

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

**Seventy-Seventh Session
May 10, 2013**

The Committee on Commerce and Labor was called to order by Chairman David P. Bobzien at 1:17 p.m. on Friday, May 10, 2013, 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 nelis.leg.state.nv.us/77th2013. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman David P. Bobzien, Chairman
Assemblywoman Marilyn K. Kirkpatrick, Vice Chairwoman
Assemblywoman Irene Bustamante Adams
Assemblywoman Maggie Carlton
Assemblyman Skip Daly
Assemblywoman Olivia Diaz
Assemblyman John Ellison
Assemblyman Jason Frierson
Assemblyman Tom Grady
Assemblyman Ira Hansen
Assemblyman Crescent Hardy
Assemblyman James W. Healey
Assemblyman William C. Horne
Assemblyman Pete Livermore
Assemblyman James Ohrenschall

COMMITTEE MEMBERS ABSENT:

None



GUEST LEGISLATORS PRESENT:

Senator Moises Denis, Clark County Senatorial District No. 2
Senator Joyce Woodhouse, Clark County Senatorial District No. 5
Senator David R. Parks, Clark County Senatorial District No. 7
Senator Joseph P. Hardy, Clark County Senatorial District No. 12

STAFF MEMBERS PRESENT:

Kelly Richard, Committee Policy Analyst
Matt Mundy, Committee Counsel
Leslie Danihel, Committee Manager
Earlene Miller, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Robert Ostrovsky, representing Employers Insurance Group; United Health Care Services, Inc.
Renee Olson, Administrator, Employment Security Division, Department of Employment, Training and Rehabilitation
Donald E. Jayne, Administrator, Division of Industrial Relations, Department of Business and Industry
Tom McCoy, Nevada Government Relations Director, American Cancer Society Cancer Action Network
Carla Brutico, Oncology Nurse, Carson City, Nevada
Michael Hackett, representing International Myeloma Foundation
Christine Joyce, Private Citizen, Carson City, Nevada
Cari Herington, Executive Director, Nevada Cancer Coalition, Reno, Nevada
Ann Lynch, representing Southern Nevada Medical Industry Coalition
Lawrence P. Matheis, representing Nevada State Medical Association
Denise Selleck Davis, representing Nevada Osteopathic Medical Association
Linda Ivers, Patient Navigator, American Cancer Society, Las Vegas, Nevada
Debbie Armstrong, Quality of Life Manager, American Cancer Society, Las Vegas, Nevada
James Jackson, representing America's Health Insurance Plans
Lisa Foster, representing Saint Mary's Health Plans
Adam Plain, Insurance Regulation Liaison, Division of Insurance, Department of Business and Industry

Larry Harrison, representing National Association of Health Underwriters,
Las Vegas, Nevada

Stacey Escalante, Owner, Escalante Media Management, LLC, Las Vegas,
Nevada

Allison Copening, Founder, Cover Up Nevada!, Las Vegas, Nevada

Samantha Guild, representing AIM at Melanoma Foundation, Sacramento,
California

George Ross, representing HCA Sunrise Health Care

Gary Milliken, representing American Suntanning Association

Joseph Levy, Scientific Advisor, American Suntanning Association;
Executive Director, International Smart Tan Network

Josiah Garlan, Owner, Body Heat Tanning, Las Vegas, Nevada

Scott McDonald, Owner, Pacific Sun Tanning, Reno, Nevada

Chris Darling, Managing Member, A Track-Out Solution,
Las Vegas, Nevada

Norberto Madrigal, Treasurer, Lunas, Inc., Las Vegas, Nevada

Kam Brian, Chief Operating Officer, Par-3 Landscape and Maintenance,
Inc. and Par-3 Recycling, Las Vegas, Nevada

Kyle Davis, representing Nevada Conservation League

Warren B. Hardy, representing SA Recycling

Doug Dobyne, Private Citizen, North Las Vegas, Nevada

Chris Ferrari, representing Associated General Contractors Las Vegas
Chapter and Nevada Contractors Association

Jason Jensen, representing Boulder Sand and Gravel, Las Vegas, Nevada

Len Christopher, General Manager, Southern Nevada Recycling Centers,
Republic Services, Las Vegas, Nevada

Matthew Rager, Owner, Empire Waste Systems, Mound House, Nevada

John Madole, representing Nevada Chapter, Associated General
Contractors

Darren Schultz, Deputy Public Works Director, Carson City

Cory Cormier, Owner, TrashCo Dumpster Service, Washoe Valley,
Nevada

George Hutchinson, Private Citizen, Reno, Nevada

Bob Coyle, Vice President, Republic Services, Las Vegas, Nevada

Lea Tauchen, representing Retail Association of Nevada

Bill Uffelman, President and CEO, Nevada Bankers Association

Terry Graves, representing Scrap Metal Processor Group

A.J. Delap, representing Las Vegas Metropolitan Police Department

Eric Spratley, representing Washoe County Sheriff's Office and Nevada
Sherriffs' and Chiefs' Association

Jonathan Friedrich, Private Citizen, Las Vegas, Nevada

Gloria Alexander, Office Manager, State Board of Cosmetology

Annie Curtis, Chief Inspector, State Board of Cosmetology

Chairman Bobzien:

[The roll was called; a quorum was present.] We will begin our work session with Senate Bill 29.

Senate Bill 29: Revises provisions relating to the Fund for Low-Income Owners of Manufactured Homes. (BDR 10-360)

Kelly Richard, Committee Policy Analyst:

The first bill is Senate Bill 29. The bill was heard in Committee on March 15, 2013, and was presented on behalf of the Manufactured Housing Division. The bill revises provisions relating to the Fund for Low-Income Owners of Manufactured Homes. [Read from work session document ([Exhibit C](#)).]

Chairman Bobzien:

What is the pleasure of the Committee?

ASSEMBLYWOMAN CARLTON MOVED TO DO PASS
SENATE BILL 29.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN HANSEN WAS ABSENT
FOR THE VOTE.)

Chairman Bobzien:

We will move to Senate Bill 35 (1st Reprint).

Senate Bill 35 (1st Reprint): Makes various changes concerning the Employment Security Division of the Department of Employment, Training and Rehabilitation. (BDR 53-372)

Kelly Richard, Committee Policy Analyst:

The next bill is Senate Bill 35 (1st Reprint) which was presented on behalf of the Employment Security Division (ESD) and was heard in Committee on April 26, 2013. This bill requires the Administrator of ESD to charge an employer against whom a civil action is brought a fee to defray the cost for recording, copying, or certifying documents in such action. [Read from work session document ([Exhibit D](#)).] There was an amendment submitted on the record during the hearing on the bill that was withdrawn and it is not included in the work session document.

Chairman Bobzien:

Would Robert Ostrovsky give us an update on that issue?

Robert Ostrovsky, representing Employers Insurance Group:

We have agreed to withdraw the amendment with the understanding that the Division of Industrial Relations (DIR) and the Department of Employment, Training and Rehabilitation (DETR) intend to execute a memorandum of understanding (MOU) to work toward the sharing of electronic data. The data will match people receiving both workers' compensation and unemployment compensation to ensure there is no fraud involved. They have also agreed to develop a working group which would include the industry to help resolve that issue. Pursuant to the MOU, DETR, during that period of time, agreed they would not pursue the data directly from the insurance companies. We have agreed to work together to resolve this issue long-term instead of forcing the issue in statute.

Renee Olson, Administrator, Employment Security Division, Department of Employment, Training and Rehabilitation:

We concur and believe in the concept that if we can receive and funnel the information through one source, it would be more efficient and beneficial for all.

Donald E. Jayne, Administrator, Division of Industrial Relations, Department of Business and Industry:

I became involved when Mr. Ostrovsky brought the amendment. We have had a series of meetings to look at this. The Division of Industrial Relations collects certain claims data that could be useful for the Employment Security Division, and they have information that we could use when we attempt to prove fraud. The desire to work together to find a single portal of entry for that claims-related information in the future is an excellent idea and we support the concept.

Chairman Bobzien:

Are there any questions? Seeing none, what is the pleasure of the Committee?

ASSEMBLYWOMAN CARLTON MOVED TO DO PASS
SENATE BILL 35 (1ST REPRINT).

ASSEMBLYMAN FRIERSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN HANSEN WAS ABSENT
FOR THE VOTE.)

We will move to Senate Bill 40 (1st Reprint).

**Senate Bill 40 (1st Reprint): Revises provisions relating to medical laboratories.
(BDR 54-314)**

Kelly Richard, Committee Policy Analyst:

Senate Bill 40 (1st Reprint) was presented on behalf of the Health Division and was heard by the Committee on April 19, 2013. It revises provisions related to medical laboratories. The bill removes the requirement that an application for a medical laboratory license be made under oath and instead requires that an application must include proof of identity of the laboratory director. [Read from work session document ([Exhibit E](#)).]

Chairman Bobzien:

Are there any questions? [There were none.] What is the pleasure of the Committee?

ASSEMBLYWOMAN CARLTON MOVED TO DO PASS
SENATE BILL 40 (1ST REPRINT).

ASSEMBLYMAN GRADY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN HANSEN WAS ABSENT
FOR THE VOTE.)

We will move to Senate Bill 41 (1st Reprint).

**Senate Bill 41 (1st Reprint): Revises certain provisions governing the regulation
of certain providers of telecommunication services by the Public Utilities
Commission of Nevada. (BDR 58-324)**

Kelly Richard, Committee Policy Analyst:

The next bill is Senate Bill 41 (1st Reprint). This bill revises certain provisions governing the regulation of certain providers of telecommunication services by the Public Utilities Commission of Nevada (PUC). The bill was heard in Committee on May 6, 2013, and was presented on behalf of the PUC. The bill provides that a small-scale provider of last resort may file with the PUC a proposed change in any schedule of rates or services using a letter of advice in lieu of an application. [Read from work session document ([Exhibit F](#)).]

