1st Reprint): Exempts certain entities that enter into contracts or agreements with the State of Nevada or a political corporation or subdivision of the State from certain provisions relating to contractors. (BDR 54-643)

MS. PASLOV THOMAS:
I will read the summary of the bill and proposed amendment from the work session document (Exhibit G).

SENATOR SETTELMEYER:
Assembly Bill 359 seemed like Habitat for Humanity, but during the hearing for this bill, I was told it was not like Habitat for Humanity. I am a little confused about this bill. The intent of it is good, so I will be supporting it. The amendment is pivotal in my support of A.B. 359.

SENATOR SETTELMEYER MOVED TO AMEND AND DO PASS AS AMENDED A.B. 359.

SENATOR CANCELA SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR ATKINSON:
I will open the work session on A.B. 381.

ASSEMBLY BILL 381 (1st Reprint): Revises provisions governing prescription drugs covered by certain policies of health insurance. (BDR 57-698)

MS. PASLOV THOMAS:
I will read the summary of the bill and proposed amendment from the work session document (Exhibit H).

000895

000895

CHAIR ATKINSON:
Is the sponsor of this bill, Assemblywoman Ellen B. Spiegel, okay with the amendment proposed by David Goldwater?

ASSEMBLYWOMAN ELLEN B. SPIEGEL (Assembly District No. 20):
I am okay with the amendment.

SENATOR SPEARMAN MOVED TO AMEND AND DO PASS AS AMENDED A.B. 381.

SENATOR CANNIZZARO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR ATKINSON:
I will open the work session on A.B. 457.

ASSEMBLY BILL 457 (1st Reprint): Revises provisions relating to certain professional licensing boards. (BDR 54-410)

MS. PASLOV THOMAS:
I will read the summary of the bill and proposed amendments from the work session document (Exhibit I).

CHAIR ATKINSON:
Could legal counsel explain the fourth amendment to this bill?

BRYAN FERNLEY (Counsel):
It was proposed that the Legislative Counsel Bureau could make a particular change to this bill. Upon review, however, we determined we would not have the authority to make such a change. That is why the fourth amendment to this bill is being proposed.

SENATOR SETTELMEYER:
With all of the amendments, A.B. 457 is almost a different bill.

SENATOR SETTELMEYER MOVED TO AMEND AND DO PASS AS AMENDED A.B. 457.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR ATKINSON:
I will open the work session on A.B. 458.

ASSEMBLY BILL 458 (1st Reprint): Revises provisions governing industrial insurance. (BDR 53-489)

MS. PASLOV THOMAS:
I will read the summary of the bill from the work session document (Exhibit J).

SENATOR GANSERT MOVED TO DO PASS A.B. 458.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR ATKINSON:
I will open the work session on A.B. 163.

ASSEMBLY BILL 163 (2nd Reprint): Revises provisions governing certain short-term loans. (BDR 52-737)

MS. PASLOV THOMAS:
I will read the summary of the bill and proposed amendments from the work session document (Exhibit K).

CHAIR ATKINSON:
Are all of these amendments acceptable to Assemblyman Edgar Flores, the sponsor of this bill?

JON SASSER (Legal Aid Center of Southern Nevada):
Yes.

SENATOR SETTELMEYER:
I appreciate the additional amendments; they improve the bill.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED A.B. 163.

SENATOR SETTELMEYER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR ATKINSON:
I will open the work session on A.B. 161.

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

MS. PASLOV THOMAS:
I will read the summary of the bill and proposed amendment from the work session document (Exhibit L).

CHAIR ATKINSON:
Assemblyman Flores, the sponsor of this bill, was initially opposed to the amendment, but I believe he is okay with it now. We have discussed the amendment.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED A.B. 161.

SENATOR CANCELA SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

Remainder of page intentionally left blank; signature page to follow.

868000
868000

CHAIR ATKINSON:
I adjourn the meeting at 9:38 a.m.

RESPECTFULLY SUBMITTED:

Daniel Putney,
Committee Secretary

APPROVED BY:

Senator Kelvin Atkinson, Chair

DATE:

668000

EXHIBIT SUMMARY				
Bill	**Exhibit / # of pages**		**Witness / Entity**	**Description**
	A	2		Agenda
	B	4		Attendance Roster
S.J.R. 6	C	1	Marji Paslov Thomas	Work Session Document
A.B. 83	D	4	Marji Paslov Thomas	Work Session Document
A.B. 160	E	2	Marji Paslov Thomas	Work Session Document
A.B. 194	F	24	Marji Paslov Thomas	Work Session Document
A.B. 359	G	2	Marji Paslov Thomas	Work Session Document
A.B. 381	H	2	Marji Paslov Thomas	Work Session Document
A.B. 457	I	2	Marji Paslov Thomas	Work Session Document
A.B. 458	J	1	Marji Paslov Thomas	Work Session Document
A.B. 163	K	4	Marji Paslov Thomas	Work Session Document
A.B. 161	L	3	Marji Paslov Thomas	Work Session Document

000900

Committee Action:
Do Pass_____
Amend & Do Pass_____
Other_____

Senate Commerce, Labor and Energy

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

May 19, 2017

ASSEMBLY BILL 163 (R2)
Revises provisions governing certain short-term loans. (BDR 52-737)

Sponsored by: **Assemblyman Flores**
Date Heard: **May 10, 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. The bill also specifies that a lender, with certain exceptions, may not consider the income of any other person who is not the person taking out the loan when making a determination of the person's ability to repay a loan. 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.

000901

The bill also modifies the definition of "default," 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. Additionally, A.B. 163 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.

000901

The measure 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." Finally, A.B. 163 imposes notice requirements related to collection actions and the filing of complaints.

Amendments: Assemblyman Flores proposes the following amendment (attached mockup prepared by the Legal Division of the Legislative Counsel Bureau):

1. Amend Section 4 of the bill to allow a licensee to offer a customer a grace period on the repayment of a loan or an extension of a loan, except a licensee must not grant a grace period for the purpose of artificially increasing the amount that a customer would otherwise qualify to borrow.

Assemblyman Flores proposes the following conceptual amendments:

2. Amend Sections 1.7, 3.5, 5, 7, and 8 of the bill to take effect on October 1, 2017.

EXHIBIT K Senate Committee on Commerce, Labor and Energy
Date: 5-19-2017 Total page: 4
Exhibit begins with: K1 thru: K4

3. Amend subsection 2 of Section 1.3, page 2, line 11 of the bill to add, "to the extent available" after "considering."

4. Amend Section 7, page 8, line 2 of the bill to change a customer's "community income" to a customer's "community property."

000902

000902

MOCK-UP

PROPOSED AMENDMENT 4618 TO ASSEMBLY BILL NO. 163 SECOND REPRINT

(Showing Affected Sections Only)

PREPARED FOR SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY
MAY 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:

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

604A.210 ***1.*** 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 the customer:~~

~~1. Any fees for granting such a grace period; or~~

~~2. Any additional fees or additional interest on the outstanding loan during such a grace period.~~~~]~~

~~[1.]~~ ***grant a grace period for the purpose of artificially increasing the amount which a customer would otherwise qualify to borrow.***

2. Except ~~[for a loan agreement governed by]~~ in compliance with the provisions of NRS 604A.408, 604A.445 or subsection 2 of NRS 604A.480 ~~[,]~~, where they apply, a licensee shall not:

(a) Condition the granting of the grace period on the customer making any new loan agreement or adding any addendum or term to an existing loan agreement; or

(b) Charge the customer interest at a rate in excess of that described in the existing loan agreement. ~~*[; or*~~

~~*2. Grant a grace period for the purpose of artificially increasing the amount which a customer would otherwise qualify to borrow.]*~~

H

000904

000904

PROPOSED AMENDMENT TO AB163

K4

000904

MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS

Seventy-Ninth Session
May 29, 2017

The Committee on Government Affairs was called to order by Chairman Edgar Flores at 9:15 a.m. on Monday, May 29, 2017, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblyman Edgar Flores, Chairman
Assemblywoman Dina Neal, Vice Chairwoman
Assemblywoman Shannon Bilbray-Axelrod
Assemblyman Chris Brooks
Assemblyman Richard Carrillo
Assemblyman Skip Daly
Assemblyman John Ellison
Assemblywoman Amber Joiner
Assemblyman Al Kramer
Assemblyman Jim Marchant
Assemblyman Richard McArthur
Assemblyman William McCurdy II
Assemblywoman Daniele Monroe-Moreno

COMMITTEE MEMBERS ABSENT:

Assemblywoman Melissa Woodbury (excused)

GUEST LEGISLATORS PRESENT:

Senator Joyce Woodhouse, Senate District No. 5
Assemblywoman Heidi Swank, Assembly District No. 16

000905
000905

000905

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Jim Penrose, Committee Counsel
Isabel Youngs, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Jon Sasser, representing Legal Aid Center of Southern Nevada; and Washoe Legal Services
Tennille Pereira, Attorney, Legal Aid Center of Southern Nevada
George E. Burns, Commissioner, Division of Financial Institutions, Department of Business and Industry
Justin S. Gardner, Founder and Chief Executive Officer, Innovative Research and Analysis LLC
Alisa D. Nave-Worth, representing MultiState Associates Inc.
Keith L. Lee, representing Community Loans of America, Inc.
William Horne, representing Advance America; and Enova International, Inc.
John Barnes, representing Veritec Solutions

906000

Chairman Flores:
[Roll was called. Rules and protocol were explained.] We will start the meeting with Senate Bill 137 (1st Reprint).

000906

Senate Bill 137 (1st Reprint): Revises provisions governing certain plans, programs and reports relating to veterans. (BDR 37-64)

Senator Joyce Woodhouse, Senate District No. 5:
I am here to present Senate Bill 137 (1st Reprint) today. Although I am not a veteran, I care a great deal about the health and welfare of our veterans, as I am sure we all do. This bill simply deals with the fact that many veterans do not identify themselves as veterans and thus cannot receive the services they deserve. This measure will remove that impediment.

Senate Bill 137 (1st Reprint) relates to the collection of data from veterans and victims of military sexual trauma. Section 1 requires certain state agencies and regulatory bodies to include certain questions on the forms used to collect data from a veteran that is submitted to the Interagency Council on Veterans Affairs (ICVA), Department of Veterans Services. Current law requires the ICVA to submit an annual report on or before February 15 of each year to the Legislature if it is in session, or to the Legislative Commission if it is not in session. This bill requires the following questions listed in section 1, subsection 16 to be included:

> (a) "Have you ever served on active duty in the Armed Forces of the United States and separated from such service under conditions other than dishonorable?"
> (b) "Have you ever been assigned to duty for a minimum of 6 continuous years in the National Guard or a reserve component of the Armed Forces of the United States and separated from such service under conditions other than dishonorable?"
> (c) "Have you ever served the Commissioned Corps of the United States Public Health Service or the Commissioned Corps of the National Oceanic and Atmospheric Administration of the United States in the capacity of a commissioned officer while on active duty in defense of the United States and separated from such service under conditions other than dishonorable?"

Section 2 amends *Nevada Revised Statutes* Chapter 622 to require regulatory bodies to ask these same questions if it collects information regarding whether an applicant for a license is a veteran and to include that information in its annual report to the ICVA. That is currently required relevant to licenses applied for, issued to, or renewed by veterans.

Section 3 relates to military sexual trauma. The 2015 Legislature enacted Senate Bill 268 of the 78th Session to create the Account to Assist Veterans Who Have Suffered Sexual Trauma in the State General Fund. It also prescribed uses of the money in the account. It required the Director and the Deputy Director of the Department of Veterans Services to develop plans and programs to assist veterans who have suffered sexual trauma while on active duty or during military training. The ICVA was required to include in its report to the 79th Session information provided by the Director concerning these plans and programs.

000907

000907

Section 3 simply removes the sunset of June 30, 2017, that was put in place by the 2015 Legislature on the provisions of S.B. 268 of the 78th Session to continue the requirement to develop plans and programs to assist veterans who have suffered military sexual trauma and to maintain the account while eliminating the requirement to transfer any remaining balance in the account on June 30, 2017.

You will find we have created a two-year window for agencies that this measure will affect. In that time, they can use up any hard copies of forms prior to reprinting and make any digital changes to their various systems. That window reduced the fiscal note. We did not have a large fiscal note on this bill, but the Department of Employment, Training and Rehabilitation was the only one with a problem.

Unfortunately, we have found that many veterans, especially women veterans and those who have served but not in combat, often do not consider themselves a veteran when they see the term on forms and applications. That is the genesis of this measure. In an effort to ensure our veterans receive the resources and the support they need and deserve, this measure will remove that impediment.

Assemblywoman Neal:
What if the person was dishonorably discharged and experienced military sexual trauma? Will we collect the information about them?

Senator Woodhouse:
It is my understanding that the person has to have met the requirement of not having been dishonorably discharged in order to receive benefits through the various programs the Department of Veterans Services provides.

Assemblywoman Neal:
I was just curious if there would be a situation where a person did experience sexual trauma and the reason they were dishonorably discharged was because maybe they fought back or injured the other person.

Assemblyman Ellison:
The bill does not really break down what "trauma" means. Could the sexual trauma be verbal or psychological? Does it have to be physical abuse?

Senator Woodhouse:
When we passed S.B. 268 of the 78th Session, all kinds of sexual abuse applied to the definition of military sexual trauma, whether it be physical, mental, et cetera.

000908

Chairman Flores:
Are there any other questions from the Committee? [There were none.] Is there anyone wishing to testify in favor of the bill? [There was no one.] Is there anyone wishing to testify in opposition to the bill? [There was no one.] Is there anyone wishing to testify as neutral to the bill? [There was no one.] Is there any public comment? [There was none.] If everyone is comfortable, I will entertain a motion to do pass S.B. 137 (R1).

> ASSEMBLYWOMAN BILBRAY-AXELROD MOVED TO DO PASS SENATE BILL 137 (1ST REPRINT).
>
> ASSEMBLYMAN KRAMER SECONDED THE MOTION.
>
> THE MOTION PASSED. (ASSEMBLYMEN CARRILLO AND WOODBURY WERE ABSENT FOR THE VOTE.)

Chairman Flores:
I will give the floor statement to Assemblyman Kramer. I will close the hearing on S.B. 137 (R1). We are going to recess to the call of the Chair until the next bill presenter is here.

[The Committee recessed at 9:27 a.m. and reconvened at 9:35 a.m.]

Chairman Flores:
I will open the bill hearing for Assembly Bill 515.

Assembly Bill 515: Revises provisions governing payday lending. (BDR 52-1227)

Assemblywoman Heidi Swank, Assembly District No. 16:
I am presenting Assembly Bill 515 this morning. I will start off by talking generally about payday lending, and then I will talk about the bill. After that, I will send things down to southern Nevada to talk about a few friendly amendments coming for the bill.

Most borrowers, when they go to a payday lender, take out a loan for about $375, often to cover routine expenses—things like utilities, rent or mortgage, food, et cetera. This also applies to 69 percent of first-time borrowers. This is what they are using these payday loans for. Loans are typically made for a period of two weeks, at which point the lump sum, including principal and fees, is due, generally from the borrower's next paycheck. Borrowers can also re-up the loan by paying the initial fees again, usually around $75 [page 2, (Exhibit C)]. With annual interest rates over 500 percent and fees around 20 percent, these loans typically account for one-quarter of a borrower's take-home pay, often forcing rollover loans. If you think about your own take-home pay, taking out a loan for a quarter of that is quite a big chunk.

Colorado's Attorney General concluded that about 61 percent of all payday loans were refinance-type transactions. It is not uncommon for a borrower to pay $1,200 or more in interest and fees over five months for what started out as a $500 short-term payday loan. As you can see in the box, it states that the average borrower takes out eight payday loans annually. The high cost, short payback period and the lump-sum repayment requirement often creates a cycle of debt. It is a business model designed to put borrowers on a debt treadmill indefinitely. In fact, payday loan borrowers are four times more likely to file for bankruptcy than nonpayday loan borrowers. That is something we pick up as a community [page 3, (Exhibit C)].

To justify exorbitant rates, payday lenders claim that their loans are high risk. The Bureau of Consumer Financial Protection, U.S. Department of the Treasury, defines risk-based pricing as offering "different consumers different interest rates or other loan terms, based on the estimated risk that the consumers will fail to pay back their loans." Payday lenders do not differentiate between consumers. They do not alter the interest rates on the ability to repay. Payday loans, though high cost, are often not high risk. Repayment is virtually guaranteed because often the borrower gives a postdated personal check or authorization to make a withdrawal from the borrower's bank account [page 4, (Exhibit C)].

Often, borrowers have to turn to public programs for assistance with these necessities when forced to use limited resources on excessive payday lending fees. One in six borrowers receives government assistance. In one year in Nevada, $77.7 million was lost in payday loan fees and $104.8 million was lost in car title loan fees. Payday lenders strip money from their customers, reducing spending on other goods and services, which in turn strips the economy of potential gains [page 5, (Exhibit C)].

The next few slides show a series of maps. The first is a map of various ZIP Codes in the Las Vegas Valley [page 6, (Exhibit C)]. The blue line delineates the ten ZIP Codes with the highest prevalence of payday lenders. In the middle, you can see Assembly District No. 16. That is how I got here. When I was elected, this was not my area of expertise or what I really wanted to work on, but I literally got campaign contribution checks that said on the memo to do something about payday lenders. This issue kept coming up from my constituents. They were very concerned about this. The darker red shows the concentration of 30 or more storefronts in the middle of the Las Vegas Valley. This is correlated with income. You can see where the concentration of payday lenders is in the Las Vegas Valley. The Assembly districts with the highest concentrations of payday lending storefronts are 10, 42, 3, 20, 15, and 11. The darker the red, the more storefronts.

If we look at income, the lighter the color, the lower the income [page 7, (Exhibit C)]. You can see that there is a correlation by jumping back and forth between slide 6 and slide 7 [pages 6 and 7, (Exhibit C)] with darker red and lighter blue in the same area. There are more storefronts where there are more low-income people. The next map [page 8, (Exhibit C)] shows storefronts for bank locations. We have a more even distribution here. It is not unusual to have more banks in the center of town as a financial area, but we also see they are spread out more into the outlying areas and suburbs in the Las Vegas Valley.

000910

000910

One thing that may seem irrelevant is the distribution of Starbucks stores [page 9, (Exhibit C)]. You might wonder what Starbucks has to do with payday lending. Honestly, not a lot. You can see there is a much more even distribution of Starbucks across the Las Vegas Valley. That makes sense as a business model. If the idea for payday lenders was to reach a large number of people and potential clients, as Starbucks is trying to do, we would have a much more even distribution of storefronts. If you look back at a previous slide [page 6, (Exhibit C)], there is not an even distribution of payday lending storefronts across the Las Vegas Valley.

In fact, if you look at all of the maps together [page 10, (Exhibit C)], the ten ZIP Codes with the most payday lending storefronts have 59.8 percent of payday lender storefronts but only have 21 percent of the county population. The average median income in these ZIP Codes is $37,000. They have about 21 percent of the banks, which makes sense. They have almost 60 percent of the payday storefronts. I would argue that there is an effort to set up in lower income areas. There is an idea that this is the default place to get credit. This is where everyone goes. I think we can all sing several of the jingles that are prevalent on the radio and television. It is a targeted effort to set this up as the way in which you get credit in low- income neighborhoods.