Chairman Bobzien:

What is the pleasure of the Committee?

ASSEMBLYWOMAN CARLTON MOVED TO DO PASS
SENATE BILL 41 (1ST REPRINT).

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN HANSEN WAS ABSENT
FOR THE VOTE.)

We will move to Senate Bill 153.

Senate Bill 153: Revises provisions relating to occupational therapy.
(BDR 54-568)

Kelly Richard, Committee Policy Analyst:

The next bill is Senate Bill 153, which revises provisions relating to occupational therapy and was sponsored by Senator Parks. It was heard in Committee on April 29, 2013. The bill makes various changes relating to the powers and duties of the Board of Occupational Therapy. [Read from work session document ([Exhibit G](#)).]

Chairman Bobzien:
Is there a motion?

ASSEMBLYWOMAN CARLTON MOVED TO DO PASS
SENATE BILL 153.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN HANSEN WAS ABSENT
FOR THE VOTE.)

We will move to Senate Bill 154 (1st Reprint).

Senate Bill 154 (1st Reprint): Revises certain provisions governing
manufactured home parks. (BDR 10-23)

Kelly Richard, Committee Policy Analyst:

The next bill is Senate Bill 154 (1st Reprint), which was sponsored by Senator Manendo and heard in Committee on April 29, 2013. It requires a landlord of a manufactured home park to maintain, in good working order, any utilities service apparatus located on each manufactured home lot, up to the disconnection point. [Read from work session document ([Exhibit H](#)).]

Chairman Bobzien:

What is the pleasure of the Committee?

ASSEMBLYMAN ELLISON MOVED TO DO PASS
SENATE BILL 154 (1ST REPRINT).

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN HANSEN WAS ABSENT
FOR THE VOTE.)

We will move to Senate Bill 268 (1st Reprint).

Senate Bill 268 (1st Reprint): Requires a provider of wireless telecommunications to provide call location information to a law enforcement agency in certain emergency situations. (BDR 58-623)

Kelly Richard, Committee Policy Analyst:

Senate Bill 268 (1st Reprint) was sponsored by Senator Ford and was heard by the Committee on May 6, 2013. It requires a wireless telecommunications provider to provide, upon the request of a law enforcement agency, the most accurate call location information concerning the telecommunications device of a user to assist the law enforcement agency in an emergency situation that involves the immediate risk of death or serious physical harm. [Read from work session document ([Exhibit I](#)).]

Chairman Bobzien:

What is the pleasure of the Committee?

ASSEMBLYMAN HARDY MOVED TO DO PASS
SENATE BILL 268 (1ST REPRINT).

ASSEMBLYMAN LIVERMORE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN HANSEN WAS ABSENT
FOR THE VOTE.)

We will move to Senate Bill 438.

Senate Bill 438: Revises provisions governing the Colorado River Commission of Nevada. (BDR S-1091)

Kelly Richard, Committee Policy Analyst:

Senate Bill 438 revises provisions governing the Colorado River Commission. It authorizes the Commission to borrow up to \$35 million through the issuance of bonds. [Read from work session document ([Exhibit J](#))].

Chairman Bobzien:

Is there a motion to do pass?

ASSEMBLYMAN LIVERMORE MOVED TO DO PASS
SENATE BILL 438.

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

Is there discussion on the motion?

Assemblyman Grady:

We had some questions on this. Did we ever get answers?

Chairman Bobzien:

There was a response on the "as needed" language that reiterated the need for flexibility to release when it was advantageous for the bond market. Is there further discussion? [There was none.]

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

We will move to Senate Bill 506.

Senate Bill 506: Repeals provisions governing certain employment practices concerning members of the Communist Party and related organizations. (BDR 53-574)

Kelly Richard, Committee Policy Analyst:

This bill repeals provisions governing certain employment practices concerning members of the Communist Party and related organizations ([Exhibit K](#)).

Chairman Bobzien:

What is the Committee's pleasure?

ASSEMBLYWOMAN CARLTON MOVED TO DO PASS
SENATE BILL 506.

ASSEMBLYMAN FRIERSON SECONDED THE MOTION.

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

We will move to Senate Bill 507.

Senate Bill 507: Repeals provisions relating to development corporations and corporations for economic revitalization and diversification. (BDR 55-575)

Kelly Richard, Committee Policy Analyst:

Senate Bill 507 repeals provisions relating to development corporations and corporations for economic revitalization and diversification ([Exhibit L](#)).

Chairman Bobzien:

Is there a motion?

ASSEMBLYWOMAN CARLTON MOVED TO DO PASS
SENATE BILL 507.

ASSEMBLYMAN HORNE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN HANSEN WAS ABSENT
FOR THE VOTE.)

We will open the hearing on Senate Bill 266 (2nd Reprint).

Senate Bill 266 (2nd Reprint): Revises provisions governing coverage for chemotherapy in a policy of health insurance or health care plan. (BDR 57-879)

Senator Moises Denis, Clark County Senatorial District No. 2:

While therapies for cancer treatment have advanced dramatically in recent years, many insurance companies' policies have not kept pace. Although the majority of chemotherapy is still administered intravenously, many cancer treatments are now available in pill form. For some types of cancers, orally administered chemotherapy is now the primary form of treatment. Unfortunately, the costs to patients, even though they have insurance, is not always the same for drugs administered orally and often results in substantially higher copayments.

Senate Bill 266 (2nd Reprint) ensures that those Nevadans diagnosed with, or undergoing treatment for, cancer are able to receive the best treatment available by providing parity between insurance coverage for oral anticancer drugs and those administered by injection or intravenously. A limit of \$100 in combined copay, deductible, and coinsurance per prescription achieves this objective at the patient level. Some insurance companies already act within this limit. This bill would enable those Nevadans covered by other plans to have the same opportunity to receive the best treatment for their particular illness regardless of their ability to pay. The bill you see today is a result of negotiations with some of the health plans and is how we arrived at the \$100 copay limit. I am bringing this bill because when you have cancer, you should not have to make a decision about what the best care is for you based on how much it costs versus the best treatment. In some rural areas, where the patients would otherwise have to go to an urban area, they can stay home and take the oral medication.

**Tom McCoy, Nevada Government Relations Director, American Cancer Society
Cancer Action Network:**

I will go through the bill. The bill appears to be lengthy only because it has to repeat the same conforming language to cover the applicable chapters of the *Nevada Revised Statutes* (NRS) that it has to amend. Those chapters involve public employees, public trusts, compensation wages and benefits, individual health, group and blanket coverage, nonprofit hospital plans, health maintenance organizations, and managed care. Section 1 of the bill covers NRS Chapter 689A; section 2 covers NRS 689A.330; section 3 covers NRS Chapter 689B; section 4 covers NRS Chapter 695B; section 5 covers NRS Chapter 695C; section 6 covers NRS 695C.050; section 7 covers NRS 695C.330; section 8 covers NRS Chapter 695G; and section 9 covers NRS Chapter 287. However, NRS 287.015 covers trust fund plans which are not applicable to this bill. Under NRS Chapter 287, public trust plans operated by public service employee groups, such as firefighters and police, would be exempt from the requirements of the bill as would Medicaid.

Within each section that I mentioned, the subsections are similar except for that one situation in which the trust fund plans were moved. Senate Bill 266 (R2) deals within those chapters only with those plans that provide cancer treatment chemotherapy coverage no matter whether it is received intravenously or orally. With either method of chemo dispensing, this bill would see that the patient has a level "paying" field in the amount of out-of-pocket dollars he has to pay to get the form of cancer treatment prescribed by his doctor. The oral prescription would be capped at no more than \$100. Insurance carriers, in general, treat intravenous (IV) as a health benefit and oral as a pharmacy benefit and that is where the disparity has occurred in the years past. In a health plan, IV chemotherapy is a medical copay which could be \$40. Oral chemotherapy,

as a pharmacy benefit, could have a very high out-of-pocket cost which could be in the thousands of dollars for a course of prescription treatment. In the packet I provided is a chart prepared by Dr. James Cohen of Renown's Institute for Cancer ([Exhibit M](#)). It provides a list of monthly patient costs against which a plan's cost-sharing percentages would be applied for various oral medications for the various cancer sites listed. Hypothetically, apply 25 or 33 percent to the high price of these drugs and the financial impact is obvious.

Senate Bill 266 (R2) is an opportunity for the Legislature to address dispensing fairness, and it is the most important change in this bill in terms of how it impacts insurance law. It precludes an increase in patient costs, be that the deductible, copay, or coinsurance, or a decrease of monetary limits to achieve compliance. That will avoid any internal movement that would defeat the purpose of this bill. It would apply prospectively to any plan issued or renewed on or after January 1, 2014, outside the Silver State Health Insurance Exchange, and January 1, 2015, through the Exchange. It is important to point out that this is not new mandated insurance coverage. It addresses the disparity of the policy and plans that treat the two means of chemo administration with very dramatic financial distinction.

This year the American Cancer Society estimates that nearly 13,000 Nevadans will be told they have cancer. About 20 percent of those will be diagnosed with a type of cancer where oral cancer medications are the best and sometimes the only form of treatment that is available. These orally administered anticancer medications have significantly increased the treatment options for Nevada's cancer patients and the trend will only increase. I want to acknowledge that we do have Nevada carriers who have already been very responsive to this issue and have moved fairness in the right direction. Your passage in Committee will continue the legislative process needed to add Nevada to the 24 states and the District of Columbia that are already helping their residents reduce the burden of cancer by balancing the cost of prescribed chemotherapy treatment.

Carla Brutico, Oncology Nurse, Carson City, Nevada:

I am an oncology nurse and a cancer program consultant. When we think of a person receiving chemotherapy, we usually visualize someone in a hospital or in an outpatient treatment center with an IV in their arm or in a port where they must remain for hours. [Read from prepared testimony ([Exhibit N](#)).

I will focus on why these oral chemotherapy drugs are becoming more and more prevalent. [Continued to read from prepared testimony ([Exhibit N](#)).

Some erroneously believe that patients can chose to take an oral chemotherapy drug instead of an intravenous chemotherapy. As Mr. McCoy stated,

sometimes the oral chemotherapy is the only treatment that will work. This treatment is not a choice of convenience. These new drugs have no IV counterparts. The oral chemotherapy drugs are different small molecules that work inside the cell. [Continued to read from prepared testimony ([Exhibit N](#)).]

We have talked about why we need this legislation, and I would like to mention that these will become the standard of care in more and more cases. Nevadans with cancer need your help to ensure they have access to the best treatment for their diagnosis no matter how it is administered. I would like to speak on behalf of all Nevadans who are currently fighting cancer and those who will be diagnosed with this disease, and respectfully ask the Committee to vote in support of S.B. 266 (R2).

Chairman Bobzien:

Are there any questions?

Assemblywoman Carlton:

Is there nothing in this bill that mandates an insurance company that does not now offer cancer treatment to have to offer the cancer treatment?

Tom McCoy:

That is correct. This bill ensures that those insurance plans that do cover cancer treatment balance the IV and oral coverage.

Assemblywoman Carlton:

There are some exemptions in this bill. Could you elaborate on who is exempted from this bill?

Tom McCoy:

The exemptions of NRS 287.015 are for public trust insurance plans that are often associated with public service employee groups. The other exemption was at the request of the Department of Health and Human Services to specifically clarify that this did not apply to Medicaid.

Assemblywoman Carlton:

Does this not apply to Employee Retirement Income Security Act (ERISA) plans?

Tom McCoy:

No, and it never did.

Assemblywoman Carlton:

I understand there was a great deal of negotiation over the \$100. Can the sponsor address that?

Senator Denis:

There was a lot of negotiation with all the different entities. We gave everybody an opportunity over a period of time and \$100 was what everybody came to that is workable. Some of the plans already do it for less than that. We were trying to find something that would be fair.

Assemblyman Ellison:

Thank you, Senator, for bringing this important bill. My son died of cancer and he had to sit in a car for hours to drive from Elko to Salt Lake City to get treatment. I watched him suffer and die because the treatments were not available. I want to make sure that no one is excluded and that is the most important thing. We sold everything we owned to get treatments, and we were \$500,000 in debt. I hope this bill passes.

Chairman Bobzien:

Are there additional questions? Seeing none, are there additional proponents?

Senator Joyce Woodhouse, Clark County Senatorial District No. 5:

I come before you today to share my personal story regarding orally administered chemotherapy ([Exhibit O](#)). As you may know, in January of 2011, my sister, Francie, a nurse practitioner who lived in Brookings, Oregon, underwent emergency surgery for a stage 4 glioblastoma—brain cancer. After the surgery, she was given three to six months to live. She went through radiation, followed by oral chemotherapy, all of which was covered by her insurance. When she made the decision to go through radiation and chemotherapy, she was given the possibility of a total of 12 to 18 months. With the oral chemotherapy, not having to drive great distances for infusion therapy up Highway 101 to Coos Bay—a five-hour round trip—and being able to be in her home, she maintained some quality of life. I repeat, her insurance covered the cost of the oral chemo medication. When the cancer returned, the oncologist told her the only option she had at that point was to undergo infusion chemotherapy. She made the decision to not proceed with that recommendation, and she passed away in October of 2012. She was with us for 21 months after the initial diagnosis and emergency surgery.

We had some very good days together when she was feeling reasonably well—a trip to Maui, picking blueberries on the Oregon coast, enjoying hot fudge sundaes at an ice cream parlor on the wharf, and slow walks along the ocean and around her neighborhood. She was always a wonderful campaign worker.

During her visits to Henderson last spring, she walked precincts daily with me. After returning to Oregon, she continued her support by hand-addressing thousands of envelopes to voters. We shipped the envelopes and lists back and forth, so that she could continue to be a part of the campaign.

I sincerely believe everyone should be guaranteed the option of the best cancer therapies, including oral and infusion chemotherapy, depending upon the recommendation of the patient's physician, and that the treatment be covered equally by insurance companies. Thank you for your kind attention to my story, and I urge your support of Senate Bill 266 (R2).

Chairman Bobzien:

Thank you, Senator Woodhouse, for sharing your story. Are there any questions for Senator Woodhouse? [There were none.]

Michael Hackett, representing International Myeloma Foundation:

I have submitted testimony and will highlight points from it ([Exhibit P](#)). The International Myeloma Foundation (IMF) is the oldest and largest foundation dedicated to improving the quality of life for myeloma patients and working towards prevention and cure of this type of cancer. We strongly support this bill. We believe that every cancer patient should have access to the anticancer therapies recommended by their physician and no one should have to struggle with cost discrimination based on the type of therapy provided or the mechanism for delivery. Oral treatments are currently available for cancers like multiple myeloma, breast, lung, and chronic myeloid leukemia. [Map of Oral Chemotherapy Access Legislation ([Exhibit Q](#)) and handout SB 266: Modernizing Cancer Treatment Co-Pays ([Exhibit R](#)) were provided.]

I would like to outline a standard course of treatment for patients fighting myeloma to help you understand how complicated cancer treatments can be. [Read from prepared testimony ([Exhibit P](#)).] This bill is about what is medically necessary, most effective, and in the best interest of the patient. Nearly all of the oral anticancer drugs currently in use do not have an IV or generic equivalent and are specifically indicated as the first and most effective treatment for a range of cancers. It is also critical to note that this legislation will not result in increased health premiums. Studies conducted by the insurance departments in Indiana, Texas, Washington State, Oregon, and Vermont show no evidence that implementation of oral chemotherapy increased health insurance premiums, and we have no anecdotal evidence in other areas where this legislation has also been approved. I hope you support this bill.

Christine Joyce, Private Citizen, Carson City, Nevada:

I was diagnosed with multiple myeloma in June of 2008 after being in a lot of pain and being misdiagnosed for two years. After being diagnosed, I had radiation therapy, with two years of an IV drug called Zometa through a port in my chest. At my worst, I could not pick up anything from the floor because of the pain. I could no longer take a bath because I could not get out of the tub. It is debilitating. Because of the pain, I was on eight Vicodin a day and I was also on a drug called Fentanyl.

The following summer, I was trying to wean myself off the Fentanyl and I went through terrible withdrawals. I spent days in the fetal position, sweating, crying, and trying to fight my way back. I did and I am doing very well. I know the protocol for this cancer, and I will have to have an IV form of chemotherapy, as well as the oral chemotherapy and a stem cell transplant. When I go through the treatment, I am not sure how I will pay for it because the oral chemotherapy is so expensive. I was told it would cost between \$2,000 and \$10,000 per month. We will probably have to sell our home and, because the oral therapy could last for years, I am not sure that will be enough. I hope everyone can see the importance of supporting the bill.

Chairman Bobzien:

Thank you for sharing your story and your thoughts.

Cari Herington, Executive Director, Nevada Cancer Coalition, Reno, Nevada:

We are the state of Nevada's coalition and are a nonprofit collaborative. We represent cancer professionals, researchers, and state and local entities, including all of the cancer centers and physicians. I will not read my entire testimony ([Exhibit S](#)), but S.B. 266 (R2) truly increases access to these lifesaving oral medications for our patients battling cancer. These high out-of-pocket costs, as you have heard, present a financial hardship for those battling cancer. They should be worrying about fighting their cancer and using their energy for that and not about paying their bills. I get calls every day about should I let the cancer take me or do I try to keep a roof over my head and buy groceries? That is not right. This bill greatly increases access to these lifesaving medications.

A young woman, Shelby Adams, wanted to be here today, but is presenting in Reno. She is a young professional who had breast cancer before she reached the age of 30 years. Her story was very similar. She spent much time and energy finding ways to pay for her rent and her cancer care. She is now helping other cancer patients do the same.

We represent numerous organizations, and I have a list of people who wanted to sign on and support this bill ([Exhibit S](#)). Please support S.B. 266 (R2).

Ann Lynch, representing Southern Nevada Medical Industry Coalition:

We represent thousands of people in business, industry, and the medical community. We are all in support of this bill because it addresses our mission perfectly. We want to ensure the strongest access available to all citizens. We want all citizens to be able to get quality medical care, and this seems to address it. I firmly encourage you to support the bill because people's health care should not be detoured by a simple written policy which erroneously puts one kind of medicine in one pile and another kind in another pile. These people need to have equity and to have the best quality of care without having to go bankrupt. On behalf of the thousands of members of the Southern Nevada Medical Industry Coalition, I encourage your support.

Chairman Bobzien:

Is there anyone else to provide supporting testimony?

Lawrence P. Matheis, representing Nevada State Medical Association:

We support this bill for the reasons you have already heard.

Denise Selleck Davis, representing Nevada Osteopathic Medical Association:

We are in support of the bill.

Linda Ivers, Patient Navigator, American Cancer Society, Las Vegas, Nevada:

On a daily basis, I meet with between 20 and 30 patients. Last year, I saw 1,600 patients, of which 55 to 60 percent were unable to pay their medical bills. In a time when the economy has been stretched to the max, it is extremely difficult to tell these people who are facing this diagnosis that I do not have the funds to help them. They are losing their homes, cannot feed their children, and now they are being asked to pay a copay by their insurance company. It is devastating to them. I have patients on a daily basis who say they will get treatment when they save enough money. Cancer does not wait; it moves in the direction it chooses. I ask you to support the bill to give these people at least one little reprieve from the stress of being diagnosed with cancer.