Except for the maps, the data I am using came from different states. That is one of the problems we have in Nevada. We do not even have a good handle on all of the activities going on. We know where the storefronts are, but we do not know how borrowers use payday and title loans and how lenders use their products. Assembly Bill 515 is just a database. It is a database for collecting information on title loans and payday loans [page 11, (Exhibit C)].

Section 1, subsection 1 establishes that the Commissioner of the Division of Financial Institutions (FID), Department of Business and Industry, shall contract with a vendor to implement and maintain a database from which reports can be generated. Section 1, subsection 2 outlines the information that shall be included in the database. Section 1, subsection 3 states that the Commissioner shall establish and cause the vendor of the database to collect fees from the payday and title lenders. Section 1, subsection 4 states that the information is confidential and anonymous. We are not looking at who takes these loans out—we just need good aggregate data. Section 1, subsection 5 allows the Commissioner to put into regulation database specifications, reporting standards, and the vendor fee.

Assembly Bill 515 just establishes this database so that we can get a handle on what is going on with payday and title loan lending in Nevada. I will give just a bit more background knowledge on payday loans. Around the turn of the twentieth-century, high-interest—which was considered 20 percent a month—short-term loans created financial quicksand for users and forced perpetual loans. This was deemed a scandal and led to the adoption of the Uniform Small Loan Law in 1916 by many states in the U.S. Today, the average payday loan is twice as expensive. The law in 1916 mandated manageable installment repayments and capped annual percentage rates between 36 percent and 42 percent. However, people found loopholes [page 12, (Exhibit C)].

Modern payday lending emerged in the early 1990s. This is something that is relatively new, due largely to the Depository Institutions Deregulation and Monetary Control Act of 1980. By 2008, there were more payday loan storefronts than McDonald's restaurants and Starbucks coffee shops combined. This is big business. People are making a good amount of money from low-income people. The same characteristics that define the payday loan define the subprime mortgages whose proliferation precipitated the economic collapse in the mid-2000s and have now been thoroughly discredited [page 12, (Exhibit C)].

The Center for Responsible Lending called the payday loan "a defective product." There is a real need for responsible, small-dollar credit, but it cannot be adequately addressed as long as this product dominates the marketplace.

000911
000911

Jon Sasser, representing Legal Aid Center of Southern Nevada; and Washoe Legal Services:
Our amendment (Exhibit D) addresses one line in section 1, subsection 1 of the bill, which right now says that the database would only cover deferred deposit loans or title loans. That definition inadvertently leaves out a lot of the different payday lenders and the products that they offer. We want to amend the bill by adding "high interest loans." Ms. Pereira, our technical expert in Las Vegas, can walk the Committee through the differences and a second amendment that she has worked out over the weekend with one of the parties.

Tennille Pereira, Attorney, Legal Aid Center of Southern Nevada:
I am a consumer litigation attorney, and I deal with consumer issues. Payday and title loans are an issue I deal with on a daily basis. As Mr. Sasser pointed out, we would like to include "high interest loans" in the bill. Right now, all that is included is the deferred deposit loans and title loans. Deferred deposit loans, by their definition, only include transactions where borrowers give a postdated check or provide written authorization for an electronic withdrawal from their bank account. These are not common loans anymore. They are the traditional payday loans that most people know about, but they are not used nearly as frequently as the high-interest loans. The high-interest loans carve out the deferred deposit loans and title loans, and they are all the other loans over 40 percent. The largest pot is going to be the high-interest loans, and that is why we would like to include it in the amendment for Assembly Bill 515.

000912

We applaud the efforts of the Committee and everyone who has been involved in this effort to handle this industry. Collecting the data is absolutely the first step. We applaud that, and we are very pleased to see these efforts. We think the high-interest loans have to be included if we want to get an accurate picture of what is going on. The other thing I would be fearful of is that many lenders will stop doing the deferred deposit loans and go strictly to the high-interest loans, so we will not get an accurate picture. We want the data to be as accurate as possible because I would imagine this data would be used for future legislation and decision-making. That data would need to be all-encompassing so we can see what is going on and not make decisions based on a fragment of what is going on in the community.

000912

Another amendment we have worked out is a change to *Nevada Revised Statutes* (NRS) Chapter 604A. There is another product that a lot of people are unfamiliar with. It is a hybrid written as an exception. It is under NRS 604A.480, subsection 2. It is a different type of loan product. It is a high-interest loan product in that it is over 40 percent; however, it is a long-term loan. These loans have to be written for more than 150 days. There are a number of criteria required by the lender to write these loans because they are long-term loans. In particular, the most important from my point of view is the point that they cannot sue on the loan if the borrower defaults.

It is a whole different type of loan product, so we have proposed that NRS Chapter 604A be amended to move that category of loan. Where it is at now, it has caused a lot of confusion. It looks like it is just an exception to the timing requirements, so we have moved it and given it its own category titled "long-term, high-interest loan" (Exhibit D). That product would be carved out from the requirement of the database. We are not as concerned about this type of loan product in that if something does happen and the consumer defaults, the lending company cannot sue them, and they will not be garnished. It puts the burden on the lender for these loans. The lenders are required to check credit and report the credit. Sometimes these loans are used to build credit by the borrowers. It is a very different product than the other short-term, high-interest loans.

Assemblywoman Bilbray-Axelrod:
Are you using a model from another state for this database? If so, what kind of success are they having? Also, has it had any influence on payday lending companies?

Assemblywoman Swank:
We have looked at a few other databases used in other states that have been quite successful. We have someone speaking in neutral who represents one of these database companies that has been very helpful in terms of collecting the initial data and figuring out what is happening in those different states. I think they work in 14 different states.

000913

Assemblyman Marchant:
What kind of data will you collect? How detailed is it? How do they submit this information?

000913

Assemblywoman Swank:
It is a single point of sale. This integrates very easily with the software these companies already use, and most of these companies do this in other states already. I believe there are databases in Florida and Alabama. Section 1, subsection 2 lays out the different information that will be collected—the date that the loan was made, the type of loan, the principal, the fees, annual percentage rate, the finance charge, et cetera.

Assemblyman Ellison:
Assembly Bill 515 is not a two-thirds bill. I need to know why because Senate Bill 17 and Assembly Bill 222 created a database, and they were both bills that required a two-thirds vote to pass. What information is currently being reported to the FID now? Are they collecting information as we speak?

Assemblywoman Swank:
Can we get Legal to answer the question about why it does not require a two-thirds vote? For the second question, Commissioner Burns is in Las Vegas and can probably answer that question better than I can.

Jim Penrose, Committee Counsel:
It was the Legal Division of the Legislative Counsel Bureau's determination that because the fee is charged by the vendor or service provider developing the database, it would not fall within the two-thirds requirement of the *Nevada Constitution* because it is not created or collected by a governmental entity.

Assemblyman Ellison:
I need to find out why the other two bills required a two-thirds vote.

George E. Burns, Commissioner, Division of Financial Institutions, Department of Business and Industry:
The FID currently does have the means to collect statistical data, but it is not an efficient or effective one. We ask for statistical data on our managers' examination questionnaire, which includes information such as the number of loans made, the number of delinquencies, and the number of repossessions. This is mainly for us to scope our examination and pull samples. Although it is improving, to date only about 60 percent of our licensees respond to these questions because many of them claim they do not have the capability to track that information. We have begun citing them with recommendations in their examination the last few years to give them an incentive to start looking at this. To me, that is basic information every business should know, but we do not have complete or accurate data at this point.

000914

Assemblyman Ellison:
I am hearing from some of these other people that they do have to report this information, and it is mandatory. Is that correct?

000914

George Burns:
That is something required as a matter of the examination process. However, there is nothing in statute other than a general provision of providing the FID with information that it requests. For the most part, this is voluntary. The majority of our large lenders do comply with this, but the information we ask for is mainly to scope the examination. It is not the kind of statistical data to track trends and patterns that this particular bill is proposing.

Assemblyman Ellison:
Why are you allowing only 60 percent to report?

George Burns:
We are not just allowing them to report. We ask for the information. If it is provided to us, we collect it. If it is not provided, it is because the licensees claim they do not have the capability to track that information. Some of our licensees are mom-and-pop-sized institutions doing things on ledgers. They do not have the capability to track this type of information to the extent we would like.

Assemblyman Kramer:
Does the information you are asking for address the questions your presentation gave? It looks like it does not ask for a ZIP Code, which would help you find out if the problems are where the stores are. It does not give a final disposition, it just says whether it was paid off. It does not say if it went to garnishment, bankruptcy, or repossession. Am I missing something and there is more information declared, or do we not care what the final result is?

Assemblywoman Swank:
I would say this is the first step in addressing a lot of those issues. This is standard information that I believe is asked in these databases in the other states where it is in use. It has provided good data to look at how this industry works in other states.

Assemblywoman Neal:
On the fee that will be charged to the consumer, what are you thinking that the fee will be? How are you going to make the determination about what a fair fee is to charge the consumer to collect this information for the database?

George Burns:
The fee will be charged to the lender, not to the consumer—although we can presume that in some form or fashion it will be passed on to the consumer. It will be established based on the arrangement with the vendor. In our initial research in looking at the types of companies that provide these services to 14 other states in the country, the average cost of data collection is somewhere between 50 cents to a dollar per entry, per loan. It is pretty nominal when you look at it, but it will be based upon volume. The higher the volume, the lower the cost the vendor will have to provide. I can tell you that Nevada has a pretty substantial volume, as you might conclude from the number of payday lenders that we have in the state.

000915

000915

Assemblywoman Neal:
Is the database going to capture the online lenders as well? There appears to be a range of unlicensed online lenders. Are we figuring out how to capture them at all? I know it is illegal, but I want to know if we are trying to get them.

George Burns:
Those online lenders operating legally are licensed by us. My understanding of this proposed legislation is that all licensees will be subject to providing this information, including those that we license and run online. If you are referring to online lenders that are operating illegally from outside the state, there is no way to track them down until we get a complaint from a consumer and are able to identify them.

Assemblywoman Neal:
Section 3 provides that this does not apply to any loans made before October 1, 2017. The first thing that popped in my mind is what if it is a loan that rolls into 2018 because it keeps being revisited or extended? Does that mean we will not capture the loan in the database? If so, how do we deal with a loan that may have a longer lineage that came before that date?

George Burns:
That is one of the things we will have to consider when we go through the regulatory process and adopt this. We have to consider whether the regulations should require lenders to enter loans into the database if it is renewed or rolled over.

Chairman Flores:
Our legal counsel had an opportunity to review the previous bills Assemblyman Ellison mentioned.

Jim Penrose:
I did look at the two bills Assemblyman Ellison cited—S.B. 17 and A.B. 222. Both of those bills provide for the Commissioner of the FID to collect the fee. That is the distinction between those two bills and this bill.

Assemblywoman Bilbray-Axelrod:
Do you feel that you need this database, Commissioner Burns?

George Burns:
Any information that can be complete and accurate is an integral tool for us to be able to properly regulate this industry. To be able to identify trends that may cause violations of the statute, we would be able to focus our examination efforts on those particular areas. That would be very helpful. Being able to understand exactly what is going on in the industry and how that correlates to complaints we are getting from consumers will be useful for us to be able to use our limited resources in the most efficient and effective manner possible. I am testifying in the neutral position, but I would say, yes, this would be very helpful to the FID.

000916
000916

Assemblyman Marchant:
Did you work with any of the payday loan companies to come up with how to capture this information and work out the amendments?

Assemblywoman Swank:
In the previous iteration of this bill, A.B. 222, we did work very closely. I had countless meetings with the 21 payday lending lobbyists in the building. We worked very hard to find a way forward on that bill. We did identify that it seemed the database was the least bad part of the bill to them. It seemed like a good starting point.

Assemblyman McCurdy:
What other states currently have this database? What has been the outcome on the affected parties?

Assemblywoman Swank:
I believe that a representative of Veritec Solutions, LLC is here, which is one of the databases. They will testify in neutral.

Chairman Flores:
Is there anyone wishing to testify in favor of the bill?

Justin S. Gardner, Founder and Chief Executive Officer, Innovative Research and Analysis LLC:
I would like to thank Assemblywoman Swank for proposing legislation to regulate the payday lending industry, or at least collect data that will allow for data-driven regulative policy. I donated 100 hours of my time to do the research to provide the maps you saw (Exhibit C). I think the largest thing up for consideration today is the amendment, which is imperative to collect accurate data to help the FID run statistics and understand exactly what the issues are we face in Nevada. Some of the biggest issues this session are around financial insecurity, financial instability, financial dependence, and income inequality. By collecting data on these various loans, there is a large need in certain areas for small-dollar loans. Unfortunately, there are not many services out there that offer those loans with reasonable interest rates. I would encourage you to take this significant step in Nevada to pass legislation that will collect accurate and comprehensive data to study the ramifications and outcomes of these loans on your fellow Nevadans.

One of the largest rebuttals you will hear from the regulatory industry that I have heard over the last two sessions while testifying is that they believe themselves to be good actors. They believe they are providing a service for the community members and their customers. I think if you look at the definition of a good actor or have a reasonable understanding of what a good actor is, if they are, they should have no problem collecting data and entering that data into this database as proposed to allow for data-driven policy.

000917

000917

Chairman Flores:
Is there anyone wishing to testify in opposition to the bill?

Alisa D. Nave-Worth, representing MultiState Associates Inc.:
I represent Multistate Associates Inc. clients, including MoneyTree, Check City, Check Into Cash, QC Financial Services, and USA Cash Services. Notably, our clients also represent over 80 brick-and-mortar storefronts throughout Nevada. These Nevada employers employ hundreds of Nevadans in good paying jobs. Deferred deposit loans are a critical financial solution for many Americans when they experience temporary income interruptions. That is why chambers across the nation, one million Americans, and 26,000 Nevadans wrote in favor of this product to the Bureau of Consumer Financial Protection. We have placed a selection of these letters on the Nevada Electronic Legislative Information System (Exhibit E).

It is important to understand the critical need short-term lending plays in the lives of everyday Nevadans. Short-term lending is used in lieu of other more onerous options for unforeseen emergencies, to cover short-term income loss in Nevada's volatile employment market, or for small businesses that have a short-term payroll gap. Nevadans use short-term loans to avoid more harmful economic and personal consequences.

We are concerned with any legislation that seeks to limit access to critical capital in a highly regulated market. Assembly Bill 515 should require a two-thirds vote. It is unprecedented that an industry would be contracting directly through a vendor. That is why S.B. 17 and A.B. 222 have fiscal notes. Moreover, A.B. 515 fails to place the fees in statute for a mandated database and places that decision in the hands of a for-profit industry, as opposed to the hands of this contemplative body.

Notably, Veritec Solutions is a dominant player in this industry. In fact, they may be the only player. This will be a single-source contract where the vendor determines the fees that Nevada consumers will have to absorb. We have major concerns with that. It is important to note that when you add $1 to that, this is not a 1 percent increase, but a 10 percent increase that consumers will have to absorb.

This is not just a database, this will lead to cooling off-periods that will restrict access to short-term capital, but not eliminate the need for capital for any Nevadans. As seen in other jurisdictions, consumers are driven to far more onerous, off-shore lending sites which will never be subject to the protective laws of Nevada and will never be a part of the reporting requirements of A.B. 515, nor be subject to the restrictions of Assembly Bill 163, which is critical legislation that we worked on.

[The testifier submitted prepared text that included additional testimony (Exhibit F).]

000918

Keith L. Lee, representing Community Loans of America, Inc.:
We ditto what my colleague just indicated. We also want to point out that title loans are different from payday loans. We already have a database—it is the Department of Motor Vehicles (DMV). We record a lien with every loan we give with the DMV. The other significant difference is that there can only be one title loan at a time because it is secured by the automobile itself. That is why we file it with the DMV at a cost to both the consumer and the company. This bill would add an additional cost to that, and I do not think it would gather additional information.

William Horne, representing Advance America; and Enova International, Inc.:
It is regrettable this morning that I am testifying in opposition to A.B. 515. As I signed in this morning, initially I was going to testify in the neutral position. We have been at the table with you, Chairman Flores, on your bill, A.B. 163, from the beginning. I was looking forward to working with the sponsor on this database language. However, after this proposed amendment, we have to testify in opposition. I think it is important to note, in section 1, subsection 3 of the bill, it says, "The Commissioner shall establish, and cause the vendor or service provider administering the database . . . to charge and collect, a fee . . . ." That is basically a private vendor being used as an agent of the government. I think that tries to circumvent the two-thirds requirement. I would respectfully disagree with the Legal Division in that regard.

Chairman Flores:
Is there anyone wishing to testify as neutral to the bill?

John Barnes, representing Veritec Solutions, LLC:
Veritec Solutions, LLC provides real-time, regulatory technology in 14 states where our system is used for the enforcement of payday loans, short-term installment loans, auto title loans, and predatory mortgage loans. Although no two states that we operate in have identical laws, the commonality is a cap on the amount of money a consumer can have out at one time with the number of loans they can have. The laws passed by these states have not only resulted in protecting consumers, but have created a secure and stable environment for lenders to continue to operate and profit in. Our database verification system does not simply track loans, it enforces all terms, restrictions, and consumer protections in real time, thus ensuring every loan is issued in full compliance with state law.

In 2001, the Florida Legislature passed comprehensive payday loan reform that limited consumers to one outstanding loan at any given time, with the maximum amount that could be borrowed at $500. Renewals or rollovers were prohibited. At that time, the payday industry said it would put them out of business. Not only has that not happened, they are thriving due to a level playing field for lenders and a secure and regulated environment. Many payday lenders recently pointed out to the Bureau of Consumer Financial Protection that the Florida model would be a better route than the proposed rules they came out with last summer.

000919

The default rate for lenders in Florida is 1.5 percent, in contrast to the industry's own reports that show default rates between 5 percent and 10 percent. This system ensures lenders get paid back. Several of the lenders that presented today not only operate, but are prospering under our system in many states. Advance America, Check Into Cash, Payday Lenders Association, and Community Financial Services Association of America have supported legislation that includes a database in states around the country. Veritec Solutions has the database provided in 14 states. We cover over 100 million consumers. We believe our system strikes a balance of allowing for access to credit for those who need it and ensuring those consumers are protected from falling into a cycle of debt, while still allowing for lenders to have a secure, regulated environment where they can profit and succeed.

000919

Assemblyman Kramer:
I appreciate your testimony, but I have a hard time seeing it as neutral.

Assemblyman Marchant:
Do any other states directly contract with your company?

John Barnes:
About half of the states we operate in have a structure similar to the one in A.B. 515. Indiana has almost identical language.

Assemblyman Marchant:
Do the states pay you directly?

John Barnes:
The contract goes through the regulator's office and was put out for bid. In Indiana, once the bid was won by our company, we worked with the regulator's office on receiving the payment.

Assemblyman Marchant:
The state comes up with this program, and they pay you to implement it. Is that correct?

John Barnes:
We provide a software solution that is already integrated into about 90 percent of the lenders in the states where we operate. For a quick example, when the consumer comes in to take out a loan, before they are issued the loan, the lender will look them up in the system. Usually they are already in the system, so it is a 15-second process. The database then compares the loan they are trying to take out with what is in the records. If it was Florida and I had a loan out already, the database would stop the loan in real time. Currently, in Nevada, the regulator's office is forced to look back rather than stop at the point of sale.

George Burns:
I am testifying in the neutral position to provide some statistical information for the members of the Committee. As I testified earlier, the FID currently has a rather limited, inefficient, and ineffective way of collecting statistics. The ones that we do have, I want to share with you today. One is how many licensees we have under NRS Chapter 604A. In Nevada, there are 95 main licensees that run over 306 branches. Of those 95 lenders that are licensed to do any one of the three types of loans, 81 of them do deferred deposit, 63 of them do title loans, and 68 of them do high-interest loans, which was the issue being discussed earlier.

As far as the number of loans being done in each of those areas, with only 60 percent of the licensees reporting to us when we request that information, and given the fact that most of those are the largest reporting data in 2016, deferred deposit loans totaled 836,167, title loans totaled 515,971, and high-interest loans totaled 438,559. I would also like to point out the issue regarding the billing and collection of fees under this bill being done directly by the vendor would be very facilitating for the FID because it means that we would not have to expend resources doing the accounting work of receiving the deposits and passing that cost on to the vendors. I think that was one of the other purposes here.

I would also like to address the comment made earlier by one of the testifiers that if we increase the fees on payday lenders and borrowers under NRS Chapter 604A, they will move offshore or to out-of-state Internet lenders. One of the facts is that if you are out of state or offshore, your loan is illegal and it is not collectible in this state. Therefore, very few borrowers or lenders interact in that arena.

000920
000920

Assemblywoman Swank:
I want to address a few comments made during the opposition testimony. I want to be very clear about what this bill does and does not do. It does not limit access to payday lenders at all. I want to address the idea that this would be a 10 percent increase. The average loan is $375. If we go to the high end of what it costs to run the database, which would be a $1 fee, that is actually a 0.2 percent fee. It is nothing near a 10 percent increase in fees on these loans.

Regarding the comments about title loans, they do record that a lien exists with the DMV, but they do not record other information like the amount of that lien. There is provisional information that title lenders give to the DMV. This would allow us, through a single point of sale, to report more information and assist Commissioner Burns with his work.

As far as the two-thirds voting requirement being circumvented, as the gentleman from Veritec Solutions pointed out, half of the states they work in collect their fees this way. This is not circumventing a process. This is not doing anything that is not normal in other states. I also want to clarify that one of the amendments takes out the high-interest loans. This was inadvertently not included in A.B. 515. It was included in the amended version of A.B. 222. Our intent was to take that section out and put it in a standalone bill. That was inadvertently left out, and that is why it was not in the bill.

000921

Chairman Flores:
I will close the hearing on A.B. 515. This meeting is adjourned [at 10:33 a.m.].

000921

RESPECTFULLY SUBMITTED:

Isabel Youngs
Committee Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chairman

DATE:

EXHIBITS

Exhibit A is the Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is a copy of a PowerPoint presentation titled "AB515," presented by Assemblywoman Heidi Swank, Assembly District No. 16, regarding Assembly Bill 515.

Exhibit D is a proposed amendment to Assembly Bill 515 presented by Jon Sasser, representing Legal Aid Center of Southern Nevada; and Washoe Legal Services.

Exhibit E is a collection of 16 letters to the Bureau of Consumer Financial Protection, submitted by Alisa D. Nave-Worth, representing MultiState Associates Inc., regarding Assembly Bill 515.

Exhibit F is written testimony authored by Alisa D. Nave-Worth, representing MultiState Associates Inc., in opposition to Assembly Bill 515.

000922
000922

Committee Action:
Do Pass_____
Amend & Do Pass_____
Other_____

Assembly Committee on Government Affairs

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

ASSEMBLY BILL 515
Revises provisions governing payday lending. (BDR 52-1227)

Sponsored by: **Assembly Members Frierson and Swank**
Date Heard: **May 29, 2017**
Fiscal Impact: **Effect on Local Government: No.**
Effect on the State: Yes.

Assembly Bill 515 requires the Commissioner of Financial Institutions to develop, implement, and maintain, by contract with a vendor or service provider or otherwise, a database of all deferred deposit loans and title loans in this State. A licensee who makes such loans must enter and update certain information concerning each deferred deposit loan and title loan made by the licensee. Further, the bill requires the Commissioner to establish a fee, which must be charged and collected by the vendor or service provider from a licensee who is required to enter information into the database. The fee must be used to pay for the administration and operation of the database.

000923

Amendments:

Proposed by the Assembly Committee on Government Affairs:

The attached conceptual amendment makes the following changes:

1. Requires that information relating to any high-interest loan (as defined in *Nevada Revised Statutes* 604A.0703) also be entered into the database; and

2. Exempts from the database information about a "long-term high-interest loan" as defined in the conceptual amendment.

000923

Conceptual Amendment to Assembly Bill No. 515

(Prepared by the Legal Division for the Assembly Committee on Government Affairs)

- Section 1 of the bill currently requires only that information relating to deferred deposit loans and title loans be entered into the database. Amend section 1 to require that information relating to any high-interest loan (as defined in NRS 604A.0703) also be entered into the database.

- Amend section 1 to exempt from the database provisions information about a "long-term high-interest loan," as defined below.

- Define a "long-term high-interest loan" for this purpose as a loan made pursuant to an agreement under the original terms of which:

  (1) the customer is charged an annual percentage rate of more than 40 percent but less than 200 percent;

  (2) the customer is required to make a payment at least once every 30 days;

  (3) the loan must be paid in full in not less than 150 days;

  (4) interest does not accrue at the annual percentage rate after the date of maturity of the loan;

  (5) the customer is entitled to rescind the loan, without a fee for rescission, within 5 days after the loan is made;

  (6) the licensee is required to participate in good faith with a counseling agency that is: (a) accredited by the Council on Accreditation of Services for Families and Children, Inc., or its successor; or (b) a member of the National Foundation for Credit Counseling or its successor; and

  (7) the licensee is barred from commencing any civil action or ADR process on a defaulted loan or any extension or repayment plan thereof.

  In addition, for the loan to be a "long-term high-interest loan," the licensee must:

  (1) perform a credit check of the customer with a major consumer credit reporting agency before making the loan; and

  (2) report information relating to its loan experience with the customer to such an agency.

000924

000924

000924

MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS

Seventy-Ninth Session
May 30, 2017

The Committee on Government Affairs was called to order by Chairman Edgar Flores at 10:15 a.m. on Tuesday, May 30, 2017, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblyman Edgar Flores, Chairman
Assemblywoman Dina Neal, Vice Chairwoman
Assemblywoman Shannon Bilbray-Axelrod
Assemblyman Chris Brooks
Assemblyman Richard Carrillo
Assemblyman Skip Daly
Assemblyman John Ellison
Assemblywoman Amber Joiner
Assemblyman Al Kramer
Assemblyman Jim Marchant
Assemblyman Richard McArthur
Assemblyman William McCurdy II
Assemblywoman Daniele Monroe-Moreno
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman Jim Wheeler, Assembly District No. 39

000925
000925

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Jim Penrose, Committee Counsel
Carol Myers, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Richard P. McCann, Executive Director, Nevada Association of Public Safety Officers
Mike Ramirez, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc.
Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada
Scott A. Edwards, President, Las Vegas Peace Officers' Association
Steve Grammas, President, Las Vegas Police Protective Association
Michelle Jotz, Chairman, Las Vegas Police Managers and Supervisors Association
Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO
Thomas Morley, representing Local 872, Laborers' International Union of North America
Todd Ingalsbee, Legislative Representative, Professional Fire Fighters of Nevada
Priscilla Maloney, Government Affairs Retiree Chapter, Local 4041, American Federation of State, County and Municipal Employees, AFL-CIO
Tess Opferman, representing Las Vegas Police Protective Association Civilian Employees, Inc.; and Local 1107, Service Employees International Union Nevada
Ruben R. Murillo, Jr., President, Nevada State Education Association
Kent M. Ervin, Legislative Liaison, Nevada Faculty Alliance
Ryan Beaman, President, Clark County Firefighters, Union Local 1908
Mary C. Walker, representing Carson City, Douglas County, Lyon County, and Storey County

000926

000926

Chairman Flores:
[Roll was called. Committee rules and protocol were explained.] We have one bill hearing and one bill on work session. When we complete today's agenda, we will recess to the call of the chair. I will open the hearing on Assembly Bill 290.

Assembly Bill 290: Makes various changes relating to collective bargaining. (BDR 23-35)

Assemblyman Jim Wheeler, Assembly District No. 39:
I will present Assembly Bill 290 in its amended form. The proposed amendment is number 5026 (Exhibit C). All the language has been struck out except for section 8.3, and we are using a different *Nevada Revised Statutes* (NRS) chapter. Thank you to the Committee for allowing us to do that.

Chairman Flores and members of the Assembly Committee on Government Affairs, I am here today to request your support for A.B. 290. This legislation will revise NRS 288.225 by clarifying existing concession language regarding employee organization leave time. If leave time existed in a collective bargaining agreement prior to June 1, 2015, the employee organization or union shall be deemed to have made the concessions to offset the past, present, and future cost of such leave for the number of employees to whom such leave was approved as of that date. New employee organizations or associations adding to their existing release time shall pay the full cost of such leave or provide concessions to offset those employee costs.

I would like to simplify what I have just said by saying A.B. 290 codifies what is in practice now, and the organization doing the bargaining will actually pay for the leave time of the employee who is working on their behalf. For example, a municipal or a county employee will not be charged. This is the current practice and A.B. 290 will codify it. I was approached before this hearing, and The Chamber, Reno-Sparks-Northern Nevada and the Las Vegas Metro Chamber of Commerce gave me permission to state their support on the record. Presenting this bill today will be Rick McCann, Mike Ramirez, and Ron Dreher.

000927
000927

Richard P. McCann, Executive Director, Nevada Association of Public Safety Officers:
I am a member of the Nevada Law Enforcement Coalition. We would like to thank Assemblymen Wheeler, Ellison, Hambrick, and Kramer for bringing this bill forward. They have permitted us to work with their bill to advance this very important legislation. Also, thank you to Assemblyman Paul Anderson for his support of this amendment.

In 2015, Senate Bill 241 of the 78th Session was passed. It was an attempt to reform collective bargaining. The purpose was to force employee associations to the bargaining table by removing incentives, which would allow the negotiating of contracts in a timely manner. There were three principal parts of S.B. 241 of the 78th Session. The first was to bring an end to the evergreen clause. That language existed within labor contracts and extended the current contract, allowing contractual rights and obligations to survive beyond the contract's expiration date, including giving public employee raises. Second, it prohibited retroactive payment of compensation and benefits after the contract has expired unless negotiated between the parties. Third, it allowed the labor associations to have "union leave time" to conduct the important business of the association, including negotiating their own contracts, only if they continue to pay or provide new concessions in exchange for those union hours. Today, we are discussing number three. We are not here to discuss the evergreen clause or retroactivity of salary and benefits.

Personally, I testified against number three in 2015. Assembly Bill 290 is not repealing S.B. 241 of the 78th Session. This bill will not roll back the evergreen clause or retroactivity. This bill seeks to advance the logic of S.B. 241 of the 78th Session and get employee associations to the bargaining table, as was the intent of the sponsors of S.B. 241 of the 78th Session. How will that be accomplished by A.B. 290?

I represent about 20 separate law enforcement employee associations across Nevada. Many of those associations are small groups of 5, 11, 15, 26, 30, 59, or 74 members. Like each of my law enforcement associations, these groups have previously negotiated their union leave time, and they rely on that time to get to the bargaining table and negotiate new contracts. In other words, they need time to fulfill the goals of S.B. 241 of the 78th Session. They cannot pay more for their leave time than they have already given. They have no money; they have no concessions to give. They should not have to take their vacation, days off, or sick time to negotiate their contracts. They may work nights, weekends, or holidays and many times the employers will not accommodate them. Ask yourself this question, how will the employee associations get to the bargaining table without time to get to the bargaining table?

The term "unintended consequence" is overused in this building, but it is part of the legacy of S.B. 241 of the 78th Legislative Session, which intended to get the employee associations to the bargaining table, while at the same time standing in the way of that. That is not fair. They cannot get to the bargaining table unless they are provided the opportunity, the means, and the tools to get there. That is all we are asking. For two years, we have experienced the unintended consequences of S.B. 241 of the 78th Session. Assembly Bill 290 is a paragraph remedy. This amended version of A.B. 290 (Exhibit C) does not seek to turn the clock back on the premise of S.B. 241 of the 78th Session; rather it retains the purpose and intent of the framers and fixes one small part. Accordingly, we fully support A.B. 290, and we urge this Committee to do the same.

000928

Mike Ramirez, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc.:

I am a member of the Nevada Law Enforcement Coalition. We would like to thank Assemblyman Wheeler and others for allowing us to use this bill and for sponsoring it. We do not want to repeal S.B. 241 of the 78th Session; we would like to clarify its effective date. The language clarifies any future cost of going forward. Clark County may testify today, and they have had two collective bargaining sessions since S.B. 241 of the 78th Session. Both parties made their concessions. The legislation works, but the effective date needs clarification in the statutes. I ditto and echo the same sentiment of Mr. McCann's testimony. We urge your support, and as Assemblyman Wheeler mentioned, we spoke to different entities, such as the chambers, to ensure everyone is on board with A.B. 290.

Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada:
I am a member of the Nevada Law Enforcement Coalition. We would like to thank Assemblymen Wheeler, Ellison, Hambrick, and Kramer for bringing this bill forward. Also, thank you to Assemblyman Paul Anderson for meeting with us and hearing our side of the story. I will echo the comments of Assemblyman Wheeler, Mr. McCann, and Mr. Ramirez in asking for your support for A.B. 290.

Assemblywoman Neal:
I am reading the existing statute NRS 288.225. Section 8.3, subsection 2 of the amendment (Exhibit C) states, "For the purposes of this section, if such leave was provided by a local government employer as of June 1, 2015, the employee organization shall be deemed to have made concessions to offset the past, present and future costs of such leave for the number of employees to whom such leave was provided as of that date." How is the future cost of leave offset if it has not occurred yet?

Ron Dreher:
That language explains what occurred prior to June 1, 2015. It provides that concessions were made and that those concessions concerning leave are in effect. Any leave thereafter will be borne by the employee associations. That is the purpose of section 8.3, subsection 2.

000929

Assemblywoman Neal:
Please walk me through an example of how that works.

000929

Ron Dreher:
Prior to June 1, 2015, an association had six members on its bargaining team who were released for the negotiation. Concessions were made by the employee association to provide leave for those six members. After June 1, 2015, a new negotiation began, and the employee association added two new members to its bargaining team. The employee association will pay for those two new members, but the other six members are paid through the concessions that were made prior to June 1, 2015. That is a real-life example.

Assemblywoman Neal:
I would like to know what situation occurred under NRS 288.225.

Ron Dreher:
The situation is ongoing from years past. The employee associations made concessions for union leave. Since S.B. 241 of the 78th Session, the language in NRS 288.225 has caused some confusion with its interpretation. We are making sense of the first paragraph by adding the language in section 8.3, subsection 2 to the first paragraph of NRS 288.225.

Assemblywoman Neal:
The language is codifying a prior practice and the expectations of what it is supposed to mean.

Mike Ramirez:
Prior to 2015 and prior to S.B. 241 of the 78th Session taking effect, there were no issues. Our treasurer looked up old notes from bargaining negotiations in 1988 and 1994. Those negotiations contained a concession of 1 percent to add another member to an employee association's bargaining team. Instead of receiving a 4 percent raise, they received a 3 percent raise. The process has worked this way long before my time as a policeman and since 1973 when the Las Vegas Metropolitan Police Department was incorporated.

After June 1, 2015, S.B. 241 of the 78th Session became effective. Now the employee associations are paying for the leave of their existing bargaining team members when they had previously made concessions for them to attend the negotiation. In 2011, the employee associations conceded longevity. Longevity compounded over 30 years is over $800 million. That, in and of itself, would pay for 50 members. Prior to A.B. 290, concessions were made. We are asking from this day forward if employee associations want to add additional members, they will make concessions for those members. Concessions have already been made for existing members.

Assemblywoman Neal:
I would like to know what this means for local government. I will use North Las Vegas as an example, because they are an entity that may be cash-strapped. The employee association made concessions in the past. After 2015, North Las Vegas can no longer support the concession. How would North Las Vegas interpret this language?

000930

Mike Ramirez:
Let me add to your scenario. There are 300 officers, and every officer receives eight hours of sick time. Those hours are banked and released to provide the leave concession if the money was not available.

Chairman Flores:
Is there anyone in Carson City or Las Vegas wishing to speak in support of A.B. 290?

Scott A. Edwards, President, Las Vegas Peace Officers' Association:
I represent the corrections officers at the Clark County Detention Center, and I am the president of the Southern Nevada Conference of Police and Sheriffs, which represents the majority of the southern Nevada law enforcement organizations. We wholeheartedly support this bill.

In response to Assemblywoman Neal's question about local governments' ability to pay for the leave concession, prior to 2015, we had a pool of hours. Our contract expired after S.B. 241 of the 78th Session became law, and the City of Las Vegas required us to negotiate for those hours. Many of my colleagues throughout the state have stated their employee associations have had to repay hours negotiated in previous contracts after their current

contract expired. Assembly Bill 290 clarifies the intent of S.B. 241 of the 78th Session, which is hours prior to S.B. 241 of the 78th Session were previously negotiated, and if additional hours or people are needed going forward, we will come to an agreement with the employer.

In 2008, the City of Las Vegas went through major financial hardships. Hand in hand with the city, we worked out some compromises. The groups I am aware of have always tried to help the local governmental entities as much as possible to make sure they are doing well. At the end of the day, they are our employer, and without the employer, we would not have any negotiations to attend.

Assemblywoman Neal:
If an employee association has repaid what it already paid for, how does this provision work going forward? Will the employee association receive credit for something it has technically paid twice for?

Scott Edwards:
I would say whatever had been negotiated prior, the employee association would get credit for those hours. We will work that out going forward as we have done with everything else.

000931

Steve Grammas, President, Las Vegas Police Protective Association:
I would like to thank everyone who has supported and worked hard on A.B. 290. We echo the sentiment from those who testified today and wholeheartedly support A.B. 290.

000931

Michelle Jotz, Chairman, Las Vegas Police Managers and Supervisors Association:
I am a member of the Southern Nevada Conference of Police and Sheriffs and the Nevada Law Enforcement Coalition. I would like to thank Assemblyman Wheeler for his willingness to entertain our participation and the changes to this bill. Regarding the question about double paying, from our position, we will write off the monies we have paid to this point and start fresh going forward. I cannot speak to the other organizations that are having to come out of pocket. We are in support of the amended bill.

[Assemblywoman Neal assumed the Chair.]

Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO:
We are in support of the amended version of A.B. 290. For clarification, the language that we are discussing today is language that I came up with the last session. Senate Bill 241 of the 78th Session was sponsored by Senator Roberson. He was gracious enough to allow an amendment stating, ". . . providing services for an employee organization if the full cost of such leave is paid or reimbursed by the employee organization or is offset by the value of concessions made by the employee organization in the negotiation of an agreement with the local government employer pursuant to this chapter." [Senate Amendment No. 608 to Senate Bill 241 (1st Reprint) of the 78th Session.]