Debbie Armstrong, Quality of Life Manager, American Cancer Society, Las Vegas, Nevada:

I also work with cancer patients who are going through cancer treatment and dealing with the aftermath of those treatments. My personal and professional goal is to improve the quality of life for these cancer patients and their families whenever possible. I believe the best outcome for a cancer patient will result

from access to the most appropriate cancer treatment and medications for their specific cancer. Sometimes, the only medication is oral. It could be IV or oral and the prescribed treatment regime needs to be followed to bring the desired outcome for the patient. However, as it is now, some insurance benefit plans make that challenging or impossible. The inability to pay for oral drugs even when one has health insurance is not fair. Every day we see patients who cannot afford the copays, which sometimes are hundreds of dollars, that they desperately need for their chemotherapy. They go without the lifesaving treatments as a choice. That is why we urge you to pass this bill.

Chairman Bobzien:

Are there any questions? Seeing none, is there anyone else to speak in support of this measure? [There was no one.] We will go to opposition.

[Samantha Guild submitted a letter in support of S.B. 266 (R2) ([Exhibit T](#)).]

[State Patients Equal Access Coalition submitted a memorandum of support of S.B. 266 (R2) ([Exhibit U](#)).]

James Jackson, representing America's Health Insurance Plans:

I have submitted to the Nevada Electronic Legislative Information System (NELIS) a letter from Leanne D. Gassaway, who is the regional vice president for America's Health Insurance Plans and was unable to be here today ([Exhibit V](#)). In that letter, we have suggested amendments to the bill. I met with Senator Denis, his staff, Mr. McCoy, Mr. Hackett, and other interested parties. We are asking for transparency to be included in this bill by providing information to the state of Nevada through the Division of Insurance which would include information from the pharmaceutical companies with respect to the actual cost of these drugs and how the cost was determined. That information would be useful so the Legislature, the Insurance Commissioner, and insurance companies will have a better idea of what is driving the high cost of these medications.

We do not oppose the idea of providing the benefit, but we are trying to bring some balance to the cost so that insurance companies can rate and charge accordingly. While I do not have direct evidence to refute what Mr. Hackett said in respect to the research from other states, it is American Health Insurance Plans' position that by carving out many entities, you are not sharing this completely, but are shifting the costs of the exempted plans to those that are not.

Chairman Bobzien:

Are there any questions?

Assemblywoman Carlton:

There are a number of insurance plans and policies upon which the state can have no impact. They are the self-insured groups, ERISA groups, and others. Whenever you have groups that are not in the pool, there is always a reaction, but that is currently in effect. We have had a number of bills in the Legislature that wanted to see the cost of drugs, and I do not believe we have any other provision in state law that would require that reporting. This would be a new issue on transparency in the cost of prescription.

James Jackson:

That is correct.

Assemblyman Ellison:

How much do you think this bill will raise insurance rates?

James Jackson:

I do not have that empirical data. Part of that will be in the implementation of the law. The reason for the request for transparency is so we can look at that data and report as a national association to the body about how this will drive the cost.

Chairman Bobzien:

Is there any other opposition testimony? Seeing none, is there any neutral testimony?

Robert Ostrovsky, representing United Health Care Services, Inc.:

We are one of the companies that agreed to the \$100 cap, which is above the \$50 we currently charge. We have no intent of raising our cost. I want to clarify that, under the pharmacy statute, a prescription would include a refill. We have talked to the bill sponsor about the cumulative caps which were in the bill when it was a parity bill. We do not know what the impact of those would be. Other than those items, we are in support.

Lisa Foster, representing Saint Mary's Health Plans:

I agree with Mr. Ostrovsky's testimony.

Adam Plain, Insurance Regulation Liaison, Division of Insurance, Department of Business and Industry:

The Division has submitted a proposed amendment ([Exhibit W](#)) and written testimony ([Exhibit X](#)) that are on the Nevada Electronic Legislative Information System. The written testimony is a convoluted and complicated explanation of the amendment. The amendment would seek to change the effective date of the bill from a split effective date of January 1, 2014, for policies off the

Exchange and January 1, 2015, for policies on the Exchange to January 1, 2015, for all policies sold in the state. When the bill was heard in the Senate, the original effective date was January 1, 2014, for all policies. There was testimony in the Senate that insurers offering products on the Exchange will not be able to meet that deadline, so the dates were split. Unfortunately, through a rather complicated series of regulations from the federal government, a split effective date puts the state of Nevada out of compliance with federal law. The only feasible alternative we could see was to move both dates to January 1, 2015.

Chairman Bobzien:

Senator Denis agrees that the amendment is appropriate. Are there any questions?

Assemblyman Livermore:

How many insurance providers do we have for Medicare Part D?

Adam Plain:

I would have to research that question and get the information for the Committee.

Chairman Bobzien:

Is there other neutral testimony?

Larry Harrison, representing National Association of Health Underwriters, Las Vegas, Nevada:

I am here to testify in opposition to the bill. Our association is a nonprofit, nonpartisan, factual resource for agents and brokers to keep up on legislative issues and to keep legislators informed about things that affect our clients. I am an independent broker representing small and large groups and individuals. I am a cancer survivor. My job as an independent broker is to improve people's benefits, save them money, and keep everybody in compliance with the state and federal laws. When I see a bill where there is a cost of between \$2,000 and \$10,000 per month which will be paid by a simple copay, I see that as a driver of costs to monthly premiums, especially if we have groups that are exempt from the bill. I think this is a good idea, but it is a poorly written bill.

When I started in this business over 20 years ago, pharmaceuticals were about 4 percent of every dollar in payout. Now that number is in excess of 20 percent. This is something that has only come about since the 1990s. I would like to see more transparency in research and development and in advertising. I think that having groups exempt is a less-than-great idea. I want to be able to offer health insurance to my employers and the individuals who are

struggling to keep premiums paid. Every time we have a mandate, it drives the cost of premiums up. The potential of driving the premiums up \$5,000 to \$10,000 with a simple copay is something that could cause more people to be uninsured and conceivably uninsurable.

Chairman Bobzien:

Are there any questions?

Assemblywoman Carlton:

I do not believe this is considered a mandate. We are not making people offer this insurance or this coverage within an insurance package. If you follow this through the logical course, recognizing that this is the drug that saves people's lives and keeps them out of the emergency room or out of hospice, I believe in the long run you are going to save money. I agree with you on the exemptions. They do not make me happy, but there are some people we cannot impact.

Chairman Bobzien:

Are there any questions? Seeing none, are there others to testify from a neutral position? [There was no response.] Senator Denis, do you have any additional remarks?

Senator Denis:

Regarding costs, there are other states that are already doing this, and their premium costs increased only minimally. Making decisions about care should not have to be about whether you can afford to do the best thing for yourself. I urge support of this bill

Chairman Bobzien:

I will close the hearing on Senate Bill 266 (R2) and open the hearing on Senate Bill 267 (1st Reprint).

Senate Bill 267 (1st Reprint): Establishes provisions governing tanning establishments. (BDR 52-958)

Senator Joyce Woodhouse, Clark County Senatorial District No. 5:

I am here today to introduce Senate Bill 267 (1st Reprint) for your consideration ([Exhibit Y](#)). We all dread the big "C" word—cancer. I admit to you that I was one who always believed it would never happen to me or my family. But it did, and it does. As you have heard during the testimony on Senate Bill 266 (R2), my sister recently passed away from brain cancer. So, this measure that I and others are bringing forth to you today is near and dear to my heart. We must find and effectuate ways to eliminate, where we can, the possibility of cancer striking our friends, family, young people, and all persons in our communities.

To restrict the use of tanning beds will go a long way toward saving lives of so many who use these devices. Indoor tanning is big business. Tanning trade publications report that it is a \$2.6 billion-a-year industry in the United States. The American Academy of Dermatology reports that, on an average day in the United States, more than 1 million people tan in tanning salons. Nearly 28 million people tan indoors in the United States annually. Of these, 2.3 million are teens.

The U.S. Department of Health and Human Services and the World Health Organization's International Agency for Research on Cancer have declared ultraviolet (UV) radiation from the sun and artificial sources, such as tanning beds and sun lamps, as known carcinogens, which are cancer-causing substances. Indoor tanning equipment, which includes all-artificial light sources, including beds, lamps, bulbs, and booths, emits ultraviolet long-wave (UVA) and ultraviolet shortwave (UVB) radiation. The amount of the radiation produced during indoor tanning is similar to the sun, and in some cases might be stronger.

Studies have found a 75 percent increase in the risk of melanoma in those who have been exposed to UV radiation from indoor tanning, and the risk increases with each use. Additionally, the risk of melanoma is increased by 87 percent for individuals who started using tanning beds before the age of 35. In a recent survey of adolescent tanning bed users, it was found that about 58 percent had burns due to frequent exposure to indoor tanning beds or lamps.

Therefore, I sponsored S.B. 267 (R1). I will go over the highlights of the bill. Section 8 prohibits an operator of a tanning establishment from allowing a person who is less than 18 years of age to use the tanning equipment. Section 9 requires an owner or operator of a tanning establishment to post a notice in a conspicuous place informing customers it is unlawful for the owner to allow a person who is less than 18 years of age to use any tanning equipment, and stating the health risks associated with the use of tanning equipment.

Section 10 requires an owner or operator of a tanning establishment to conspicuously post a warning sign in each area where tanning equipment is used informing users of certain safety procedures that must be followed while using the tanning equipment. Section 11 requires a qualified person to be present at the tanning establishment during operating hours and that each user be aware of and use certain safety equipment. Additionally, a person must sign a statement of acknowledgement and use protective eyewear while using the tanning equipment.

Section 12 authorizes a parent or guardian to bring an action against an operator of a tanning establishment who allows that person's child to use the tanning equipment. If a court determines that the owner or operator of a tanning establishment violated the provisions of S.B. 267 (R1), the parent or guardian would be awarded, in addition to costs and reasonable attorney's fees, \$500 for the first occurrence, \$1,000 for the second occurrence, and \$1,500 for the third or a subsequent occurrence. Each instance in which an owner or operator allows a person who is less than 18 years of age to use the tanning equipment constitutes a separate occurrence. Section 13 exempts any physician from these provisions who prescribes the use of a phototherapy device, as well as any person prescribed the use of such a device by a physician.

Senate Bill 267 (R1) does not destroy the business of those that operate tanning salons; it only restricts one segment of their offerings to the public. While preparing testimony on this bill, I conducted some online research of a number of tanning salons in southern Nevada. I found that Palm Beach Tan has two locations in Henderson and four in Las Vegas. They offer alternatives to tanning beds with sunless spray tan. Tan Las Vegas has a location in Seven Hills on Eastern Avenue, and does not allow anyone under the age of 16 to use a tanning bed and requires persons under the age of 18 to have parental consent. Tan Factory has six locations in southern Nevada—one each in the southwest, northwest, Summerlin, north, and two in Henderson—and they offer spray tans. Body Heat Tanning has 24 locations in southern Nevada and they offer sunless spray tan, airbrush tanning, and mist spray tanning.

Senate Bill 267 (R1) is one small step in an effort to ensure that our children are safe from the evils of skin cancer. Following me are other speakers who are interested in supporting this measure. Thank you for your attention, and I urge your support of S.B. 267 (R1) to prevent so many others, especially our young people, from making the disastrous decision to utilize a tanning bed and then having to pay the consequences later in life. I submitted to the Nevada Electronic Legislative Information System an article from *USA Today* this week which addresses the dangers of teens using tanning establishments and what can result from that ([Exhibit Z](#)).

[Vice Chairwoman Kirkpatrick assumed the Chair.]

Vice Chairwoman Kirkpatrick:
Are there any questions?

Assemblyman Ellison:

My son died from carcinoma melanoma, so I am familiar with skin cancer. We went on a vacation and one of my daughters got a light tan in a tanning bed and the other did not. The one who did not get a tan ended up in the hospital because of third-degree burns due to not tanning before the vacation. It seems to me that the tanning bed did what it was supposed to do. How do the UV rays from the sun compare to a tanning booth? If somebody is 16 years old, they get a light tan for a special occasion, and they are not staying in the beds for hours at a time. I believe the tanning beds can be beneficial unless you abuse them.

Senator Woodhouse:

I have no experience using a tanning bed, but I found in online research that some of the tanning salons had three different levels. They had light, medium, and mega exposure levels. With this bill, I am attempting to take that one small step to make sure that tanning beds that are causing so many of our young people to get burned will not be able to do that any longer in our state.

Assemblyman Livermore:

In section 11, it speaks about a person who is qualified? How do you determine that?

Senator Woodhouse:

That will be the business owner of the tanning salon.

Assemblyman Livermore:

Is there a test that he has to take or a process he has to go through to become qualified? If someone is going to write a citation, I think the qualification of the person operating the tanning salon could come into question.

Senator Woodhouse:

If a citation is going to be written, it will be for not posting the signs that are required by the bill or for a violation reported by a parent or guardian against a tanning salon owner who has allowed their child under the age of 18 years to use tanning services.

Assemblyman Livermore:

There are no tanning salons in Carson City. In section 11, subsection 9, it says, "A user is not allowed to use the tanning equipment more than once in any 24-hour period." How are you going to enforce that?

Senator Woodhouse:

I am not sure we can, but we are trying to raise awareness for the tanning salon owners and parents.

Vice Chairwoman Kirkpatrick:

I think the owner-operators will explain that they have a process in place where they keep track of that information.

Assemblyman Hansen:

If my child had gone to a tanning booth with my permission, is there a safe level of tanning?

Senator Woodhouse:

I believe there is a risk and it depends on the individual. We are trying to raise awareness about how concerned we are about our young people and to help them refrain from taking a step that could cause them cancer in the future.

Assemblyman Hansen:

Are there private tanning booths? Could we increase the risk by people having private tanning booths?

Senator Woodhouse:

Yes, they can be purchased for private homes. I would hope that any parent or guardian knows what their child is doing and would not allow that to come into their home because the risk is the same.

Vice Chairwoman Kirkpatrick:

Are there any other questions? [There were none.] We will move to the next proponents of the bill.

**Stacey Escalante, Owner, Escalante Media Management, LLC,
Las Vegas, Nevada:**

I am a stage 3 melanoma survivor ([Exhibit AA](#)). I would like to address Assemblyman Ellison's question about tanning beds and the difference in exposure. The perception is that you are safer because you are getting the base tan, but the science behind it is that the rays emitted from a tanning bed directly correlate to melanoma. Any dermatologist or pediatrician will say that it is very dangerous. The problem is that we have not educated people. People will say they are getting a base tan, but the rays are penetrating.

I have lived in Las Vegas for 16 years. I was a reporter at Channel 3 from 1997 to 2007. One of the reasons I am no longer on the news relates to why I am testifying today. [Played video ([Exhibit BB](#)).]

We will fast-forward eight years. My reason for speaking to you today is to bring awareness to and education for children and, more importantly, their parents. We do not allow children to buy cigarettes, so why is it okay to let them bake in a tanning bed that looks like a coffin? People will say, let us decide what we want our kids to do. Let us have common sense here. That does not take away the risk of tanning. It is like seat belts and alcohol. We need to utilize all of the science that has been discovered over the past few years.

I grew up in the 1970s and 1980s when the Bain de Soleil commercial was all over television. Back then a deep, dark tan was glamorized. Then tanning salons started to pop up. I started going as a teenager while I was in high school and college. No one ever mentioned the dangers of going to the tanning bed. It was the opposite. We were told it was a great way to get a base tan before summer. I would burn first and then it would turn into a tan. I would go to the tanning salons in Las Vegas and they would say, you can use the tingly lotions; it will get you really good. I joined a tanning salon in Las Vegas and went to the tanning beds for years. Mostly young people go to the salons.

In June of 2005, when I was diagnosed, it was a small mark the size of a pencil eraser on my back. The hole you saw in the video, it was made in order to have the clear margins excised and was the size of an ice cream scoop. As it said in the video, it had spread to the lymph nodes in my groin. I had to go to California and I had major surgery on my left groin and leg. For seven weeks, I lay on my back to recover. My son was two years old and my daughter was six months old, and I could not take care of them. The hardest thing for me was that my habits as a teenager affected my adult life. How do I explain that to my children? My oncologist told me that there is a 90 percent chance that my melanoma was caused by the sun and indoor tanning.

My life has forever changed. I get organ scans because melanoma can return in another part of the body. I have horrible leg swelling. I went through two years of treatment with an experimental drug. All of this for a tan. I admit I was ignorant and did not know how dangerous tanning could be. I am not alone. I still have people who saw my story on the news tell me that they did not know skin cancer could be so deadly. People who saw my story are changing their habits when it comes to indoor tanning. I want people to learn from my mistakes. My mother smokes and she said when she was young, no one told her it was bad. Now she is hooked and cannot stop. Tanning salons are

practically on every corner so people assume they are safe. The ads show women with beautiful, dark tans. Teens are thinking about looking great on prom night and nothing else, but no one talks about the ugly side of tanning and what it can do. It is really time that we bring about awareness.

Nevada can be in the forefront of this issue instead of following everybody else. This is about protecting Nevada's kids. My children are now eight and ten years old and I can take care of them. They know how dangerous tanning is. I want other parents and their children to know this. I do not want them ever to have to go through what I did. Please vote in favor of S.B. 267 (R1).

**Tom McCoy, Nevada Government Relations Director, American Cancer Society
Cancer Action Network:**

We are the nonpartisan, nonprofit advocacy affiliate of the American Cancer Society ([Exhibit CC](#)). In 12 days it will be the 100th birthday of the American Cancer Society. Its mission from inception has been to educate the public and, early on, educate doctors because they did not know how to handle cancer. The American Cancer Society research developed chemotherapy. We have been tracking the incident rates of cancer mortality. About 20 years ago, the number of people dying from cancer started to lessen each year. The annual mortality list got smaller and smaller. We now have 12 million Americans who are cancer survivors. We have several million who, because of prevention efforts, never started smoking, watched their weight, and dealt with the obesity effect, although many people are unaware that obesity results in about one-third of all cancers.

One area of cancer that has not decreased is skin cancer and melanoma. That is one of the reasons we have taken on this issue as one that is a very critical part of our mission to educate the people of not only Nevada, but America. In Nevada today, before this hearing is over, someone is going to die of cancer. I mentioned earlier that 13,000 Nevadans will be diagnosed with cancer this year. Skin cancer is the most prevalent cancer in the state. Melanoma affects someone every couple of days.

My friend Michael asked me to provide some legal advice about a literary matter. He wanted to write a book about his wife who died of melanoma. The story of Amanda is unfortunately not Stacey's story, because Amanda did not survive. Amanda grew up in Las Vegas, she was a tanner, and she tanned all through her teens. Shortly after she married, she was diagnosed with melanoma and died within a few short months. Her husband was grief-stricken and angry. He wanted to do something to remove that stress and anger. He goes around to high schools and middle schools in Clark County educating kids at his own expense out of memory and respect for his wife. I am very

impressed with Michael. He is doing this to help our kids. I felt that the least we could do is to get language in statute that will help protect other kids. I personally have developed skin cancer and it is not fun.

Monday, May 6, was Melanoma Monday, which we celebrate every year, and this is Melanoma Awareness Month. This week is Melanoma and Skin Cancer Detection and Prevention Week in the state of Nevada, established in 2009 with the help of Senator Allison Copenig and Assemblywoman April Mastroluca. Since then we have tried to do something to help educate the public about the dangers of skin cancer, sun safety, and tanning issues. I think it is appropriate that this bill is being heard during this week.

Vice Chairwoman Kirkpatrick:

We will move to the next proponents.