The term "offset" was used because we understand that when negotiating contracts, nothing is free. Everything an employee association requests has a value associated with it. If the request is for a 2 percent raise, the local government's finance person plugs the numbers into the computer, and they can tell their lead negotiator exactly what the value of that would be. Nothing is for free; there is always a value to an item whether giving or receiving. If there is leave time in our contracts, we would have negotiated it. If the issue has been negotiated and paid for, we do not want to negotiate and pay for it again. For example, if a 0.5 percent pay raise was negotiated, then it remains in perpetuity every year going forward. That is the purpose of section 8.3, subsection 2 stating, ". . . and future costs of such leave . . . ." That is the reasoning behind the language, and Senator Roberson was gracious enough to allow us to do that.

The problems arose after the 78th Legislative Session because of how the local governmental entities interpreted the language. They took it as the leave concession must be negotiated every time we are at the bargaining table. That means the employee association is paying multiple times for that concession. The amendment to A.B. 290 will clarify and codify if leave was negotiated prior to June 1, 2015, it has been paid for. We stand in support of A.B. 290.

Thomas Morley, representing Local 872, Laborers' International Union of North America:
We support this bill as well as our brothers and sisters in law enforcement.

000932

Todd Ingalsbee, Legislative Representative, Professional Fire Fighters of Nevada:
We would like to thank Assemblyman Wheeler for bringing this bill forward, and we support it. We are not trying to receive any additional benefits, but we are trying to maintain the benefits we had prior to our 2015 concessions. If we require additional benefits, we will receive those through negotiations.

Priscilla Maloney, Government Affairs Retiree Chapter, Local 4041, American Federation of State, County and Municipal Employees, AFL-CIO:
We would like to thank Assemblyman Wheeler, Assemblyman Kramer, Assemblyman Hambrick, and Assemblyman Ellison for facilitating the clarifying language in section 8.3, subsection 2. In 2015, NRS 288.225 was amended, and A.B. 290 will aid both parties in going forward with negotiations. We support this bill as the Local 4041, American Federation of State, County and Municipal Employees and as members of the AFL-CIO and the Public Employees Coalition.

Tess Opferman, representing Las Vegas Police Protective Association Civilian Employees, Inc.; and Local 1107, Service Employees International Union Nevada:
We would like to state our support and thank the sponsors for bringing this bill forward.

[Assemblyman Flores reassumed the Chair.]

Ruben R. Murillo, Jr., President, Nevada State Education Association:
I am a special education teacher, and we represent 40,000 employees throughout the state. We support the amendment (Exhibit C) to A.B. 290. We support our union brothers and sisters, and we understand the unintended consequences of the leave. It impacts our local affiliates and us as a state organization.

Kent M. Ervin, Legislative Liaison, Nevada Faculty Alliance:
I am the collective bargaining agent for academic faculty at the College of Southern Nevada. We support A.B. 290 and ditto to the previous testimony of those in support.

Ryan Beaman, President, Clark County Firefighters, Union Local 1908:
We appreciate Assemblyman Wheeler bringing this important piece of legislation forward and clarifying it. We are in support of A.B. 290.

000933

Mary C. Walker, representing Carson City, Douglas County, Lyon County, and Storey County:
We are in support of A.B. 290 as it is amended. We believe this is a reasonable compromise, and we appreciate Assemblyman Wheeler, the cosponsors, and the unions for working this out.

Chairman Flores:
Is there anyone in Carson City or Las Vegas wishing to testify in opposition to A.B. 290? [There was no one.] Is there anyone in Carson City or Las Vegas wishing to testify in the neutral position? [There was no one.] Assemblyman Wheeler, do you have any closing remarks?

Assemblyman Wheeler:
Thank you for allowing us to present A.B. 290. As you have heard, there is no opposition to the bill. We still need to get it over to the Senate, and if you have not changed your Committee rules, I would love for you to vote this out of Committee today.

Assemblyman Ellison:
For the record, what will be the impact to the local governments?

Assemblyman Wheeler:
The impact will fall on the employee association and not the local government.

Chairman Flores:
For clarification, should we maintain your name and the sponsor's name on the bill?

Assemblyman Wheeler:
Yes.

Chairman Flores:
I will close the hearing on A.B. 290. I will open the work session for A.B. 290. I will entertain a motion.

> ASSEMBLYWOMAN MONROE-MORENO MOVED TO AMEND AND DO PASS ASSEMBLY BILL 290.
>
> ASSEMBLYWOMAN BILBRAY-AXELROD SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

Chairman Flores:
Assemblyman McCurdy will take the floor statement. I will open the work session for Assembly Bill 475.

Assembly Bill 475: Revises provisions relating to education. (BDR 31-975)

000934

Jered McDonald, Committee Policy Analyst:
Assembly Bill 475 is sponsored by the Assembly Committee on Government Affairs on behalf of the Office of Finance in the Office of the Governor and was heard in this Committee on April 7, 2017.

The bill requires the Board of Trustees of the College Savings Plans of Nevada to establish the Nevada College Kick Start Program to create college savings accounts for pupils enrolled in kindergarten in public schools in Nevada who are residents of Nevada. The bill requires the Board, within limits of money available for this purpose, to deposit money in the accounts to be used for the costs of higher education of pupils. Additionally, the bill also requires the Board to adopt regulations for the implementation of the Program and authorizes the Board to apply for and accept gifts, grants, and donations to carry out the Program. The bill limits the purposes for which the State Treasurer is authorized to expend money in the Endowment Account only to purposes related to the Nevada College Kick Start Program or the Governor Guinn Millennium Scholarship Program.

Finally, the bill requires the Board of Trustees of the College Savings Plans of Nevada to transfer to the Endowment Account the balance in the account of a pupil created under the Nevada College Kick Start Program that has not been accessed by a parent or guardian of the pupil by the time the pupil is enrolled in the third grade or which otherwise has not been used within the time prescribed by regulation (Exhibit D).

There is one proposed amendment [pages 3 through 7, (Exhibit D)]. This amendment was submitted by Assemblywoman Benitez-Thompson. The amendment makes the following changes: it extends from third grade to fifth grade the time parents or guardians have to access a college savings account; it revises the composition of the Board of Trustees of the College Savings Plans of Nevada by increasing the number of members appointed by the Governor from two to three, making the State Treasurer an ex officio nonvoting member; and it requires the Board to elect a Chair from among the members of the Board. It expands the sources of money for the Nevada Higher Education Prepaid Tuition Trust Fund to include a loan made for the purposes of fiscal stabilization of the Nevada Higher Education Prepaid Tuition Program and expands and clarifies the use of the money in the Endowment Account to include expenditures for the purposes of funding college savings accounts created under the Nevada College Kick Start Program, the Governor Guinn Millennium Scholarship Program, the payment of certain administrative and marketing costs, and the costs of providing financial education programs to residents of this state.

Chairman Flores:
I will entertain a motion.

> ASSEMBLYMAN CARRILLO MOVED TO AMEND AND DO PASS ASSEMBLY BILL 475.
>
> ASSEMBLYWOMAN BILBRAY-AXELROD SECONDED THE MOTION.

000935

Chairman Flores:
Is there any discussion?

Assemblyman Ellison:
If the bill goes forward with the amendment, I will vote no.

Assemblyman Marchant:
Ditto.

Assemblyman Kramer:
I also have some issues with the amendment, specifically section 6, subsection 5, paragraph (d). Without any discussion, I will vote no.

Chairman Flores:
The bill sponsor is not in the room. Therefore, your no vote is justified.

> THE MOTION PASSED. (ASSEMBLYMEN ELLISON, KRAMER, MARCHANT, McARTHUR, AND WOODBURY VOTED NO.)

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

Chairman Flores:
Assemblywoman Joiner will take the floor statement. Is there anyone in Carson City or Las Vegas here for public comment? [There was no one.] I am anticipating we will be getting together at least one more time today. We are in recess [at 10:54 a.m.].

[The Committee reconvened behind the bar of the Assembly at 6:19 p.m. There was a quorum present.]

Chairman Flores:
I would like to call the Assembly Committee on Government Affairs back to order. I will open the work session on Assembly Bill 515.

Assembly Bill 515: Revises provisions governing payday lending. (BDR 52-1227)

Jered McDonald, Committee Policy Analyst:
Assembly Bill 515 is sponsored by Assemblyman Frierson and Assemblywoman Swank and was heard in this Committee on May 29, 2017.

The bill requires the Commissioner of Financial Institutions to develop, implement, and maintain, by contract with a vendor or service provider or otherwise, a database of all deferred deposit loans and title loans in this state. A licensee who makes such loans must enter and update certain information concerning each deferred deposit loan and title loan made by the licensee. Further, the bill requires the Commissioner to establish a fee, which must be charged and collected by the vendor or service provider from a licensee who is required to enter information into the database. The fee must be used to pay for the administration and operation of the database (Exhibit F).

000936

There is one amendment to the bill [page 2, (Exhibit F)]. The conceptual amendment makes the following changes: it requires that information relating to any high-interest loan as defined in *Nevada Revised Statutes* 604A.0703 also be entered into the database and exempts from the database information about a "long-term high-interest loan" as defined in the conceptual amendment.

Chairman Flores:
I will entertain a motion.

> ASSEMBLYWOMAN BILBRAY-AXELROD MOVED TO AMEND AND DO PASS ASSEMBLY BILL 515.
>
> ASSEMBLYWOMAN NEAL SECONDED THE MOTION.

Assemblyman Kramer:
I thought there was an amendment to change the name of a category of loans to something less contentious. Do you know anything about that?

Chairman Flores:
Tennille Pereira, the attorney with the Legal Aid Center of Southern Nevada, mentioned removing a category of loan under the *Nevada Revised Statutes* and putting it into its own stand-alone installment category of loans, but we found that it was not legal.

Jered McDonald:
When the interest rate is above 40 percent, it is classified as a high-interest loan. When it is below 40 percent, it is not classified as a high-interest loan.

Chairman Flores:
We found that it was not germane to the bill, so we scrapped it.

Assemblyman Ellison:
I still have questions about the bill, so I will be voting no, but I reserve my right to change my vote on the floor.

> THE MOTION PASSED. (ASSEMBLYMEN ELLISON, MARCHANT, AND McARTHUR VOTED NO.)

Chairman Flores:
Assemblywoman Swank will take the floor statement. I will close the work session on A.B. 515. This meeting is adjourned [at 6:23 p.m.].

000937

000937

RESPECTFULLY SUBMITTED:

_____
Carol Myers
Committee Secretary

APPROVED BY:

_____
Assemblyman Edgar Flores, Chairman

DATE: _____

EXHIBITS

Exhibit A is the Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is a proposed amendment to Assembly Bill 290 presented by Assemblyman Jim Wheeler, Assembly District No. 39.

Exhibit D is the Work Session Document for Assembly Bill 475, presented by Jered McDonald, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit E is a letter dated May 30, 2017, regarding Proposed Amendment 4311 to Assembly Bill 475 to Chairman Flores and members of the Assembly Committee on Government Affairs, authored by Grant Hewitt, Chief of Staff, Office of the State Treasurer.

Exhibit F is the Work Session Document for Assembly Bill 515, presented by Jered McDonald, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

000938

000938

MINUTES OF THE
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY

Seventy-ninth Session
June 3, 2017

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Kelvin Atkinson at 8:34 a.m. on Saturday, June 3, 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 James A. Settelmeyer
Senator Heidi S. Gansert

000939

GUEST LEGISLATORS PRESENT:

Assemblyman Chris Brooks, Assembly District No. 10
Assemblyman Jason Frierson, Assembly District No. 8
Assemblywoman Heidi Swank, Assembly District No. 16

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Bryan Fernley, Counsel
Lynn Hendricks, Committee Secretary

OTHERS PRESENT:

Jon Sasser, Legal Aid Center of Southern Nevada; Washoe Legal Services
Alisa Nave-Worth, MultiState Associates, Inc.
William Horne, Advance America, Cash Advance Centers of Nevada, Inc.; Enova International, Inc.

Keith Lee, Community Loans of America
John Barnes, Veritec Solutions
Alfredo Alonso, Livery Operators Association of Las Vegas
Rusty McAllister, Nevada State AFL-CIO

CHAIR ATKINSON:
I will open the work session on Assembly Bill (A.B.) 206.

ASSEMBLY BILL 206 (1st Reprint): Revises provisions relating to the renewable portfolio standard. (BDR 58-746)

MARJI PASLOV THOMAS (Policy Analyst):
I have prepared a work session document (Exhibit C) describing the bill and the amendments proposed by the bill's sponsor. There is an error in Proposed Amendment 5267 in Exhibit C. On page 2, lines 32 through 34, the words "with a goal of achieving by 2040 an amount of renewable energy production equal to at least 80 percent of the total amount of electricity sold by providers of electric service in this State" should be deleted.

000940

000940

SENATOR HARDY:
What is to prevent the industry from taking advantage of the tax credits now without increasing the renewable portfolio standard (RPS)?

ASSEMBLYMAN CHRIS BROOKS (Assembly District No. 10):
Nothing. NV Energy and private customers are doing that now.

SENATOR SETTELMEYER:
We have discussed the Energy Choice Initiative (ECI) and what it meant to the people who voted for it.

In Exhibit C, Proposed Amendment 5267 seems to say, in section 3, subsection 5, that utilities will only have until 2020 to use portfolio energy credits. Does this preclude them from using vintage credits? In the past, we have allowed utilities to use credits older than two years. Does this limit them to only two years?

ASSEMBLYMAN BROOKS:
That provision was intended to help with averaging. One of the concerns was about what was termed the "lumpiness" of complying in connection with how

long it takes to develop a project. This would let utilities average energy credits over the course of a couple of years instead of having rigid annual cutoffs.

SENATOR SETTELMEYER:
Does section 3, subsection 5 preclude utilities from using energy credits older than two years?

ASSEMBLYMAN BROOKS:
It does not, to my understanding.

SENATOR SETTELMEYER:
I would like an opinion from Counsel as to whether this language allows utilities to use their vintage credits as we have done in the past.

BRYAN FERNLEY (Counsel):
I do not think this language prevents utilities from using credits. There is no expiration to credits in this language or in this bill. It looks to me like credits could continue to be used for as long as they are available.

000941

000941

SENATOR SETTELMEYER:
I just wanted to make sure that was on the record.

Section 2.59, subsection 3 of the proposed amendment in Exhibit C prohibits the Public Utilities Commission of Nevada (PUCN) from rejecting any portions of an integrated resource plan (IRP) that include renewable energy. Does this mean that even if the PUCN determines the energy is not needed or the system is far more expensive than other least cost alternatives, the PUCN cannot say no?

ASSEMBLYMAN BROOKS:
No. This is meant to prevent the PUCN from denying based solely on uncertainty about what may happen with the ECI and subsequent legislation. The PUCN would still use the same cost analysis, the same benefit analysis and the same need analysis. This provision says it cannot reject an IRP based solely on uncertainty relating to a ballot question.

SENATOR SETTELMEYER:
I read that language differently. It says, "The Commission shall not reject any portion of a plan ... that includes a new renewable energy contract ... for the purpose of complying with the provision of NRS 704.7801 ... ." That has

nothing to do with a ballot initiative. It almost sounds as if we are taking away the ability of the PUCN to worry about cost, and that to me is a dangerous concept.

ASSEMBLYMAN BROOKS:
That is not what this sentence is trying to do. If you read that entire sentence, it says, "The Commission shall not reject any portion of a plan ... solely on the grounds of any uncertainty relating to a ballot question for the deregulation of the electricity market of this State."

CHAIR ATKINSON:
That is the way I read it.

SENATOR SETTELMEYER:
I will keep reading it. I am just worried there might be a problem.

000942

SENATOR SPEARMAN:
A lot has been made about whether A.B. 206 would require something that is an improbability on the part of the utility. I would like to direct our attention to Senate Bill (S.B.) 65, which was the Governor's bill.

000942

SENATE BILL 65 (2nd Reprint): Revises provisions related to the filing by certain electric utilities of an integrated resource plan. (BDR 58-167)

If you look at the preamble of that bill, it says, in part:

> AN ACT relating to public utilities; requiring the Public Utilities Commission of Nevada to require certain utilities which supply electricity in this State to provide an overview of the utility's resource plan or any amendment to the resource plan at least 4 months before filing the plan ... .

That is what we are talking about. How do we know what is getting ready to happen, and how? What process is in place so that if things turn around for the utility, the PUCN will know? It continues:

> ... requiring the Commission to consider the cost of such measures and sources of supply to the utility's customers when making such a determination; requiring the Commission to include its

> justification for the preferences given to such measures and sources of supply in certain orders ... .

That is very clear in terms of what needs to happen. One of the reasons S.B. 65 was one of the first bills we tackled was because we wanted to answer all of those questions with respect to uncertainty. Note that S.B. 65 refers to all utilities. We do not know if NV Energy will stay as it is now if the ECI passes again. The IRP is where a lot of questions are answered about any and all utilities. Not only do they answer questions in the IRP, but there is also a requirement to have a public hearing. If there are any questions, any doubt in anyone's mind, including customers or ratepayers, that is where those questions are answered.

SENATOR SETTELMEYER:
In regard to the word "any," does A.B. 206 still eliminate municipalities, co-ops, general improvement districts and others? Who is exempt from the RPS based on the latest amendment? Are there still exemptions that currently exist, or does it now apply to any utility?

000943

ASSEMBLYMAN BROOKS:
This amendment does not change the portion of A.B. 206 regarding electric service providers and when they must start complying with the RPS.

> SENATOR SPEARMAN MOVED TO AMEND AND DO PASS AS AMENDED A.B. 206.
>
> SENATOR CANNIZZARO SECONDED THE MOTION.

SENATOR HARDY:
The question of whether NV Energy is going to stay if the ECI is passed is a critical one. I am concerned about what will happen when we have so many unknowns, including the solar gardens.

This bill is laudable and creates economic opportunities, but those economic opportunities exist now. All of the wonderful things we have talked about do not make me want to vote for A.B. 206, but I will not be unhappy if it passes. I do not think we have the crystal ball that will tell us how this is going to affect everyone when we try to change so many things at once. I can juggle three things but not four things.

SENATOR GANSERT:
I appreciate the amendments, but I have to think through them more thoroughly. I will vote no for now, but I may change that later. This Committee and Legislature have demonstrated strong support for renewable energy.

CHAIR ATKINSON:
I want to clarify that A.B. 206 does not affect those entities that exited the system, like MGM, Caesars and Wynn.

SENATOR SPEARMAN:
I would like to direct your attention to S.B. 146. This is the bill we passed dealing with distributive generation.

SENATE BILL 146 (2nd Reprint): Revises provisions governing the filing of an integrated resources plan with the Public Utilities Commission of Nevada. (BDR 58-15)

THE MOTION PASSED. (SENATORS GANSERT, HARDY AND SETTELMEYER VOTED NO.)

000944

000944

* * * * *

CHAIR ATKINSON:
I will open the hearing on A.B. 515.

ASSEMBLY BILL 515 (1st Reprint): Revises provisions governing deferred deposit loans, title loans and high-interest loans. (BDR 52-1227)

ASSEMBLYMAN JASON FRIERSON (Assembly District No. 8):
I will give some history of the bill.

Assembly Bill 515 reflects an interest to explore what is going on with payday loans. This bill started off with an effort to protect consumers from being caught in a cycle of high-interest loans that they can never pay off. There were concerns that this was an effort to end the payday loan industry in Nevada. That was not my intention. My intention with this bill was to look at the industry and how it impacts consumers so the Legislature can make informed decisions.

The Legislature has visited payday loans, title loans and high-interest loans many times over the last several Sessions. Every time we visit this issue, it is with the hope that we can protect consumers who are at their most vulnerable, people who need money to pay their bills, keep their lights on and feed their children, from ending up in a worse situation.

We also recognize that there are legitimate circumstances where someone needs access to this kind of service. But every time we talk about this, questions are raised about whether Nevada really has these problems, whether people are getting caught up in this cycle. Is this just a national talking point, or is it something that really happens in Nevada?

After a previous measure to deal with the industry did not succeed, we felt it would be a good idea for us to stop debating about whether the problem exists and instead obtain that information and know for sure. This bill is the result. This is an opportunity to have sunshine on this issue, to have transparency. This is an opportunity to empower us with actual information about Nevada so we can look at the future and make decisions based on facts rather than on talking points.

000945

000945

This bill originally started out with not only collecting information, but also requiring the industry to use that information to decide whether to make individual loans. I scaled that back to just collecting data. Rather than trying to change the industry, I just want it to provide information so we can make informed decisions. This is not a new idea. This has been done in other states, and it has not put the industry out of business in those states.

I recognize that any time you want to bring sunshine to an issue, there is reluctance. In almost every area of life, there are good actors and bad actors, and we do not want to throw the baby out with the bathwater. This bill is an effort to take that into account. Let us find out what they are doing, what their practices are, whether we have folks getting caught up and to what extent consumers are better or worse off with payday loans, title loans and high-interest loans. It should be noted, by the way, that those are three different kinds of loans. Unlike many states, Nevada puts all high-interest loans in one statute. At some point, it would be worthwhile to have a conversation about dividing those types of loans out so we can treat them separately, but we will not know that until we get this information.

Again, this bill is not about changing the industry as much as giving us the tools to make informed decisions by requiring a database that collects this information, compiles it and reports back to us. There is nothing more important in a limited 120-day Session than having information so we can make informed decisions. That is what A.B. 515 does.

SENATOR HARDY:
Have the other states with this type of database found things that led to changes in their laws to protect the industry and the consumers?

ASSEMBLYMAN FRIERSON:
The short answer is that I do not know. To me, it is more important that we get information about Nevada, since Nevada is unique in the presence of gaming and the transiency of our population. For that reason, I would think other states would want to know what our data collection shows. The information could be helpful for the industry, or it could be helpful for consumer advocates, or it could be completely neutral and we could recognize that we do not have a problem. There is no way to know unless we collect the information.

000946

000946

SENATOR HARDY:
I suspect some people have a problem. Otherwise, we would not be talking about this every Session.

ASSEMBLYMAN FRIERSON:
I would certainly agree with that.

SENATOR SETTELMEYER:
From what you say, this database is just for fact-finding. It is not about future enforcement or anything like that. In that case, why have we not included high-interest loans in order to start gathering that information as well?

ASSEMBLYMAN FRIERSON:
There has been an effort to include them. Every subset of this industry would prefer to be left out. It has become convenient to say, "We'll support this bill if you just look at the others and leave us alone." We would like to collect data on all high-interest loans, but any effort to collect data on any of these kinds of loans would be valuable.

ASSEMBLYWOMAN HEIDI SWANK (Assembly District No. 16):
This bill creates a database for deferred deposit loans, high-interest loans, and title loans. These databases, which have been used in 14 other states, are a simple single point-of-sale database. They integrate with the software licensees already use. In fact, many Nevada licensees use these in other states, so the software is already integrated in their nationwide systems.

This is a very low-cost way to gather this information. The fee is usually less than 1 percent. This means the per loan fee ranges from $0.50 to $1. Nationally, the average loan is $375. The highest possible fee for that loan would be $1, which is 0.2 percent of the loan. The amount charged per loan is based on the volume. George Burns, Commissioner of the Division of Financial Institutions (FID), was unable to be here today. In the hearing on A.B. 515 held in the Assembly Committee on Commerce and Labor, he testified that given our volume, he estimated the fee would be closer to 50 cents per loan.

000947

This bill will help us get a better picture of the industry and let us see what is happening in Nevada. In previous hearings, Commissioner Burns said this would be a significant improvement for his office. He stated that what the Division is doing now only captures about 60 percent of the information, and what it does get is only very basic information.

000947

I will step you through A.B. 515. Most of the bill is in section 1. Section 1, subsection 1 directs the FID Commissioner to develop and maintain the database. It also lists some of the reports that can be run by the Commissioner.

Section 1, subsection 2 lists the information to be entered into the database by the licensee. Again, this is a single point of entry that is already integrated into what they do, and many Nevada licensees already do this in other states.

Section 1, subsection 3 directs the Commissioner to have the vendor who provides the software to charge licensees a fee for each loan. Based on the average loan of $375, the fee is only 0.2 percent.

Section 1, subsection 4 says that all information must be kept confidential. It further states that the information used by the Commissioner to run reports is to be anonymized. It will not be possible to track the information gathered back to the individual customers. The focus is on getting the larger picture, not on the individual people who take out loans.

Section 1, subsection 5 directs the Commissioner to adopt regulations related to the database.

Section 1, subsection 6 exempts longer-term loans, those over 150 days. Those folks report to credit reporting agencies, so as this first step, we are focusing on the more short-term loans.

An amendment has been proposed by William Horne (Exhibit D) that I will now address. Section 1, subsection 1 of the bill refers to the reports that would be run. The amendment would change it from saying that the Commissioner would collect raw data, like the date on which the loan was made and the type of loan, to saying the Commissioner would collect data such as whether the customer had had an outstanding loan with one or more licensees in the previous 30 days. We would like the Commissioner to collect the raw data and draw conclusions from that data, rather than gathering just the conclusions.

000948

The amendment also states, as I read it, that the Commissioner actually collects the information and maintains the database personally. That is current practice. We would like the licensees to do the single point-of-sale collection of information.

000948

SENATOR SETTELMEYER:
How many other states are part of this national database?

ASSEMBLYWOMAN SWANK:
It is not actually a national database; it would be a State database not connected to the other states. Fourteen other states also have these statewide databases.

SENATOR SETTELMEYER:
How many vendors of this type of software exist? Will there be competition so that we have a choice of vendors, or is there only one vendor who will get the deal?

ASSEMBLYWOMAN SWANK:
There are several vendors who provide this type of software. We have one of them here to answer questions.

SENATOR SETTELMEYER:
It would be good to know the actual number of vendors.

JON SASSER (Legal Aid Center of Southern Nevada; Washoe Legal Services):
We are in support of A.B. 515.

The Legal Aid Center of Southern Nevada has a consumer rights section that represents people who are caught in the treadmill of payday loans, and we have had a lot of experience in that area. We think the database would be an important step forward in terms of getting a look at the picture in Nevada, so that going forward, we will know what makes sense for our State and what does not.

The bill does include high-interest loans. It did not in its original form, but we suggested an amendment to make sure high-interest loans are included. There is a particular type of high-interest loan that is carved out, and the bill lists a number of criteria that must be met in order to be a part of that carve-out. That is in section 1, subsection 6. These are longer-term loans that are paid in installments rather than in a lump sum at the end of the loan. The lenders report information to credit bureaus and have to do credit checks.

000949

000949

Section 1, subsection 6, paragraph (f) specifies that lenders of this type of loans are not allowed to sue in court to enforce the debt. This is an important clarification because there has been litigation around this. With all the protections that are in there, it makes sense to carve this type of high-interest loan out of the bill. All other types of high-interest loans were added back in.

SENATOR GANSERT:
Do lenders of these types of loans have the right to sue now?

MR. SASSER:
They do not.

SENATOR GANSERT:
Are there a lot of those types of loans?

MR. SASSER:
I do not know the exact number. I think I remember the Commissioner saying that was about 25 percent of the total.

ALISA NAVE-WORTH (MultiState Associates, Inc.):
MultiState Associates, Inc., includes Moneytree, Check City, Check Into Cash, QC Financial and USA Cash. We are opposed to A.B. 515.

As members of the Consumer Financial Services Association, the leading national trade group of short-term lenders, we work very hard to ensure we not only comply with existing Nevada law, but that we employ in each of our storefronts the best practices in the Nation with regard to short-term lending. Notably, our clients also represent 80 brick-and-mortar storefronts throughout Nevada. These Nevadan employers employ hundreds of Nevadans in good-paying jobs and have done so for decades.

We are concerned about any legislation that seeks to limit access to critical capital in the highly regulated markets. We have three major concerns with A.B. 515. First, the bill fails to place in statute the fees for a mandated database and instead places that decision in the hands of a for-profit industry. There are very few of these vendors nationwide, and in fact, in the 14 states in which they exist, there is one dominant vendor. This vendor will profit from being able to determine the fees.

000950

000950

The fee seems nominal; it is not a big deal to add $1 to a loan, but it is a major deal to small businesses like Check City. Check City made 500,000 loans last year, and adding $1 per loan is an expenditure of $500,000. The loans Check City offers are $16.50 per $100. When you add a dollar to that and pass it through to the consumer, it has a major effect on the consumer and the storefront. We have concerns about the fact that the fee is not being decided by this body but rather will be negotiated by a regulator and a for-profit industry.

Our second major concern is that A.B. 515 is being described as a fact-finding database. In the 14 states where these databases exist, they have been used for enforcement of cooling-off periods for short-term loans. That is the function of the database. We believe this bill is the precursor to a broader effort to restrict capital that is needed by Nevadans.

Our third concern is that you cannot view alternative financial services in a vacuum. When you restrict capital through payday loans or title loans, those who need capital will go elsewhere. They could go to pawn shops, high-interest long-term installment loans, rent-to-own stores, tax refund anticipation loans,

or, as has happened in other states, unregulated out-of-state offshore loans available on the Internet. I encourage the Committee to Google "Nevada payday lenders" to observe the number of lenders offering loans in Nevada that are not regulated or governed by the State. These are highly predatory lenders who are outside of Nevada's jurisdiction.

When other states have required this type of database, our industry suffers. In the state of Washington, 75 percent of the brick-and-mortar storefronts went out of business. At the same time, the number of complaints to the Washington State Department of Financial Institutions about unregulated offshore and tribal lenders spiked. We are also concerned that these unregulated lenders will not be part of the database. You are also missing high-interest long-term lenders and all other unregulated lenders. You will be making decisions based on data that is incomplete and imprecise.

000951

WILLIAM HORNE (Advance America, Cash Advance Centers of Nevada, Inc.; Enova International, Inc.):

I am here today in opposition to A.B. 515. The basis of our opposition has been well outlined by Ms. Nave-Worth. In other states, we have seen these databases used improperly to justify loan caps and to restrict access to credit, and they end up harming the very people they want to protect.

000951

This bill wants to collect data so we can get a clear picture on how our products are being used and to what extent. However, there is a carve-out on a significant portion of the industry, and that is high-interest loans as outlined in *Nevada Revised Statutes* (NRS) 604A.480. Either we are going to collect data on the industry or we are not, but you cannot get a true picture if you do not collect all the data. The data that is not collected is from the part of the industry that is basically unregulated.

I note that there is no fiscal note on the bill. I find that interesting. The bill requires the Commissioner to contract with a private vendor and mandates that private vendor to charge a fee to support the database. I believe you cannot have the State contract with a private entity to do a mandated fee and use that as a mechanism to avoid a two-thirds vote requirement for new fees or increases to existing fees. That is what this bill does, and it should require a two-thirds vote.

As Assemblywoman Swank noted, I have submitted an amendment, Exhibit D. This language gets at the information you are trying to collect. It also puts the onus on the Commissioner to set the fee and cap it at $1. If you allow the vendor to do that, it may be $0.50, $0.75, $1 or $1.25. There is no cap, and we do not know where that will end. The amendment also allows lenders to pass that fee through to the customer. The amendment in Exhibit D will give the bill more transparency and make it more workable.

CHAIR ATKINSON:
Did you discuss this amendment with the sponsor of the bill?

MR. HORNE:
Yes. He felt the language in the bill was sufficient.

CHAIR ATKINSON:
So it is not a friendly amendment.

000952

MR. HORNE:
No.

000952

KEITH LEE (Community Loans of America):
I join my colleagues in opposition to A.B. 515 and echo their comments.

Community Loans of America does business in 12 locations in Nevada under the name Nevada Title and Payday Loans, Inc. We are primarily an auto title lender, though we do a few payday loans as well. It should be noted that with regard to title loans, there can only be one outstanding title loan at a time because by the very nature of a title loan, a title lender takes the title from the owner and files a lien on the title with the Department of Motor Vehicles.

Another difference between a title loan and other loans under NRS 604A is that with a title loan, the only recourse in the event of a default is the repossession of the automobile. There is no ability to seek a deficiency judgment or go to a collection agency; the sole recourse is repossession. With respect to my client, of the loans in default, which are approximately 22 percent of the total, we repossess fewer than 5 percent of those loans.

I have spoken to both Assemblyman Frierson and Assemblywoman Swank on several occasions about this bill.

SENATOR HARDY:
Has the data collected in those 14 other states led to changes in their statutes that have protected the people getting the loans or made them more transparent? Also, if we adopted the amendment in Exhibit D, would you support the bill?

MS. NAVE-WORTH:
To answer your first question, the database has resulted in a significant decrease in the industry. As I said before, in the 6 years since the database was implemented in Washington State, 75 percent of the brick-and-mortar establishments in that state have been shuttered. This has also happened in North Carolina and Florida.

With regard to the amendment in Exhibit D, we have given it a preliminary review. We would be supportive, but I would have to review it with all our members.

000953

SENATOR HARDY:
Do you see this database proposal as a precursor to an enforcement opportunity?

000953

MS. NAVE-WORTH:
Yes. There were two other bills proposing databases this Session, both of which had two-thirds vote requirements. In both of those bills, S.B. 17 and A.B. 222, the databases were part and parcel of a larger plan to add a cooling-off period.

SENATE BILL 17: Revises provisions governing payday lending. (BDR 52-409)

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

In S.B. 17, there was a 30-day cooling-off period, and A.B. 222 included a number of other measures to limit access to capital. The database was part of that because it gave a way to track loans so the cooling-off period could be implemented.

The FID currently gets about 60 percent of this information. That is not because it does not have the reach; it is because it is not pursuing the information. It has the legal authority to go after a lot of information regarding this industry.

MR. HORNE:
We have had a number of conversations with Assemblyman Frierson on the idea of creating a database. My clients have said that they would be neutral in that regard on the bill if they had an opportunity to work with him on the language because they do operate in some jurisdictions that have a database. However, it was important to them to ensure that the information was collected solely as data, not as an enforcement mechanism.

It is also important to note that there is an ability-to-repay provision in a bill you processed, A.B. 163.

ASSEMBLY BILL 163 (3rd Reprint): Revises provisions governing certain short-term loans. (BDR 52-737)

That bill requires lenders to check credit reports. A single-purpose database would be redundant and unnecessary.

000954

If the amendment is adopted, our clients would be neutral on A.B. 515. We would come to the table to find ways to make the industry work better in Nevada.

000954

JOHN BARNES (Veritec Solutions):
We are neutral on A.B. 515 as it defines a high-interest loan. That is a policy decision we believe is best left for you to make.

I am here to testify about the use of a database in other states. Veritec Solutions provides a real-time regulatory database in 14 states. Our system is used for the monitoring of payday loans, short-term installment loans, auto title loans and predatory mortgage loans. Although no two states in which we operate have identical laws, one commonality is a cap on the amount of money a customer can have or the amount of loans a person can have at one time. The laws passed in these states not only protect consumers, but they have also created secure and stable environments for lenders to continue to operate and profit in.

Our database system does not simply track loans. It ensures in real time that every loan issued is in full compliance with state law. The information that results from these systems has allowed policymakers to understand the activity in their states and meet their legislative objectives.

In 2001, Florida added a database for payday loans that would ensure state law was properly monitored. At the time, the payday loan industry said it would put them out of business. Not only has that not happened, but this last year, 8 million payday loans were issued to consumers in Florida. I would also like to point out that the default rate in Florida is 1.5 percent. Contrast that to the industry's reports showing a default rate between 5 percent and 10 percent in states without a database.

This system ensures that lenders get paid back. In states that allow payday lending, 44 percent use a database. Several of the lenders present here today not only operate in those states but are prospering under that system. Advance America, Check Into Cash and Payday Lenders Association, as well as the Consumer Financial Service Association, have supported legislation that includes statewide databases in several other states.

000955

Veritec has been the database provider in 14 states, covering more than 100 million consumers. We believe our system strikes a balance of allowing access to credit for those who need it in time of need but also ensuring consumers are protected from falling into a cycle of debt by appropriate and responsible regulation.

000955

ASSEMBLYWOMAN SWANK:
I wanted to address some of the comments made by those in opposition to A.B. 515. On the issue of consumers resorting to black market loans, those loans are illegal and cannot be collected on. Unfortunately, they do exist in the world today, but people who take out black market loans do not actually have to pay them back. There is no way to enforce payback.

Regarding what other states have done, many states have implemented these databases in conjunction with other legislation. That is not our intent here. I am a good scientist. I like to get my data first before anything, and I would be more than happy if this shows we have a healthy system supporting folks who need access to short-term loans. I am wholly in support of that.

Regarding the two-thirds vote, half of the states that have databases set it up this way. It is just one of two ways in which you can set up these databases.

I would like to note that the United Veterans Legislative Council and Nevadans for the Common Good wanted to be here to testify in support of A.B. 515.

SENATOR GANSERT:
How do we measure who would go offshore and who ends up using high-interest credit cards?

ASSEMBLYWOMAN SWANK:
That is one of the challenges we have in trying to gather information. Because those loans are illegal, it would be a somewhat incomplete picture, but having some of the data is better than not having any information. It is not perfect, but it might tell us something.

SENATOR GANSERT:
Is there a way for us to measure credit card debt and how it is affected when you restrict short-term capital through payday loans?

ASSEMBLYWOMAN SWANK:
That is something we need to look at in the larger scale. There are a lot of moving pieces. More often, people in trouble will go to friends and family to borrow money.

000956

000956

I want to emphasize that this bill is not about restricting access. It is just about getting that bigger picture to see what is going on. In my district, I had some great maps showing where these short-term loan storefronts are concentrated. They are in places where people use them, and we want to make sure people have access to them still. We just want to make sure consumers get protection while still having that access. These are my neighbors who use these short-term loans. I do not want to take that away from them.

CHAIR ATKINSON:
The way this database works is very different from what the State Treasurer was proposing in S.B. 17. Is that right?

ASSEMBLYWOMAN SWANK:
Yes. This is getting a picture, putting some sunshine on this and just seeing what we see.

CHAIR ATKINSON:
I will close the hearing on A.B. 515 and open the hearing on A.B. 487.

ASSEMBLY BILL 487 (3rd Reprint): Revises provisions relating to vehicles. (BDR 58-783)

ALFREDO ALONSO (Livery Operators Association of Las Vegas):
This is basically a taxi deregulation bill. It removes many of the provisions in NRS 706 that are antiquated and allows taxi companies and drivers to have a little more flexibility.