Cari Herington, Executive Director, Nevada Cancer Coalition, Reno, Nevada:

A study from Emory University shows that many of us believe that having a tan makes you more attractive. I did it too. I tanned in the 1980s. Now we have the facts and we know the risks and the danger. I will not go through all the facts ([Exhibit DD](#)), but I want to highlight that the World Health Organization moved tanning beds to the list of most dangerous forms of cancer-causing radiation—Group 1. Also in Group 1 are plutonium, cigarettes, and solar ultraviolet radiation. That is how dangerous it is. Numerous studies have documented that exposure to UV radiation from these indoor tanning devices is associated with an increased risk in both melanoma and non-melanoma skin cancers. Studies are showing that dermatologists are seeing more melanomas and thicker tumors in young women. Moreover, these melanomas are appearing in the breast and genital areas, which are normally hidden from the sun, but are often exposed in tanning beds.

You have heard Stacey's story and you probably heard the recent story about Ashley Trenner from Washington who passed away on March 15, months shy of her 41st birthday. Her last wish was to affect one person's life with her story so that person would not end up like her. Her melanoma was caused by tanning. [Read from prepared testimony ([Exhibit DD](#)).]

Allison Copenig, Founder, Cover Up Nevada!, Las Vega, Nevada:

Cover Up Nevada! is a melanoma and skin cancer awareness 501(c)(3). It was founded as the result of my brother dying of melanoma in 2008. At that time, the Legislature passed the resolution that declared the second week in May as Melanoma and Skin Cancer Detection and Prevention Week in Nevada.

My brother was a lifelong Las Vegas who worked in the construction industry and was exposed to UV rays from the sun. For 20 years, he had a small mole on his neck. When it was discovered to be melanoma, it had also become a brain tumor. When they did a body scan, he had lesions in his liver; he was dead in four months.

I am very sensitive to businesses. I have a small business and am getting ready to open a new one in about a week. As I throw my support behind this bill, it is not without the research. I carried a similar bill in 2011 which did not pass. I truly believe, and statistically we will see, that the tanning businesses will not be adversely affected. Primarily most of them, if not all, have alternatives to UV-ray tanning. Some of them have three different kinds of alternatives, Versa Tan, Mystic Tan, and sprayless tanning. The reason they have them is public outcry and the demand. People are getting smarter about their health and their skin. They understand the dangers of UV rays. The tanning facilities have responded. I know there are some tanning facilities that do nothing but sprayless tans.

I believe S.B. 267 (R1) makes sense. I think it will have little if any impact to the tanning establishments. It gives parents more control over the safety of their children and it will help protect our kids from melanoma and other skin cancers. I thank you for your service.

Samantha Guild, representing AIM at Melanoma Foundation, Sacramento, California:

We are the largest international nonprofit organization that advocates for the melanoma community. I am here to urge you to support S.B. 267 (R1) because we have witnessed firsthand the devastation of the disease. In 2003, my sister, Charlie, was diagnosed with stage 4 melanoma. She was only 25. She died November 24, 2003, and it was because of her that we started this foundation. [Read from prepared testimony ([Exhibit EE](#)).]

In the last 30 years, we have seen the incidence of melanoma among young women rise 50 percent. Our organization actively supports legislation to protect minors under 18 years of age throughout the country and was instrumental in passing the bill in California. California and Vermont have restricted tanning for minors under age 18. Oregon's governor has a bill on his desk which he indicated he plans to sign. Illinois is close behind and we hope their bill will be signed soon. Texas also has a bill in the legislative process. The cities of Chicago and Springfield, Illinois, protect minors under the age of 18, and there are a number of states throughout the country that are considering legislation this year.

From our experience, allowing parents to decide whether or not a minor should use a tanning bed does not work. Studies show that the industry is misleading parents and telling them that there is no health risk and that the devices have health benefits. Science indicates otherwise. Allowing parents to decide whether a child can use a tanning bed sends a confusing message about the dangers of artificial UV exposure, which studies have shown is 10 to 15 times the concentration of the sun. [Read from prepared testimony ([Exhibit EE](#)).]

Vice Chairwoman Kirkpatrick:
Are there any questions?

Assemblyman Ellison:

I had three people come to my office in the last five years to have moles checked. They are all dead. They never stepped into a tanning bed. My son never used a tanning bed. Last session I had a large piece of cancerous tissue excised from my head because I was too stupid to wear a hat. This year the cancer is back. I think it is more dangerous to lay in the sun than to be in a tanning bed for five or ten minutes. Maybe I am wrong, but I have been there and have watched my friends die. I have raised well over \$1 million for cancer research. Everyone I have lost has been from sun exposure, not tanning beds.

Samantha Guild:

We strongly believe we need to advocate for people to be sun safe, to use sunscreen, and to wear protective clothes. We believe that is where a large percentage of melanoma cases are developing. We follow the science. I know people who were indoor tanners who died of melanoma or they are currently fighting the disease.

Assemblyman Hansen:

Is there any safe level of tanning? I could see that for people who use tanning facilities repeatedly. I have a hard time believing, for people who do it rarely, that it elevates the risk so much that it should be outlawed completely.

Stacey Escalante:

My dermatologists say the science is there. It is not about once in a while. They do not want you to do it. I think if the doctors who study this say that, that is all the evidence we need.

Assemblyman Hansen:

I will have to hear what the experts say.

Samantha Guild:

The American Academy of Dermatology, the American Medical Association, the World Health Organization, and others have all recommended that no one under the age of 18 ever use a tanning device.

Vice Chairwoman Kirkpatrick:

Is there anyone to testify in support of S.B. 267 (R1)?

Lawrence P. Matheis, representing Nevada State Medical Association:

We support this bill for the reasons stated by the proponents.

George Ross, representing HCA Sunrise Health Care:

For all the reasons you have heard, Sunrise Hospital supports this bill.

Denise Selleck Davis, representing Nevada Osteopathic Medical Association:

We support this bill.

[Dirk M. Elston, President of the American Academy of Dermatology Association, submitted a letter of support for S.B 267 (R1) ([Exhibit FF](#)).]

Vice Chairwoman Kirkpatrick:

Is there anyone who would like to testify in support of this bill? [There was none.] Is there anyone who would like to testify in neutral? [There was none.] Is there anyone to testify in opposition?

Gary Milliken, representing American Suntanning Association:

Joseph Levy will make our opening comments.

Joseph Levy, Scientific Advisor, American Suntanning Association; Executive Director, International Smart Tan Network:

The International Smart Tan Network is the training and educational institute for tanning facilities in North America. For 21 years, I have developed UV training materials for thousands of professional tanning centers and state regulators and serve as our chief scientific liaison. I am a longtime member of the American Society for Photobiology.

Melanoma researcher and professor of dermatology Dr. Jonathan Rees from Newcastle University once wrote that melanoma is an example of politics and science becoming tragically intertwined and an amicable separation was required. Melanoma is complex, and it is more common in people who work indoors than those who work outdoors who get three to nine times more UV exposure. The World Health Organization agrees with that. It is more

common in men than women, and it is increasing fastest amongst older men than any other group. It is most common on parts of the body that do not get regular UV exposure. According to the Centers for Disease Control, Nevada is in the highest quartile for the most sun of the states in the nation. It is in the lowest quartile of melanoma incidence and mortality in the nation. This shows that this is a complex issue.

The proponents of this bill have not effectively respected the nuance of practical sun care and that aspect of the science. It is part of the nuance that is missing in their campaign. While we all agree on sunburn prevention, the important caveat is that practical sun care is our biggest source of disagreement. That is what Dr. Rees was talking about. That is why research dermatologist Dr. Bernard Ackerman, who founded dermatopathology, the field upon which pathology is done in dermatology, supports my position. In his last book, he said he supports Smart Tans' position on melanoma and he thinks the other organizations such as the American Cancer Society need to reconsider their position.

Sunburn prevention and not sun avoidance is what we need to be teaching. That is why Dr. Sam Schuster, a British professor of dermatology, has written that if you think it is damaging to the skin, you might as well tell that to Charles Darwin. A tan is part of nature's intended design to prevent sunburn. Calling it damage is like calling exercise damage to your muscles. Technically it is but a micro-definition of a macro-phenomenon that your body is intended to do. That is why World Health Organization scientist Sara Gandini did a meta-analysis of 60 studies showing clearly that the greatest risk factors for melanoma are having more than 40 moles on your body, having red hair, and having a family history of melanoma. These are far greater than any UV-related risk factors. Dr. Arthur Rhodes of Rush University Medical Center in Chicago has written several essays on this topic. As a melanoma researcher, he believes we need to be focusing on red hair, the number of moles, family history, and constituted risk factors ahead of teaching sunburn prevention. In other words, this is not straightforward.

Saying that UV from any source is harmful and should be avoided is like saying water causes drowning and, therefore, we should not drink water or we should avoid it. It misrepresents a complex intended relationship for all living things with UV light. Professional salons are perfectly willing to teach that balanced message and we do, with warning signs in our businesses and consent forms that are already part of our standard protocol and which are accepted nationwide. We teach balance and responsibility in a credible fashion that respects the intelligence of the consumer. Think of a tanning salon like a public pool. Trained salon operators are the lifeguards at the pool.

Our job is to use the best system in the world, the federal Food and Drug Administration exposure schedules, which we worked with them to create for professional tanning salons to prevent sunburns in the best capacity of any country in the world. You have heard it said that tanning salons are 10 to 15 times more intense than the sun. That is not accurate. A sunbed is two to three times as intense as outdoor sun, but that may not be true here because sometimes the sun is very intense, especially at altitude. Intensity is not the issue. Intensity times duration equals the total number of photons that are delivered. A tanning salon in the United States, according to our schedules, delivers a maximum of three-quarters of what would induce a sunburn in an individual of any skin type. The maximum dosage you would receive from a single tanning salon visit on any single visit is 624 joules. A day at the beach would deliver more than 4,000 joules. There is no comparison and that has been misrepresented.