I will run through the bill. The only issue that is not deregulation is in section 3. This section gives the Nevada Taxicab Authority (NTA) another way to deal with unlicensed taxis. We have had problems with drivers who are not registered either with the NTA or with a transportation network company (TNC) providing rides for cash so they cannot be traced. This provision is very limited and only applies to these cash runs. You have to have probable cause to even stop someone. That standard is very high, higher than it is now.

000957

Section 4 of A.B. 487 removes an antiquated section of the NRS that had to do with onboard computers and provisions regarding the fees that entailed. We are letting those fees go to the NTA. Let the NTA in its wisdom figure out where those fees need to be used and remove all this language that frankly is prehistoric by today's standards.

000957

Section 6 of the bill gives taxi companies more flexibility in the design of their cabs, allowing them to perhaps do some things that are a little different than they have done in the past. This flexibility includes leasing cabs out to drivers for other uses. This is important because taxi companies are having a difficult time hiring and keeping employees. This would allow drivers to work for a cab company and also drive for a TNC. We are hoping this flexibility will keep people employed with the taxicab companies.

Section 7, subsection 2 of the bill allows some flexibility with the age of cars used as taxis. As long as a car is in good shape, the age at which it must be retired is increased from 55 months to 120 months. The competition is fierce, and there is a lot of flexibility on the TNC side. We are looking for the same type of flexibility for taxicab companies.

There are many provisions throughout the bill that make small changes toward flexibility, including changing some documentation that used to be done on paper now being done electronically.

Finally, section 24.5 revises provisions regarding dynamic advertising, which is electronic displays that move or change to allow taxis to increase their income through advertising. This provision removes the prohibition against moving images but requires that they do not move or change when the vehicle is going 55 miles an hour or faster to avoid distracting other drivers on the freeway.

SENATOR CANCELA:
Regarding the dynamic advertising, where does that revenue go? My understanding is that none of that income trickles down to the actual drivers. I would be interested in understanding whether that is true.

MR. ALONSO:
I believe it does trickle down to the drivers, in the sense that it keeps the taxicab running so the drivers have jobs with benefits. Taxicab companies are losing significant revenue trying to compete with TNCs. We are playing catch-up.

000958

SENATOR SETTELMEYER:
With regard to the provisions in section 3, subsection 7, to my understanding, the NTA has always had the ability to go after unlicensed drivers. We have had this discussion in numerous Sessions. Why do we need section 3?

000958

MR. ALONSO:
It is true that the NTA has the ability to go after unlicensed taxis, but it simply is not happening. We were hoping to put something in statute that would encourage enforcement and make it easier. This provision is extremely narrow, and the standard is high, so our belief is that this would guarantee that this type of enforcement is actually happening.

SENATOR SETTELMEYER:
With regard to section 15 of A.B. 487, I understand you feel the language in the statute is antiquated. I agree that it should go away; however, we did just pass this section of the NRS in 2013, so I am not sure how antiquated it is.

Regarding section 5, subsection 4 of the bill, in line 13 you are changing "must" to "may." Will this allow the cab company to use a sliding scale, like the credit card fee of $3? Could the company decide to charge $1 instead, or does this require it to collect $3 or nothing?

MR. ALONSO:
It is my understanding that this language provides flexibility. The NTA will ultimately make that decision. We believe that all of this will allow us to compete a little better. That is the goal.

SENATOR SETTELMEYER:
I support the idea of competing better, but I admit I have some trust issues. We have passed some bills this Session that left the Senate in one form and were changed in the Assembly. I have some issues voting for any form of TNC or taxicab bill at this time.

SENATOR HARDY:
Section 9, subsection 1 of the bill says taxicabs are to be inspected not more than once a year. Section 10, subsection 4 says a leased cab must be inspected not less than once a month. Why the difference?

000959

MR. ALONSO:
The intent here is to make sure that leased cabs are inspected often because they will be used by TNC drivers as well as the taxicab company. We felt that was important to keep our customers safe. That is a safety issue for us. If we are leasing them, we are going to take the time to make sure those vehicles are in good order.

000959

SENATOR HARDY:
Yes, but why inspect a leased cab once a month and a nonleased cab once a year?

MR. ALONSO:
The nonleased cabs come back into the shop every night and are maintained by the company on a daily basis. We do not know how many miles are going to be put on a leased cab and have no control over its upkeep. Since the leased cabs will not be coming into the shop every day, we need to ensure that they are being kept up so the same level of safety will exist.

SENATOR HARDY:
Do the TNCs require a monthly inspection of their drivers' private cars?

MR. ALONSO:
No.

SENATOR GANSERT:
Section 10, subsection 1 of the bill seems to say that taxicabs can be leased by an independent contractor to work within a TNC. Is that right?

MR. ALONSO:
Yes.

SENATOR GANSERT:
Section 8, subsection 1 talks about credit and debit card fees. I am not familiar with the taxi industry. Are there maximum amounts you can charge, or do you just have to post how much you are going to charge?

MR. ALONSO:
It is posted how much the fee is going to be. You do not have to use a credit card, and in fact the majority pay cash. If you are going to use a credit card, the fee is posted.

SENATOR GANSERT:
Is there a maximum that fee can be?

MR. ALONSO:
I believe the maximum is $3.

CHAIR ATKINSON:
There is no minimum; the fee is just $3. Right?

MR. ALONSO:
Right.

RUSTY MCALLISTER (Nevada State AFL-CIO):
We are in support of A.B. 487. We believe there are some provisions in this bill that would assist the people we represent, the cab drivers, with regard to allowing them more opportunities in the TNC business through the leasing process. We are pleased with the provision that the cab company cannot lease more than 50 percent of its cars. We believe this bill will help us.

SENATOR SETTELMEYER:
If the idea is to deregulate the industry and increase opportunities and flexibility, why would we even have a percentage on that at all?

MR. MCALLISTER:
I am not sure. Maybe I am misreading it, but section 10, subsection 8 says the certificate holder may not have a number of unexpired leases that exceeds the number of taxicabs allocated to the certificate holder. That helps us.

CHAIR ATKINSON:
Mr. Alonso, could you clarify that language?

MR. ALONSO:
It means that we can only lease 50 percent of our fleet.

SENATOR SETTELMEYER:
Again, if we are trying to deregulate and trying to give people more flexibility, why would you have that 50 percent limitation? There are some companies in Washington, D.C., for example, where it is quite common to have a lot of individuals leasing a taxi and using it for TNC and also taxi purposes at the same time. Why do you want a percentage on that?

000961

000961

MR. ALONSO:
When we discussed this, particularly with the employees, the discussion was not everybody wants to do that. You have a lot of employees who are very happy with their situation—they have benefits and a good solid place to work—but there were others who wanted the flexibility to be able to do both without having to go into debt to buy another car. We wanted to allow our employees to have the ability to drive both for a cab company and for a TNC, rather than losing drivers to the TNCs. It is not completely flexible or deregulated, but we thought it was a fair start.

SENATOR SETTELMEYER:
I guess it is just a fundamental difference of opinion about the word "deregulation." In my opinion, deregulation means you take rules off rather than creating new ones.

SENATOR SPEARMAN MOVED TO DO PASS A.B. 487.

SENATOR CANCELA SECONDED THE MOTION.

SENATOR SETTELMEYER:
I will vote no. I may vote yes on the Floor if I can get past my trust issues and some of the other problems that have arisen.

SENATOR HARDY:
I will vote yes and reserve my right to vote no on the Floor.

THE MOTION PASSED. (SENATOR SETTELMEYER VOTED NO.)

* * * * *

000962

000962

Remainder of page intentionally left blank; signature page to follow.

CHAIR ATKINSON:
Is there any public comment? Hearing none, I will adjourn the meeting at 10:27 p.m.

RESPECTFULLY SUBMITTED:

_____
Lynn Hendricks,
Committee Secretary

APPROVED BY:

000963

_____
Senator Kelvin Atkinson, Chair

000963

DATE: _____

EXHIBIT SUMMARY				
Bill	**Exhibit / # of pages**		**Witness / Entity**	**Description**
	A	1		Agenda
	B	5		Attendance Roster
A.B. 206	C	18	Marji Paslov Thomas	Work Session Document
A.B. 515	D	2	William Horne / Advance America, Cash Advance Centers of Nevada, Inc.; Enova International	Proposed Amendment

000964

000964

FLOOR ACTIONS

AMENDMENTS ON SECOND READING
FLOOR VOTES AND STATEMENTS
OTHER ACTIONS

NOTE: THESE FLOOR ACTIONS ARE TAKEN FROM THE *DAILY JOURNALS* (https://www.leg.state.nv.us/Session/79th2017/Journal/) WHICH ARE NOT THE OFFICIAL FINALIZED VERSIONS OF THE *JOURNALS*. CONSULT THE PRINT VERSION FOR THE OFFICIAL RECORD.

000965

000965

Journal

OF THE

SENATE OF THE STATE OF NEVADA

SEVENTY-NINTH SESSION

THE FIRST DAY

CARSON CITY (Monday), February 6, 2017

Senate called to order at 12:09 p.m.

President Hutchison presiding.

President Hutchison requested that his remarks be entered into the Journal.

It is good to see all of you Senators here ready for action and another Session that will be productive and historic. It is even better to see your families here with you along those who support you and make it possible for you to be here in your capacity as representatives of the great citizens of Nevada.

Prayer by the Chaplain, Dr. Robert E. Fowler Sr.

Eternal God and Heavenly Father, today, as in all days, we give praise to You and to who You are. We thank You for the beautiful State that we live in and the colorful way You have arrayed its land and people. We are blessed by You to have the privilege of dwelling in a State with members of government who appreciate the high responsibility that You have allowed to be assigned to their hands.

The responsibilities are as diverse as the people of this great State. Bringing about both peace and prosperity in our State of varied people and issues is a task that requires our leaders listen to the people and listen carefully to You. Today, I pray that You would grant them the strategies needed that would cause us to excel and categorize us as a people blessed among the nations we are surrounded by.

I pray that You would grant them the strength to withstand the enemies of governing for peace and prosperity for all people. Shore them up as warriors who have been trained for battle and are willing to make the right sacrifices for the battles of the people of this State. After You have given them strategies and strength, grant them stamina for both the short and the long battles that will be fought on your behalf and the behalf of the people of Nevada. Give special blessings to their families who they leave for State responsibility; give them peace, and cover them with protection from on high.

May every vote that is vocalized and every vote that is expressed by the lifting up of a hand become a brick in Heaven that builds a great and honorable foundation for Nevada to build an exemplary state and an incredible cast of people committed to the common good of all.

AMEN.

for distribution to the public certain regulations, rules, reports and other materials relating to unemployment compensation; and providing other matters properly relating thereto.

Senator Atkinson moved that the bill be referred to the Committee on Revenue and Economic Development.

Motion carried.

By the Committee on Transportation:

Senate Bill No. 13—AN ACT relating to motorcycles; abolishing the Advisory Board on Motorcycle Safety; and providing other matters properly relating thereto.

Senator Atkinson moved that the bill be referred to the Committee on Transportation.

Motion carried.

By the Committee on Transportation:

Senate Bill No. 14—AN ACT relating to public safety; revising the duties of the Investigation Division of the Department of Public Safety; and providing other matters properly relating thereto.

Senator Atkinson moved that the bill be referred to the Committee on Transportation.

Motion carried.

By the Committee on Transportation:

Senate Bill No. 15—AN ACT relating to vehicle registration; revising provisions relating to replacement license plates and duplicate license plates; providing exemptions to mandatory reissue of certain license plates; providing exemptions from certain fees for the issuance and renewal of certain special license plates; revising provisions relating to the operation of certain commercial vehicles upon the highways of this State; and providing other matters properly relating thereto.

Senator Atkinson moved that the bill be referred to the Committee on Transportation.

Motion carried.

By the Committee on Transportation:

Senate Bill No. 16—AN ACT relating to the Department of Public Safety; changing the name of the General Services Division to the Records, Communications and Compliance Division; and providing other matters properly relating thereto.

Senator Atkinson moved that the bill be referred to the Committee on Transportation.

Motion carried.

By the Committee on Commerce, Labor and Energy:

Senate Bill No. 17—AN ACT relating to financial services; prohibiting a person who is licensed to operate certain loan services from making certain

000967

000967

000967

short-term loans to a customer under certain circumstances; requiring the Commissioner of Financial Institutions to develop, implement and maintain a database storing certain information relating to short-term loans made to customers in this State; providing that information in such a database is confidential; revising requirements for the contents of written loan agreements between licensees and customers; revising various provisions governing short-term loans; and providing other matters properly relating thereto.

Senator Atkinson moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

By the Committee on Commerce, Labor and Energy:

Senate Bill No. 18—AN ACT relating to businesses related to bail; establishing procedures for a claim by a person against the licensing bond required to be filed by a bail agent, bail enforcement agent, bail solicitor or general agent; prohibiting certain conduct by a bail enforcement agent; prohibiting the compensation of an unlicensed person for referring business related to bail to a licensed person; prohibiting the use of forms or documents by a surety insurer, bail agent or bail enforcement agent in certain circumstances; revising provisions relating to the licensing of bail agents, bail enforcement agents, bail solicitors and general agents; revising provisions relating to licensing bonds; authorizing the Commissioner of Insurance to participate in a centralized registry for licensing and appointment of bail agents, bail enforcement agents, bail solicitors and general agents; providing that a surety insurer is liable for the acts of a bail agent, bail enforcement agent or general agent acting on its behalf; revising provisions relating to the money, other valuable consideration or collateral which a surety insurer or bail agent may charge, collect or accept; revising provisions relating to the apprehension and surrender of a defendant; revising provisions relating to bail bonds; providing penalties; and providing other matters properly relating

Senator Atkinson moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

By the Committee on Education:

Senate Bill No. 19—AN ACT relating to education; prescribing the requirements for a pupil to enroll in a dual credit course; providing that the State Board of Education must not unreasonably limit the number of dual credit courses in which a pupil may enroll; requiring the board of trustees of each school district to provide written notice identifying the dual credit courses available to pupils enrolled in the district; requiring each school district and charter school to enter into a cooperative agreement with one or more community colleges and universities to provide dual credit courses to pupils enrolled in the school district or charter school; providing that an academic plan for a pupil who is enrolled in a dual credit course must include certain information; providing that a pupil who successfully completes a program of

896000

000968

000968

THE FOURTH DAY

CARSON CITY (Thursday), February 9, 2017

Senate called to order at 11:05 a.m.

President Hutchison presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Peggy J. Locke.

Love the Lord God with all your heart, with all of your strength, with all of your might and with all of your soul. And, love your neighbor as yourself.

Let's pray.

How precious is Your steadfast love, O God.

Help us to love as You love us, and help us to forgive as You have forgiven us. We pray for healing of America's political divide and ask for Your will to be done on Earth as it is in Heaven.

We ask for Your forgiveness for unintentional sins or where we may have been offensive to another and caused them to stumble.

We ask for Your wisdom and grace in these days. We pray for protection for those serving in harm's way. We pray for those in authority over us, that we might have peace.

May we walk worthy of all that we have been called upon to do for the people of this great State of Nevada. May we do it well, and do it with all of our might to bring glory to You.

May we be a blessing to those we serve.

May the words we speak and the thoughts of our hearts be acceptable to You, O God, our Rock and our Redeemer.

We pray in the Name of Jesus Christ.

AMEN.

Pledge of Allegiance to the Flag.

By previous order of the Senate, the reading of the Journal is dispensed with, and the President and Secretary are authorized to make the necessary corrections and additions.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 7, 58, 70, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Government Affairs, to which was referred Senate Bill No. 105, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which was referred Senate Bill No. 89, has had the same under consideration, and begs leave to report the same back with the recommendation: Re-refer to the Committee on Finance.

DAVID R. PARKS, *Chair*

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

February 8, 2017

The Fiscal Analysis Division, pursuant to Joint Standing Rule No. 14.6, has determined the exemption of: Senate Bills Nos. 3, 49.

MARK KRMPOTIC
Fiscal Analysis Division

February 9, 2017

The Fiscal Analysis Division, pursuant to Joint Standing Rule No. 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 5, 8, 9, 11, 14, 17, 18, 25, 28, 31, 34, 37, 38.

MARK KRMPOTIC
Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senator Ford moved that the following persons be accepted as accredited press representatives, and that they be assigned space at the press table and allowed the use of appropriate media facilities: KNPR NEVADA PUBLIC RADIO: Marcus Lavergne; KOLO-TV: Ray Kinney, Sydnee Scofield, Stanton Tang; KRNV-TV: Alexandria Cannito, Kausik Bhakta, Ryan Kern, Gary Stone; KSNV-TV: Jeff Gillan; KTVN-TV: Arianna Bennett, Mark Cronan, Bryan Hofmann, Meaghan Mackey, Zac Mooney, Gabriela Tafolla; LAS VEGAS REVIEW-JOURNAL: Benjamin Hager; LAS VEGAS SUN: Thomas Moore; NEVADA APPEAL: Taylor Pettaway, Adam Trumble; NEVADA PUBLIC RADIO: Casey Morrell, Jacob Solis; NOTICIERO MOVIL: Louis Carrillo, Jennifer Gallagher, Rachel Spacek; RENO GAZETTE-JOURNAL: Jennifer Kane; THE NEVADA INDEPENDENT: Jon Ralson.

Motion carried.

Senator Parks moved that Senate Bill No. 89, just reported out of Committee, be re-referred to the Committee on Finance.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Government Affairs:

Senate Bill No. 111—AN ACT relating to state financial administration; authorizing the Chair of the Executive Branch Audit Committee to direct the performance of audits not stated in the annual plan for auditing agencies of the Executive Department of the State Government; and providing other matters properly relating thereto.

Senator Parks moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Senators Ratti and Kieckhefer:

Senate Bill No. 112—AN ACT relating to education; requiring a course of study in health prescribed for pupils enrolled in middle school, junior high school or high school to include certain information on organ and tissue donation; and providing other matters properly relating thereto.

000970

000970

000970

THE EIGHTH DAY

CARSON CITY (Monday), February 13, 2017

Assembly called to order at 12:01 p.m.

Mr. Speaker presiding.

Roll called.

All present except Assemblyman Ellison, who was excused.

Prayer by the Chaplain, Pastor Fred Kingman.

Heavenly Father, as we gather today to serve the men and women of this great state, let us remember Your creation. You're the author of the mountains that captivate our hearts, the planner of the rivers and lakes that provide us water and enjoyment, the sustainer of the land that gives us sustenance, and the artist of this beautiful desert we call home.

But more than this, you're the Creator of those in our charge, the people of Nevada who've entrusted us with the power to lead and care for them. As we set out, give us a high view of our constituents who are made in Your image as well as a high view of fellow Assembly Members who share that same honor. Help us serve the creation entrusted to us, knowing we, too, are among that creation.

Would You gather our thoughts, our words, our emotions and helps us to be present in the Assembly today. Help us to entrust our families and work back home to You, and give us grace to lead Nevada from the highest level during the session. Grant us confidence knowing You've made each of us with the gifts to legislate and govern, and we pray these gifts would be used and relied upon today. In the name of Jesus we pray.

AMEN.

Pledge of allegiance to the Flag.

Assemblywoman Benitez-Thompson moved that further reading of the Journal be dispensed with and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblymen Ellison and Krasner:

Assembly Joint Resolution No. 3—Recognizing the strategic partnership and bond of friendship with, and expressing the Nevada Legislature's support for, the State of Israel.

Assemblywoman Benitez-Thompson moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

By Assemblywoman Swank and Senator Segerblom:

Assembly Joint Resolution No. 4—Requesting the National Research Council of the National Academy of Sciences to conduct an independent scientific and economic analysis of the current management practices of the Colorado River, the impact of these practices on water security, flood protection and biodiversity recovery, and alternative management options,

000971

000971

000971

By Assemblyman Marchant:

Assembly Bill No. 158—AN ACT relating to cosmetology; requiring the State Board of Cosmetology to allow the use of fish for pedicures; and providing other matters properly relating thereto.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Watkins, Swank and Brooks; Senator Ratti:

Assembly Bill No. 159—AN ACT relating to natural resources; prohibiting hydraulic fracturing in this State; and providing other matters properly relating thereto.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

By Assemblywoman Swank:

Assembly Bill No. 160—AN ACT relating to energy; requiring the State Public Works Board of the State Public Works Division of the Department of Administration to conduct an evaluation on installing alternatives to window replacement before replacing windows in public buildings under certain circumstances; and providing other matters properly relating thereto.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblyman Flores:

Assembly Bill No. 161—AN ACT relating to real property; requiring certain rental agreements to be notarized; and providing other matters properly relating thereto.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblyman Flores:

Assembly Bill No. 162—AN ACT relating to trade practices; requiring a business that accepts a driver's license for the purpose of identification to also accept a permanent resident card for that purpose; including permanent resident cards as proof of identity for various purposes; and providing other matters properly relating thereto.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblyman Flores:

Assembly Bill No. 163—AN ACT relating to financial services; requiring a person who is licensed to operate certain loan services to verify a

000972

000972

000972

customer's ability to repay the loan before making certain short-term loans to the customer; revising provisions governing defaults and grace periods relating to certain short-term loans; requiring certain notices to be posted by a person who is licensed to operate certain loan services; revising the requirements for making a title loan; and providing other matters properly relating thereto.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblywoman Krasner:

Assembly Bill No. 164—AN ACT relating to elections; requiring, with limited exceptions, proof of identity for voting in person; requiring the Department of Motor Vehicles, under certain circumstances, to issue voter identification cards at no cost; and providing other matters properly relating thereto.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

By Assemblyman Hambrick:

Assembly Bill No. 165—AN ACT relating to long-term care; providing for the licensure of certain persons as health services executives; authorizing the holder of such a license to perform the functions of an administrator of a residential facility for groups and a nursing facility administrator; and providing other matters properly relating thereto.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblyman Edwards:

Assembly Bill No. 166—AN ACT relating to education; requiring a school district to set the time for the commencement of a school day; requiring public schools in the Breakfast After the Bell Program to increase instructional time; requiring the boards of trustees of school districts to adopt a policy for kindergarten and grades 1 to 5 within the school district to provide a certain amount of time each school day for recess; and providing other matters properly relating thereto.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblyman Pickard:

Assembly Bill No. 167—AN ACT relating to domestic relations; creating summary procedures for the resolution of certain matters relating to permanent support and maintenance, divorce and child custody; adding

By Assemblyman Edwards:

Assembly Bill No. 220—AN ACT relating to schools; requiring the board of trustees of a school district to permit school buses or vehicles belonging to the school district to be used to transport students of the school district to and from certain programs and activities, including the transportation of members of a Junior Reserve Officers' Training Corps unit located in the school district; requiring the Adjutant General to reimburse a certain amount of money quarterly to each school district in which a Junior Reserve Officers' Training Corps unit is located; authorizing the Adjutant General to apply for and accept any gifts, grants, donations, bequests or devises to support the Junior Reserve Officers' Training Corps; and providing other matters properly relating thereto.

Assemblyman Araujo moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblywoman Bilbray-Axelrod:

Assembly Bill No. 221—AN ACT relating to schools; requiring each public school in a school district to allow pupils and employees of a charter school to evacuate to the public school if necessary during a crisis or emergency; requiring the model plan for the management of a crisis or emergency that involves a public school to include procedures for such an evacuation; and providing other matters properly relating thereto.

Assemblyman Araujo moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblywoman Swank:

Assembly Bill No. 222—AN ACT relating to financial services; prohibiting a person who is licensed to operate certain loan services from making certain short-term loans to a customer under certain circumstances; requiring a person who is licensed to operate certain loan services to verify a customer's ability to repay the loan before making certain short-term loans to the customer; prohibiting a person who is licensed to operate certain loan services from making certain short-term loans to a customer with an annual percentage rate greater than 36 percent; requiring the Commissioner of Financial Institutions to develop, implement and maintain a database storing certain information relating to short-term loans made to customers in this State; providing that information in such a database is confidential; revising requirements for the contents of written loan agreements between licensees and customers; revising various provisions governing short-term loans; and providing other matters properly relating thereto.

Assemblyman Araujo moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

000974

000974

000974

THE SIXTY-EIGHTH DAY

CARSON CITY (Friday), April 14, 2017

Assembly called to order at 5:41 p.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Richard Snyder.

O Lord our God, creator of the universe and author of our liberty, You walk the pathways of history in the footsteps of Your people. We ask that You would walk with us on this and every day, that we might travel the path You would have us follow.

AMEN.

Pledge of allegiance to the Flag.

Assemblywoman Benitez-Thompson moved that further reading of the Journal be dispensed with and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Education, to which was referred Assembly Bill No. 451, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TYRONE THOMPSON, *Chair*

Mr. Speaker:

Your Committee on Health and Human Services, to which was referred Assembly Bill No. 111, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL C. SPRINKLE, *Chair*

Mr. Speaker:

Your Committee on Legislative Operations and Elections, to which were referred Assembly Bills Nos. 325, 396; Assembly Joint Resolution No. 10 of the 78th Session, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

OLIVIA DIAZ, *Chair*

Mr. Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which were referred Assembly Bills Nos. 114, 489; Assembly Joint Resolutions Nos. 4, 13, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

HEIDI SWANK, *Chair*

Mr. Speaker:

Your Committee on Taxation, to which was referred Assembly Bill No. 269, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

000975

000975

000975

Also, your Committee on Taxation, to which was referred Assembly Bill No. 463, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Taxation, to which was referred Assembly Bill No. 441, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation, and rerefer to the Committee on Ways and Means.

DINA NEAL, *Chair*

Mr. Speaker:

Your Committee on Transportation, to which were referred Assembly Bills Nos. 252, 322, 442, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

RICHARD CARRILLO, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

April 14, 2017

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bills Nos. 97, 222, 287, 351 and 468.

Also, the Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bill No. 111.

CINDY JONES
Fiscal Analysis Division

WAIVER OF JOINT STANDING RULES

A Waiver requested by Speaker Frierson.

For: Assembly Bills Nos. 183 and 290.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3 (out of final committee of house of origin by 68th day).

Subsection 2 of Joint Standing Rule No. 14.3 (out of house of origin by 79th day).

Subsection 3 of Joint Standing Rule No. 14.3 (out of final committee of 2nd house by 103rd day).

Subsection 4 of Joint Standing Rule No. 14.3 (out of 2nd house by 110th day).

Has been granted effective: Thursday, April 13, 2017.

SENATOR AARON D. FORD
Senate Majority Leader

ASSEMBLYMAN JASON FRIERSON
Speaker of the Assembly

A Waiver requested by Senator Ford.

For: Senate Bills Nos. 106, 174, 203, 261, 265, 302, 361, 368, 392, 417, 425, 474, 486, and 487; and Senate Joint Resolutions Nos. 6 and 14.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3 (out of final committee of house of origin by 68th day).

Subsection 2 of Joint Standing Rule No. 14.3 (out of house of origin by 79th day).

Subsection 3 of Joint Standing Rule No. 14.3 (out of final committee of 2nd house by 103rd day).

Subsection 4 of Joint Standing Rule No. 14.3 (out of 2nd house by 110th day).

Has been granted effective: Thursday, April 13, 2017.

SENATOR AARON D. FORD
Senate Majority Leader

ASSEMBLYMAN JASON FRIERSON
Speaker of the Assembly

000976

000976

000976

THE SEVENTY-EIGHTH DAY

CARSON CITY (Monday), April 24, 2017

Assembly called to order at 3:30 p.m.

Mr. Speaker presiding.

Roll called.

All present

Prayer by the Chaplain, Pastor Chase Ward.

Lord, in Your Word it says, "First of all, then, I urge that supplications, prayers, intercessions, and thanksgivings be made for all people, for kings and all who are in high positions, that we may lead a peaceful and quiet life, godly and dignified in every way."

Today we pray for wisdom and direction. For clarity and for what is good. May You lead these public servants as they make decisions for the well-being of our state and its residents. We ask for Your presence and Your blessing. Thank You for leading. In Jesus' Name.

AMEN.

Pledge of allegiance to the Flag.

Assemblywoman Benitez-Thompson moved that further reading of the Journal be dispensed with and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

000977

000977

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 12, 83, 175, 179, 245, 267, 282, 339, 361, 457, 458, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 105, 109, 161, 165, 262, 354, 381, 425, 431, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 163, 199, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Commerce and Labor, to which was referred Assembly Bill No. 359, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Commerce and Labor, to which was rereferred Assembly Bill No. 454, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

IRENE BUSTAMANTE ADAMS, *Chair*

Mr. Speaker:

Your Committee on Corrections, Parole, and Probation, to which was referred Assembly Bill No. 259, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Corrections, Parole, and Probation, to which was referred Assembly Bill No. 303, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 21, 2017

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 78, 83, 105, 108, 145, 183, 194, 199, 215, 226, 245, 259, 260, 320, 356, 366, 384, 393, 397, 406, 429, 448, 452, 469, 480, 481.

SHERRY RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

April 21, 2017

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bill No. 428.

MARK KRMPOTIC
Fiscal Analysis Division

April 24, 2017

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bill No. 104.

Also, the Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bills Nos. 309, 354, 416 and 434.

CINDY JONES
Fiscal Analysis Division

April 24, 2017

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 235.

MARK KRMPOTIC
Fiscal Analysis Division

Assemblywoman Benitez-Thompson moved that Assembly Bills Nos. 12, 32, 41, 49, 52, 62, 68, 77, 83, 94, 100, 105, 106, 109, 113, 122, 123, 130, 136, 159, 161, 163, 165, 175, 179, 186, 188, 199, 203, 209, 226, 243, 245, 249, 259, 260, 262, 266, 267, 268, 272, 275, 277, 278, 282, 292, 294, 303, 307, 309, 312, 314, 319, 320, 339, 348, 354, 359, 361, 362, 365, 375, 377, 381, 400, 402, 403, 404, 406, 407, 409, 413, 141, 418, 420, 422, 425, 429, 431, 436, 438, 439, 440, 449, 453, 454, 457, 458, 470, 474, 478, 489, and 491; Assembly Joint Resolution No. 5 just reported out of committee, be placed on the Second Reading File.

Motion carried.

Assemblywoman Benitez-Thompson moved that Assembly Concurrent Resolution No. 9 just reported out of committee, be placed on the Resolution File.

Motion carried.

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 272, be taken from its position on the Second Reading File and placed at the top of the Second Reading File.

Motion carried.

000978

000978

000978

Assembly Bill No. 163.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 605.

AN ACT relating to financial services; requiring a person who is licensed to operate certain loan services to verify a customer's ability to repay the loan before making certain short-term loans to the customer; **requiring a person who makes a deferred deposit loan to offer an extended payment plan under certain circumstances;** revising provisions governing defaults **, lengths of term** and grace periods relating to certain short-term loans; requiring certain notices to be posted by a person who is licensed to operate certain loan services; revising the requirements for making a title loan; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes standards and procedures governing the making of certain short-term loans, commonly referred to as "payday loans," "high-interest loans" and "title loans." (Chapter 604A of NRS) **Section** ~~[1]~~ **1.3** of this bill: (1) prohibits a person from making such a loan unless the person has determined that the customer has the ability to repay the loan; and (2) establishes the factors that the person making the loan must consider when determining whether a customer has the ability to repay the loan. **Section 1.7 of this bill requires a person who makes a deferred deposit loan to offer an extended payment plan to the customer under certain circumstances.**

Existing law allows for a person making a payday loan, high-interest loan or title loan to offer the customer a grace period concerning repayment of the loan. (NRS 604A.210) **Section 3** of this bill distinguishes a grace period from an extension of a loan. **Section 4** of this bill ~~[limits the actions the]~~ **prohibits a** person making the loan ~~[can take with regard to]~~ **from granting** a grace period ~~[.]~~ **for the purpose of artificially increasing the amount a customer qualifies to borrow.**

Existing law requires a person making a payday loan, high-interest loan or title loan to post certain notices in a conspicuous place in every location at which the person conducts business. (NRS 604A.405) **Section 5** of this bill provides that the person must post a notice of the existing requirement that the person must offer a repayment plan to a customer who defaults on a loan before the person commences specified collection actions. **Section 5** also provides that the person must post a notice that states the process for customers to file a complaint with the Office of the Commissioner of Financial Institutions.

Existing law sets forth certain restrictions on the actions of a person licensed to operate certain loan services. (NRS 604A.440) Section 6 of this bill adds to those restrictions a limitation on the reinitiation of electronic debit transactions.

000979

000979

000979

Existing law provides restrictions on the making of title loans. (NRS 604A.450) **Section 7** of this bill adds to those restrictions by specifying that the customer must legally own the vehicle which secures the loan and that the person making the loan cannot consider the income **, except for the customer's community income,** of anyone who is not a legal owner of the vehicle **who enters into a loan agreement with the licensee** when determining whether the customer has the ability to repay the loan.

~~[Sections 6 and]~~ **Section 8** of this bill ~~[make]~~ **makes** conforming changes.

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

Section 1. Chapter 604A of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 1.3 and 1.7 of this act.**

Sec. 1.3. 1. A licensee shall not make a loan pursuant to this chapter unless the licensee determines pursuant to subsection 2 that the customer has the ability to repay the loan.

2. For the purposes of subsection 1, a customer has the ability to repay a loan if the customer has a reasonable ability to repay the loan, as determined by the licensee after considering ~~[and verifying]~~ the following underwriting factors:

(a) The current or reasonably expected income of the customer;

(b) The current employment status of the customer ~~[,]~~ based on evidence including, without limitation, a pay stub or bank deposit;

(c) ~~[The monthly residual income of the customer;~~

~~(d)]~~ The credit history of the customer;

~~[(e)]~~ (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.]~~ and

(e) Other evidence, including, without limitation, bank statements, electronic 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 if 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 before the time the original loan is due.

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

(a) Be in writing and be 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 into pursuant to subsection 1 must not:

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

(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 entered into 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 ***;*** ~~[or 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]~~ ***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 604A.210, provided that the due date of the extension or repayment plan does not violate the provisions of this chapter.]~~

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. 3.5. **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 ~~[,]~~ ***of the loan or contract,*** charges an annual percentage rate of more than 40 percent.

000981

000981

000981

3. The term does not include:

(a) A deferred deposit loan;

(b) A refund anticipation loan; or

(c) A title 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 which a customer would otherwise qualify to borrow.***

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.***

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

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

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

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

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

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

000982

000982

000982

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

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

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

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

(a) The loan provides for payments in installments;

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

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

(d) The loan does not require a balloon payment of any kind ~~[.]~~ ***; and***

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

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

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

604A.440 A licensee shall not:

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

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

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

4. Include in any written agreement:

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

(b) A confession of judgment by the customer;

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

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

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

000983

000983

000983

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

7. ***Reinitiate 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.***

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

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

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

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

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

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

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

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

3. The original term of a title loan may be up to 210 days if:

(a) The loan provides for payments in installments;

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

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

(d) The loan does not require a balloon payment of any kind ~~[.]~~ ***; and***

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

Sec. 7. NRS 604A.450 is hereby amended to read as follows:

604A.450 A licensee who makes title loans shall not:

1. Make a title loan that exceeds the fair market value of the vehicle securing the title loan.

2. ***Make a title loan to a customer secured by a vehicle which is not legally owned by the customer.***

3. Make a title loan without ~~[~~regard to the ability of the customer seeking the title loan to repay the title loan, including the customer's current and expected income, obligations and employment.

~~3.]~~ ***determining that the customer has the ability to repay the title loan, as required by section ~~[1]~~ 1.3 of this act. In complying with this subsection, the licensee shall not consider the income of any person who is not a legal***

000984

000984

000984

owner of the vehicle securing the title loan ~~.~~ but may consider a customer's community income and the income of any other customers who consent to the loan pursuant to subsection 5 and enter into a loan agreement with the licensee.

4. Make a title loan without requiring the customer to sign an affidavit which states that:

(a) The customer has provided the licensee with true and correct information concerning the customer's income, obligations, employment and ownership of the vehicle; and

(b) The customer has the ability to repay the title loan.

5. Make a title loan secured by a vehicle with multiple legal owners without the consent of each owner.

Sec. 8. NRS 604A.930 is hereby amended to read as follows:

604A.930 1. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, if a person violates any provision of NRS 604A.400, 604A.410 to 604A.500, inclusive, ***and ~~[section 1]~~ sections 1.3 and 1.7 of this act,*** 604A.610, 604A.615, 604A.650 or 604A.655 or any regulation adopted pursuant thereto, the customer may bring a civil action against the person for:

(a) Actual and consequential damages;

(b) Punitive damages, which are subject to the provisions of NRS 42.005;

(c) Reasonable attorney's fees and costs; and

(d) Any other legal or equitable relief that the court deems appropriate.

2. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, the customer may bring a civil action against a person pursuant to subsection 1 to recover an additional amount, as statutory damages, which is equal to $1,000 for each violation if the person knowingly:

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

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

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

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

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

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

000985

000985

000985

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

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

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

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

(a) Was not intentional;

(b) Was technical in nature; and

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

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

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

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

000986

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 165.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 532.

AN ACT relating to long-term care; providing for the licensure of certain persons as health services executives; authorizing the holder of such a license to perform the functions of an administrator of a residential facility for groups and a nursing facility administrator; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Board of Examiners for Long-Term Care Administrators to license and regulate two classes of licensees: administrators of residential facilities for groups and nursing facility administrators. (NRS 654.150, 654.155) This bill additionally provides for the licensure and regulation of health services executives, who have the powers and duties prescribed for both existing types of administrators. **Section 4** of this bill prescribes the requirements for licensure as a health services executive. **Section 9** of this bill authorizes the Board to establish by regulation the fee to apply for such a license.

000986

THE SEVENTY-NINTH DAY

CARSON CITY (Tuesday), April 25, 2017

Assembly called to order at 2:04 p.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Chase Ward.

Lord, Your Word says, "Let every person be subject to the governing authorities. For there is no authority except from God, and those that exist have been instituted by God."

This morning we come and ask for clarity that You would lead these men and women as they seek to do what is best for this state. May You give them insight and wisdom beyond their experience, bring them into agreement and peace. It's in Jesus' name I pray.

AMEN.

Pledge of allegiance to the Flag.

Assemblywoman Benitez-Thompson moved that further reading of the Journal be dispensed with and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

000987

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 24, 2017

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 19; Senate Bills Nos. 408, 410.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 131, 169, 182, 204, 209, 250, 252, 274, 305, 338, 339, 411, 413, 416, 464, 477, 492.