We are like the lifeguards at a public pool. There are other pools available for those who believe that nonburning sun exposure is a responsible choice. Home tanning units are the biggest risk factor related to this. Like outdoor pools in backyards, they do not have the lifeguards that are designed to prevent sunburn in a responsible way.

Proponents of this bill have failed to expose a very important caveat about the research they say justifies it. Most of the research does not study tanning salons. You heard that tanning salons increase risk of melanoma by 75 percent. The studies from the World Health Organization that generated that statistic studied sunbeds, not tanning salons. There are three types of sunbeds. There are tanning salon sunbeds, home units, and medical units, which are used to treat diseases such as psoriasis and eczema. If you separate that data, the tanning salons did not have a statistically significant increase in risk. The home units increased risk 40 percent. The medical units doubled the risk. According to the United States government, medical phototherapy is a Class 1 carcinogen and they are saying it is safe.

There are all sorts of back doors and caveats in this message. They did not tell you that if you remove the skin type 1 subjects—the people with skin so fair it does not sunburn—from the data sets, there is no statistically significant increase in risk. The people with skin type 1 in Europe use sunbeds in mostly unsupervised settings as a surrogate for sun exposure. The solaria in Europe are used as a therapeutic activity.

In the United States, our operators are trained. I have provided a handout ([Exhibit GG](#)). We are trained to identify the skin type of every person who comes into the salon. We do not tan people with skin type 1. We use the

Fitzpatrick skin type classification system. I helped to develop that system with Dr. Thomas Fitzpatrick at Harvard University so we know the sun sensitivity of everyone who comes into the salon.

The proponents of this bill have also misled you about what it means to be a carcinogen as it relates to UV exposure in sunbeds and what it means to be a Level 1 carcinogen according to the government. They said we are in the same category as arsenic, tobacco, and plutonium. What they did not tell you was that Class 1 carcinogens also include birth control pills, salted fish, red wine, and sawdust. The government is explicit that it does not mean it would be carcinogenic in intended dosages. And UV exposure is the only thing on the list of Class 1 carcinogens that we must have to live. It is a natural occurrence and all life needs UV in order to live. Comparing UV to cigarettes is personally offensive to me as someone who has worked with the American Cancer Society to promote tobacco prevention. Tobacco is linked to one in three cancer deaths in the United States. There is no comparison—tobacco has 60 manmade carcinogens in it versus UV exposure. Tobacco increases the risk of lung cancer by 2,300 percent.

There is so much hyperbole on this topic and there is so much more nuance to the science. If teenage access to sunbed salons is unnecessarily restricted, three out of four teenagers would use home units or would tan outdoors more aggressively in the intense Nevada sun. We believe that would increase injury rather than decrease it. We have done that research with International Communications Research. We are here to be part of the solution and to discuss this issue constructively. We already do parental consent for minors. We would be happy to work with you at effective regulation to bolster that standard so this stays the parents' choice, and it reflects the fact that there are those in the scientific community and amongst parents who believe UV exposure in a nonburning fashion is a responsible choice and that melanoma is more complex than saying UV causes it. We ask you to reject this bill so we can work together on something that is more responsible.

[Chairman Bobzien reassumed the Chair.]

Chairman Bobzien:

Is the information about the different classifications which bore out that there was no statistical significance between the classifications when it came to risk in your handout?

Joseph Levy:

Yes, it is the second page ([Exhibit GG](#)).

Josiah Garlan, Owner, Body Heat Tanning, Las Vegas, Nevada:

I am a registered pharmacist, a father of three, and the owner of Body Heat Tanning. Our tanning company is the largest tanning employer in the state of Nevada. We operate 24 locations in Clark County. We also have a corporate office which employs a staff. Tanning salons have provided the first job for many of the 16- to 18-year-olds in our community. Kids who have never cleaned their rooms learn how to sanitize, mop, and do laundry in our facilities. We provide opportunities for them to move up in our organization with medical benefits and corporate training. Our company also employs tanning consultants. They monitor sunbed exposure. They also obtain parental consent. We also require eyewear for anyone who uses a sunbed in our facilities. Senate Bill 267 (R1) will have an immediate impact and will cause job loss in our facilities.

Under-18-year-old clients and their parents who bring them to our facilities will no longer be allowed to tan. Therefore, their parents most likely will not be coming to our facilities with their children. We will have to cut more staff, managers, and maintenance people because our locations will not be as busy. Section 12, subsections 1 and 2, open our company to endless litigation. It says that the tanning operator has to pay attorney fees and court costs for claims for any lawsuit brought civilly against him. I foresee that we are going to have a line of lawyers to bring frivolous lawsuits. I am most afraid of bogus claims and litigation which will follow these claims.

There is a tremendous misunderstanding of how sunbeds, sunlight, and professional tanning salons operate. Professional tanning salons in Nevada already require parental consent and use of eyewear. We have exposure schedules posted on all sunbeds and in all locations in a conspicuous place. If S.B. 267 (R1) passes, it will force teens to seek out gyms, fitness centers, apartment complexes, most of which already have sunbeds as part of their services, and home-tanning units. These places will never be regulated by this bill. They will fall between the cracks and the bill will not accomplish its goal. Professional tanning facilities exist to prevent sunburn. I urge this Committee not to put us out of business. I am here to be part of the solution and would love to help and discuss these issues.

Scott McDonald, Owner, Pacific Sun Tanning, Reno, Nevada:

We are the largest tanning salon chain in northern Nevada with six locations. We opened our first location ten years ago. I agree with everything Mr. Garlan stated. We require parental consent for all of our customers under 18 years of age. We require customers to have their eyewear before our trained tanning consultants send them to the tanning room. We have spray tanning available for customers who are a skin type 1. The move to home units, which are

readily available, and gyms and apartments will mean there will not be the trained staff to follow those exposure guidelines. With the open-ended potential litigation from section 12, this bill would be detrimental for tanning in Nevada.

Chairman Bobzien:

Are there any questions?

Assemblywoman Carlton:

I want to clarify the part about the redheads. The melatonin levels in the skin make it difficult to protect the skin at the same levels as others. It is genetics. Even those with dark skin can get skin cancer.

Chairman Bobzien:

Are there any questions? [There were none.] For the salon operators, what percentage of your clientele is under 18 years of age?

Josiah Garlan:

We get 10 to 15 percent of our revenue from people under the age of 18, but it may be higher if we include their parents when they come together.

Scott McDonald:

I agree with that number.

Chairman Bobzien:

Are there any questions?

Assemblyman Hansen:

Is there a difference between natural photons and artificial photons?

Joseph Levy:

A photon is a photon whether it is produced by a sunbed or the sun.

Assemblyman Hansen:

What about bald guys?

Joseph Levy:

We teach sunburn prevention. I use sunscreen on my bald head. We teach the proper use of sunscreen in the stores. A tan in combination with sunscreen is a better way to prevent sunburn. I want to add that there is a genetic variation in redheads in the MC1R gene that has been shown to increase the risk of skin cancer independently of UV. Redheads are more susceptible to burning, and we do not tan people with type 1 skin anymore. It is all about teaching sunburn prevention and being a responsible player.

Assemblyman Frierson:

Is there an age limit currently?

Joseph Levy:

It is very rare to have a client under the age of 14, as it is for clients under the age of 16. Those are handled on an individual basis and it is almost nonexistent. The industry supports parental consent for under 18 years of age.

Assemblyman Frierson:

If it is that rare for under the age of 14 and 16, would you be as opposed to this bill if the age of prohibition was 16?

Joseph Levy:

We do not believe that that is a necessary measure, because there are instances where families do tan together before a sunny vacation. We believe that should be the parents' choice, and they should work with a responsible facility to help them prevent sunburn.

Chairman Bobzien:

Are there any further questions? Seeing none, is there additional opposition testimony? [There was none.] Is there anyone to testify neutrally? [There was no one.] I will close the hearing on S.B. 267 (R1) and open the hearing on Senate Bill 316 (1st Reprint).

Senate Bill 316 (1st Reprint): Requires provisions relating to materials recovery facilities. (BDR 54-1067)

Senator Moises Denis, Clark County Senatorial District No. 2:

I am excited to present this bill because of what it can provide. Over the interim I worked for a construction company that did recycling. I learned about what materials recovery facilities (MRF) do. Also during the interim, our Legislature did an interim study on recycling. I learned that there are a lot of things that we are not doing when it comes to recycling. One of the things that we could do, especially now that the construction industry is starting to improve, is to recycle the materials which are left over after construction.

This bill concerns the utilization of a MRF in the interest of recycling and reusing materials that would otherwise be dumped in landfills. By definition, a MRF is a solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of those materials. That definition and the regulations governing the MRFs were added to the *Nevada Administrative Code* by the Nevada Environmental Commission in 2000.

Senate Bill 316 (R1) proposes to require contractors to dispose of certain demolition and construction debris at a MRF that has been approved by the state Environmental Commission if such a facility is located within a certain distance of the contractor's worksite. The demolition and construction debris that contractors would be required to dispose of at a recovery facility is the material produced by construction, demolition, and other such work. This bill is one section. Section 1, subsection 1, provides the requirement that contractors dispose of the debris generated by construction sites at a MRF if there is a facility within 30 miles of their construction site. Subsection 2 defines what constitutes a MRF and specifies what the term is not intended to include.