SHERRY RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 9.

Assemblyman Yeager moved the adoption of the resolution.

Remarks by Assemblyman Yeager.

ASSEMBLYMAN YEAGER:

Assembly Concurrent Resolution No. 9 directs the Legislative Commission to appoint an interim committee to study certain violations of traffic laws. The committee shall also consider existing laws relating to licensing of drivers and registering and insuring motor vehicles. The committee would consider the following: existing laws that treat such violations as criminal offenses; the elements of a system that treats these violations as civil infractions; and the anticipated fiscal impact on the state and its political subdivisions. The committee would provide a report to the 2019 Session of the Legislature.

Resolution adopted as amended and ordered transmitted to the Senate.

000987

000987

Assembly Bill No. 132 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 136.

Bill read third time.

Remarks by Assemblyman Fumo.

ASSEMBLYMAN FUMO:

Assembly Bill 136 allows the court to use an evidence-based risk assessment tool in deciding whether there is good cause to release a person without bail. In addition, the court must consider other factors for releasing a person without bail, including imposing one or more conditions on the person to mitigate the risk of failure to appear or the risk to public safety. Lastly, the measure provides that after the defendant has personally appeared before the magistrate, the magistrate may not rely solely on any standardized bail schedule to set the amount of bail. This bill is effective on October 1, 2017.

Roll call on Assembly Bill No. 136:

YEAS—36.

NAYS—Ellison, Krasner, Marchant, McArthur, Titus, Wheeler—6.

Assembly Bill No. 136 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 161.

Bill read third time.

Remarks by Assemblywoman Bustamante Adams.

ASSEMBLYWOMAN BUSTAMANTE ADAMS:

Assembly Bill 161 requires any written rental agreement for a single-family residence to include a disclosure advising the tenant that the lack of notarization of the agreement, one, creates a rebuttable presumption that the tenant does not have a right to lawful occupancy of the dwelling unit or premises, and two, does not render the agreement invalid.

Roll call on Assembly Bill No. 161:

YEAS—42.

NAYS—None.

Assembly Bill No. 161 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 163 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 165.

Bill read third time.

Remarks by Assemblyman Hambrick.

000988
000988
000988

that it was not endorsed by and is not an official publication of the state of Nevada or a political subdivision, as applicable. A governmental entity includes the state of Nevada or any agency, board, commission, or similar entity, as well as a public officer of the state or a political subdivision. The official name and address or other official contact information of a governmental entity is defined. This bill is effective on October 1, 2017.

Roll call on Assembly Bill No. 392:

YEAS—39.

NAYS—Daly, Hansen, McArthur—3.

Assembly Bill No. 392 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 393.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

ASSEMBLYMAN OHRENSCHALL:

Assembly Bill 393 sets forth legislative findings relating to proposed changes in zoning and hillside development standards on the undeveloped lands adjacent to the Sunrise and Frenchman Mountains in Clark County. The bill declares that it is consistent with the Legislature's intent that the Clark County Board of Commissioners strengthen, as necessary in order to promote responsible development and preserve important natural resources, the existing zoning and hillside development standards on the undeveloped desert lands adjacent to the western faces of Sunrise and Frenchman Mountains.

For those of us who come from southern Nevada, I think we realize what a treasure Sunrise and Frenchman Mountains are. It is natural desert landscape very close to the city and to urban areas. There are opportunities for hiking and camping up there. There is a geological treasure there called the Frenchman Mountain Great Unconformity, which is one of the few places in the world you can see billions of years of geologic age there. Development is an issue there. This aims to try to urge the Clark County Board of Commissioners that development needs to be done responsibly to try to preserve that natural treasure we have. For those not from Clark County, I urge you to try to visit Sunrise Mountain and Frenchman Mountain when you get a chance. It is a treasure and the area touches a lot of different Assembly and Senate districts, and I urge its passage.

Roll call on Assembly Bill No. 393:

YEAS—26.

NAYS—Paul Anderson, Edwards, Ellison, Hambrick, Hansen, Kramer, Krasner, Marchant, McArthur, Oscarson, Pickard, Titus, Tolles, Watkins, Wheeler, Woodbury—16.

Assembly Bill No. 393 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 163 be taken from its position on the General File and be placed at the top of the General File.

Motion carried.

Assembly Bill No. 163.

Bill read third time.

The following amendment was proposed by Assemblyman Flores:

Amendment No. 628.

AN ACT relating to financial services; requiring a person who is licensed to operate certain loan services to verify a customer's ability to repay the loan before making certain short-term loans to the customer; requiring a person who makes a deferred deposit loan to offer an extended payment plan under certain circumstances; revising provisions governing defaults, lengths of term and grace periods relating to certain short-term loans; requiring certain notices to be posted by a person who is licensed to operate certain loan services; revising the requirements for making a title loan; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes standards and procedures governing the making of certain short-term loans, commonly referred to as "payday loans," "high-interest loans" and "title loans." (Chapter 604A of NRS) **Section 1.3** of this bill: (1) prohibits a person from making such a loan unless the person has determined that the customer has the ability to repay the loan; and (2) establishes the factors that the person making the loan must consider when determining whether a customer has the ability to repay the loan. **Section 1.3 also requires that the loan comply with the statutory requirements applicable to the type of loan involved.** **Section 1.7** of this bill requires a person who makes a deferred deposit loan to offer an extended payment plan to the customer under certain circumstances.

Existing law allows for a person making a payday loan, high-interest loan or title loan to offer the customer a grace period concerning repayment of the loan. (NRS 604A.210) **Section 3** of this bill distinguishes a grace period from an extension of a loan ~~[.]~~ **that complies with certain statutory requirements.** **Section 4** of this bill prohibits a person making the loan from granting a grace period for the purpose of artificially increasing the amount a customer qualifies to borrow ~~[.]~~ **, or, with certain exceptions, from conditioning the grace period on the customer's agreement to a new loan or a modification of the terms of the existing loan or the charging of interest at a rate in excess of that provided by the existing loan agreement.**

Existing law requires a person making a payday loan, high-interest loan or title loan to post certain notices in a conspicuous place in every location at which the person conducts business. (NRS 604A.405) **Section 5** of this bill provides that the person must post a notice of the existing requirement that the person must offer a repayment plan to a customer who defaults on a loan before the person commences specified collection actions. **Section 5** also provides that the person must post a notice that states the process for

customers to file a complaint with the Office of the Commissioner of Financial Institutions.

Existing law sets forth certain restrictions on the actions of a person licensed to operate certain loan services. (NRS 604A.440) **Section 6** of this bill adds to those restrictions a limitation on the reinitiation of electronic debit transactions.

Existing law provides restrictions on the making of title loans. (NRS 604A.450) **Section 7** of this bill adds to those restrictions by specifying that the customer must legally own the vehicle which secures the loan and that the person making the loan cannot consider the income, except for the customer's community income, of anyone who is not a legal owner of the vehicle who enters into a loan agreement with the licensee when determining whether the customer has the ability to repay the loan.

Section 8 of this bill makes conforming changes.

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

Section 1. Chapter 604A of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.7 of this act.

Sec. 1.3. ***1. A licensee shall not make a loan pursuant to this chapter unless the licensee determines pursuant to subsection 2 that the customer has the ability to repay the loan*** ~~***.***~~ ***and that the loan complies with the provisions of NRS 604A.425, 604A.450 or subsection 2 of NRS 604A.480, as applicable.***

2. For the purposes of subsection 1, a customer has the ability to repay a loan if the customer has a reasonable ability to repay the loan, as determined by the licensee after considering the following underwriting factors:

(a) The current or reasonably expected income of the customer;

(b) The current employment status of the customer based on evidence including, without limitation, a pay stub or bank deposit;

(c) The credit history of the customer;

(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; and

(e) Other evidence, including, without limitation, bank statements, electronic 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 if the customer:***

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

000991

000991

000991

(b) Requests an extended repayment plan before the time the ~~[original]~~ deferred deposit loan is due.

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

(a) Be in writing and be 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 into pursuant to subsection 1 must not:

(a) Increase or decrease the amount owed under the ~~[original]~~ deferred deposit loan.

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

4. If a customer defaults under an extended payment plan entered into 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 a scheduled payment on a loan on or before the due date for the payment under the terms of a lawful loan agreement ***that complies with the provisions of NRS 604A.408, 604A.445 or subsection 2 of NRS 604A.480, as applicable,*** and any grace period that complies with the provisions of NRS 604A.210 ***;*** ~~[or under the 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]~~ ***the*** expiration of the ~~[initial]~~ loan period as set forth in a lawful loan agreement ***that complies with the provisions of NRS 604A.408, 604A.445 or subsection 2 of NRS 604A.480, as applicable,*** 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 604A.210, provided that the due date of the extension or repayment plan does not violate the provisions of this chapter.]~~

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 ~~[.]~~ that complies with the provisions of NRS 604A.408, 604A.445 or subsection 2 of NRS 604A.480, as applicable.

000992

000992

000992

Sec. 3.5. 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 ~~[,]~~ ***of the loan 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. 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 the customer:~~

~~1. Any fees for granting such a grace period; or~~

~~2. Any additional fees or additional interest on the outstanding loan during such a grace period.~~ ***grant]*** **:**

1. Except for a loan agreement governed by NRS 604A.408, 604A.445 or subsection 2 of NRS 604A.480:

(a) Condition the granting of the grace period on the customer making any new loan agreement or adding any addendum or term to an existing loan agreement; or

(b) Charge the customer interest at a rate in excess of that described in the existing loan agreement; or

2. Grant a grace period for the purpose of artificially increasing the amount which a customer would otherwise qualify to borrow.

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.***

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

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

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

000993

000993

000993

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

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

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

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

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

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

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

(a) The loan provides for payments in installments;

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

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

(d) The loan does not require a balloon payment of any kind ~~[.]~~ ***; and***

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

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

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

604A.440 A licensee shall not:

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

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

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

000994

000994

000994

4. Include in any written agreement:

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

(b) A confession of judgment by the customer;

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

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

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

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

7. ***Reinitiate 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.***

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

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

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

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

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

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

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

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

3. The original term of a title loan may be up to 210 days if:

(a) The loan provides for payments in installments;

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

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

(d) The loan does not require a balloon payment of any kind ~~[.]~~ ***; and***

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

Sec. 7. NRS 604A.450 is hereby amended to read as follows:

604A.450 A licensee who makes title loans shall not:

000995

000995

000995

1. Make a title loan that exceeds the fair market value of the vehicle securing the title loan.

2. ***Make a title loan to a customer secured by a vehicle which is not legally owned by the customer.***

3. Make a title loan without ~~[regard to the ability of the customer seeking the title loan to repay the title loan, including the customer's current and expected income, obligations and employment.~~

~~3.]~~ ***determining that the customer has the ability to repay the title loan, as required by section 1.3 of this act. In complying with this subsection, the licensee shall not consider the income of any person who is not a legal owner of the vehicle securing the title loan but may consider a customer's community income and the income of any other customers who consent to the loan pursuant to subsection 5 and enter into a loan agreement with the licensee.***

4. Make a title loan without requiring the customer to sign an affidavit which states that:

(a) The customer has provided the licensee with true and correct information concerning the customer's income, obligations, employment and ownership of the vehicle; and

(b) The customer has the ability to repay the title loan.

5. Make a title loan secured by a vehicle with multiple legal owners without the consent of each owner.

Sec. 8. NRS 604A.930 is hereby amended to read as follows:

604A.930 1. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, if a person violates any provision of NRS 604A.400, 604A.410 to 604A.500, inclusive, ***and sections 1.3 and 1.7 of this act,*** 604A.610, 604A.615, 604A.650 or 604A.655 or any regulation adopted pursuant thereto, the customer may bring a civil action against the person for:

(a) Actual and consequential damages;

(b) Punitive damages, which are subject to the provisions of NRS 42.005;

(c) Reasonable attorney's fees and costs; and

(d) Any other legal or equitable relief that the court deems appropriate.

2. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, the customer may bring a civil action against a person pursuant to subsection 1 to recover an additional amount, as statutory damages, which is equal to $1,000 for each violation if the person knowingly:

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

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

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

000996

000996

000996

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

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

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

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

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

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

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

(a) Was not intentional;

(b) Was technical in nature; and

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

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

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

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

Assemblyman Flores moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 400.

Bill read third time.

Remarks by Assemblywoman Neal.

ASSEMBLYWOMAN NEAL:

Assembly Bill 400 requires Nevada's Department of Education to establish a database of instructional materials created by employees of Nevada school districts and charter schools. The database must be accessible to any employee of a Nevada school district or charter school upon request.

The bill also requires the governing body of a school district or charter school to transfer to an employee the copyright for any instructional materials created by the employee outside of the scope of his or her employment or otherwise relinquish any claim to the copyright for such materials.

000997

000997

000997

those counties, the applicable degree of consanguinity and affinity is increased to the second degree.

Roll call on Assembly Bill No. 34:

YEAS—42.

NAYS—None.

Assembly Bill No. 34 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 211.

Bill read third time.

Remarks by Assemblywoman Jauregui.

ASSEMBLYWOMAN JAUREGUI:

Assembly Bill 211 revises provisions governing penalties for the violation of certain requirements relating to the payment of compensation and wages. Specifically, the bill increases the maximum amount of the administrative penalty the Labor Commissioner can assess for an employer found to have violated certain wage and compensation laws from $5,000 to $10,000. It also allows the Labor Commissioner to award some or all of the administrative penalty to a person harmed by a violation in certain circumstances and requires the Labor Commissioner to publish on its website a list of those found to have willfully violated requirements related to the payment of wages and compensation.

000998

Roll call on Assembly Bill No. 211:

YEAS—27.

NAYS—Paul Anderson, Edwards, Ellison, Hambrick, Hansen, Kramer, Krasner, Marchant, McArthur, Oscarson, Pickard, Titus, Tolles, Wheeler, Woodbury—15.

Assembly Bill No. 211 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 163.

Bill read third time.

Remarks by Assemblyman Flores.

ASSEMBLYMAN FLORES:

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. The bill also specifies that a lender, with certain exceptions, may not consider the income of any other person who is not the person taking out the loan when making a determination of the person's ability to repay a loan. 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.

This bill was the by-product of issues that were identified in the industry and constituents coming forth with ways that they had been taken advantage of. In the true spirit of this bill, the good actors came to the table, we worked for weeks and hours with sometimes not very much progress, but we finally got there. In the true spirit of the bad actors, they did not come to the table and, in fact, came to this building and played games. Their *modus operandi* was to continue that and I wanted to point that out. I look forward to continuing to work with the stakeholders. I am incredibly grateful for everybody who came to the table. We are going to take people off the treadmill of debt, and I am incredibly honored to have had the opportunity to sponsor this.

000998

000998

Roll call on Assembly Bill No. 163:
YEAS—42.
NAYS—None.
Assembly Bill No. 163 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Bustamante Adams, the privilege of the floor of the Assembly Chamber for this day was extended to Jim Barbee, Paul Anderson, and David Stix, Sr.

On request of Assemblyman Daly, the privilege of the floor of the Assembly Chamber for this day was extended to the following students, teachers, and chaperones from O'Brien STEM Academy: Alondra Gomez Ramirez, Kathleen Leslie, Kaitlyn McEnaney, Jaidunn McKenzie, Samantha Wright, Kelsi Davis, Niviam Gomez Lucas, Sonali Kopp, Rolando Chavez, Breanna Dowdell, Daisy Gonzalez Murillo, Jazmin Pantoja Aguilar, Rafael Sunga, Annika Wiechers, Raven Yanez, Esmeralda Coria Flores, Emma Rhew, Tonantzin Sanchez Contreras, Breanna Stack, Alexis Bautista, Josh Soules, Mariana Alquiza, Isabella Camargo, Mariana Gracian Vences, Liberty Martinez, Vanessa Ramirez Rios, Michel Hernandez Andrade, Paris Acosta, Brock Aime, Amyr Crispen-Ramirez, Anthony Ganz-Walker, Crystal Marquez Orozco, Jacqueline Mayorga, Isaiah Rogers, Trenton Mlaker, Erick Yanas-Perez, Latu Tuipulotu, Laura Bernabe, Avery Burt, Dayanara Hernandez, Jose Hernandez, Hannah Igbekoyi, Deandrea Mason, Madysen McKenzie, Enrique Olivares, Noemi Ortega-Sanchez, Fraeya Delladio, Sarahy Guzman Lara, Ivan Pinto, Hope Carnes, Victoria Gomez, Alejandro Martinez, Lesly Gonzalez, Jayden Taylor, Daniela Recinos, Ariela Gonzales, and Michelle Buelna.

Assemblywoman Benitez-Thompson moved that the Assembly adjourn until Wednesday, April 26, 2017, at 11:30 a.m.
Motion carried.

Assembly adjourned at 9:45 p.m.

Approved: JASON FRIERSON
Speaker of the Assembly

Attest: SUSAN FURLONG
Chief Clerk of the Assembly

THE EIGHTIETH DAY

CARSON CITY (Wednesday), April 26, 2017

Senate called to order at 12:47 p.m.

President pro Tempore Denis presiding.

Roll called.

All present except Senators Atkinson and Settelmeyer, who were excused.

Prayer by the Chaplain, Reverend Richard Snyder.

Creator God, we give You thanks for this day. We ask for Your presence among us, that Your spirit would lead us in the path You would have us walk, to help us to do the work You have given us to do.

AMEN.

Pledge of allegiance to the Flag.

By previous order of the Senate, the reading of the Journal is dispensed with, and the President pro Tempore and Secretary are authorized to make the necessary corrections and additions.

REPORTS OF COMMITTEES

Mr. President pro Tempore:

Your Committee on Commerce, Labor and Energy, to which were referred Assembly Bills Nos. 35, 54, 162, 387, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KELVIN ATKINSON, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 24, 2017

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bill No. 396.

ASSEMBLY CHAMBER, Carson City, April 25, 2017

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 114, 258, 304, 347, 415, 427, 444, 452; Assembly Joint Resolutions Nos. 4, 9, 11, 13.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 5, 12, 21, 26, 32, 34, 45, 50, 62, 68, 77, 80, 83, 101, 102, 105, 113, 119, 120, 123, 132, 136, 137, 147, 161, 163, 165, 179, 188, 194, 195, 199, 202, 203, 209, 211, 223, 228, 231, 232, 235, 241, 243, 244, 245, 246, 249, 253, 255, 259, 260, 262, 267, 268, 272, 275, 277, 279, 282, 286, 292, 294, 297, 298, 299, 301, 307, 310, 312, 314, 316, 317, 319, 320, 321, 324, 334, 335, 339, 340, 341, 346, 350, 356, 359, 361, 364, 365, 372, 375, 376, 377, 379, 380, 381, 384, 390, 391, 392, 393, 400, 403, 408, 410, 411, 412, 418, 420, 424, 425, 429, 431, 438, 439, 445, 453, 454, 455, 457, 459, 470, 478, 485; Assembly Joint Resolution No. 5.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted, as amended, Assembly Concurrent Resolution No. 9.

CAROL AIELLO-SALA
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Joint Resolution No. 4.

Senator Ford moved that the resolution be referred to the Committee on Natural Resources.

001000

001000

001000