There is a proposed amendment ([Exhibit HH](#)). There was no opposition to the bill in the Senate. After it passed out of the Senate unanimously, there were some individuals who said, what about single stream recycling such as asphalt where it does not need to be separated? A MRF has conveyor belts and all of the recyclables are extracted. What remains is taken to the landfill. We wanted to amend that. We also got a letter from a man who owns a business in Lake Tahoe who was worried that he would have to take his debris to Reno so we made some changes. In subsection 1, it changes the words, "solid waste" to "demolition debris or construction debris." For the people who were concerned about the prices being too high, we amended the bill to say there had to be two or more facilities before the businesses would be required to take the material there. On line 12 of the first page, it says, "Any recyclable material that has been separated at the site of the work," so they are talking about materials that are separated at the worksite. A contractor could chose to do that. A recycling company could then come in, and they would not be required to take the material to a MRF because it does not need to be separated. We also added the definition of debris on page 2 which says that "'Debris' does not include soil, stone or asphalt pavement." What also needs to be included here is brick and concrete. There are some contractors who take out sidewalks or build brick walls and, when they are done, it is already separated. That is what the amendment encompasses.

We have recycling centers and then there are MRFs. The difference is that the recycling centers can do some separation. If there is a certain amount to be sorted, then it has to go through a MRF. The recycling centers purchase things such as aluminum and paper or what is separated from the MRFs. The main question to consider in this bill is do we want to recycle more? This bill is a good opportunity to do that.

Chairman Bobzien:

Are there any questions?

Assemblywoman Carlton:

How do you see this bill having an impact on recycling statewide?

Senator Denis:

Currently, this will only apply to Clark County because they have more than two MRFs in the Las Vegas area. There are currently none in Washoe County and the rural counties. There may be one built in Reno in the near future and that would give an incentive to compete. In Las Vegas, there is competition to obtain the debris. Now you can take the debris to the landfill and not do any recycling or send it to a MRF to extract the recyclables. This would cause all of the debris to go through a MRF before going to the landfill.

Assemblywoman Carlton:

Will people be compensated for the recyclables and what are the differences in the fees between a landfill and a MRF?

Senator Denis:

Other presenters will be able to give information to answer that. When you recycle, you end up with a commodity that can be sold. By creating this recyclable material, there is an opportunity to keep the recyclable materials locally and create local jobs. If we do not have enough recycled materials, then it is shipped to other states or countries.

Assemblyman Grady:

Recycling in many of the rural areas does not work because of the distance to haul it. Some of my constituents in the construction business see this as a huge expense. One of the expenses is that the businesses in Lyon County would be forced to transport the debris into the Reno area, which would probably require a business license in Reno or wherever the MRF is located. This adds more burden and expense to businesses that are just beginning to recover. It may work in southern Nevada, but I do not think we can take the gamble on two years when a MRF may be built in Reno.

Senator Denis:

I thought we were originally doing it by county, so I will have to check on that. There would have to be at least two facilities built before the contractors would have to do that. I think in many cases the costs would go down because there will be less to be taken to the landfill.

Chairman Bobzien:

If a business has to transport the debris out of the area where they have a business license, would they have to get a business license in the area where the MRF is located? Hopefully, some of the presenters can answer that.

Assemblyman Livermore:

When I was a Carson City Supervisor, there was an engineering study done that said the building materials were the essence of the material that extended the life of the landfill. I hope this bill does not cause counties unanticipated issues.

Senator Denis:

With the bill, I am trying to have materials taken out of the landfill that can be reused in other ways as opposed to creating a cap on the landfill.

Assemblyman Ellison:

It seems as if it would be appropriate to add a population cap to the bill.

Senator Denis:

We have looked at that, but we are looking at increasing recycling in all parts of the state. We want to encourage building more MRFs.

Assemblyman Ellison:

The rural areas of the state are trying to recycle, but this is a start to get it into Clark County.

Assemblyman Hardy:

It is also a long distance to the MRFs for businesses in areas of Clark County.

Senator Denis:

I think Assemblyman Ellison was saying to leave the distance at 30 miles and include a population cap so it would only apply to Clark County.

Assemblywoman Kirkpatrick:

If it is an issue in Clark County, it is an issue across the state.

Chairman Bobzien:

Are there additional questions for Senator Denis? Seeing none, we will hear testimony from other proponents.

Chris Darling, Managing Member, A Track-Out Solution, Las Vegas, Nevada:

We have had a material recovery facility in Clark County for a number of years. During these years, I have watched our industry change and grow. The changes have been great for the environment, but we have a long way to go. I have seen countless numbers of trucks and loads of dumpsters containing recyclables heading straight to the landfill. This bill will eliminate, or at least minimize, the number of loads going to the landfill and create jobs for drivers, employees to sort recyclables, and employees at the processing facilities. The private MRFs are doing exactly that at current rates. We do not

anticipate a rate increase simply because hauling construction and demolition material is our current business plan. We do that every day and we are growing under our current business plans. Our facilities are not close to being maxed out. This bill is a positive for the environment and the economy. Currently MRFs are doing exactly what this bill intends to do. The only difference is that now MRFs will be able to capture more recyclables at current rates with additional employees.

Norberto Madrigal, Treasurer, Lunas, Inc., Las Vegas, Nevada:

My family's company was founded in 1988 and originally hauled construction waste directly to the landfill. In 1993, the landfill disposal rates increased from \$20 to \$150 per load. This was approximately an 800 percent increase overnight. The only way for us to serve our customers without raising their service fee was to recycle. We began to bring in construction debris on our two-acre parcel and began to extract recyclables. At the peak of the construction market, we employed 350 employees who dedicated their time hauling construction debris and recycling.

Today we extract metal, cardboard, wood, green waste, plastic, glass, concrete, asphalt, drywall, and tires. In 2012, we extracted approximately 33,000 tons of recyclables. All these materials were delivered to local recyclers that take these commodities and further process them. Recyclers depend on MRFs for survival. Metal is melted into new products, cardboard is turned back into paper products, wood goes to co-generation plants as feed stock to create electricity. Green waste is turned into compost or topsoil. Drywall is turned into new drywall or a soil amendment. Glass is turned into new bottles or tile. It takes one driver to haul construction debris to the landfill. Four jobs can be created by running those loads through a MRF. This bill is asking for construction and demolition waste to make a pit stop at a MRF because the residual waste will continue to head to the landfill.

We support this bill and ask for your support as well. I believe it is time for our state to evolve in the waste industry. We must take steps that create sustainable jobs and keep commodities out of the landfill. We feel this is a responsible choice. I have a video to play for the Committee.

Chairman Bobzien:

We will move to the next presenter while Mr. Madrigal's video is being loaded.

Kam Brian, Chief Operating Officer, Par-3 Landscape and Maintenance, Inc. and Par-3 Recycling, Las Vegas, Nevada:

We are the largest private landscape contractor in the state and the largest green waste recycler in the state. Nevada has extremely low recycling rates.

We are still viewed as the Wild West and are the home of the nation's largest landfill. The rationale is, if we have the greatest landfill and the space to do it, we should just fill it up. I do not think that is the responsible choice. The easiest way to increase recycling in our state is to send less construction and demolition waste to the landfill. It is enormously easier to recycle and increase our recycling rates by recycling construction demolition waste versus household waste. It requires so much more effort and resources in technology to recycle one ton of household waste as opposed to construction and demolition waste, which can be separated by the ton.

It is very good policy and a step in the right direction to get Nevada in line with our neighboring states and with the rest of the nation's recycling rates. We have talked about protecting the environment, preserving our natural resources, creating jobs, and strengthening the local economy. What we have not addressed is, why not pass it? A couple of the concerns have been addressed by Senator Denis. One of the issues is the increased cost of doing business. There are currently seven or eight MRFs in Clark County that are operating exactly within the parameters that this bill establishes. The notion that we have to increase our prices and pass those prices on to contractors who are going to pay more for construction costs is not true. Our prices will stay exactly the same as they are today if this bill passes. There will be no increase in cost to the industry as a whole.

I understand that northern Nevada may not be ready for this legislation and there are some protections in place. We are in favor of additional protections if needed. We should not submarine the bill because the north is not ready but the south is. Clark County has been ready for this legislation for a long time. Recyclers need to be protected. They exist because of MRFs. I sat on the Southern Nevada District Board of Health and watched, between 2008 and 2013, an incredible increase in the number of recycling permits. That was because MRFs began to come on line in 2007. As soon as MRFs come on line, those commodities get separated out and there is a business for recyclers. Material recovery facilities help recycling. The MRFs that are currently operating in southern Nevada are only operating at half or quarter capacity. The existing companies could increase their capacities or their ability to increase their recycling rates should this bill pass. Should we wait until we are ready? No, we are ready today. This bill is a step in the right direction, and I hope you support it.

Chairman Bobzien:

Are there any questions?

Assemblyman Hardy:

You said there would be no increase in costs, but there would be new jobs and lots of trucking. Is everybody allowed to truck their materials to your recycling facility?

Kam Brian:

Yes, we are open to the public. We allow companies with their own dumpster businesses to bring construction and demolition waste to us as well. We send out dumpsters from our own company to pick up construction and demolition waste on the jobsite.

Assemblyman Hardy:

Is this recycling component a franchise industry, or can anyone get into the business?

Kam Brian:

The construction and demolition waste has been carved out of the franchise agreement as of about 2004 in Clark County. It is an openly competitive market.

Assemblywoman Kirkpatrick:

Why is this a problem now; what changed? The biggest building boom was in 2005-2007. Was Lunas part of the City Center construction project?

Norberto Madrigal:

Yes, we were a part, but it was mainly Evergreen Recycling at that time.

Assemblywoman Kirkpatrick:

What has changed in the last six months because I never heard about this issue until then? I sit on the Clark County Recycling Board that Chris Giunchigliani had put together, and I did not hear any of this come up when we talked about how to increase the recycling percentage within the state. We had many businesses that came to say they wanted to use the recycled goods.

Kam Brian:

The very first MRF in Nevada came on line in 2007 and belonged to Evergreen Recycling. Before then, it simply was not an issue. This group, along with a couple of other haulers in southern Nevada, met with Chris Giunchigliani, Tom Collins, and a few other Clark County Commissioners who suggested it was a state issue.

Assemblywoman Kirkpatrick:

There is no question that in our state all recyclables are exported. How do we anticipate moving this product out of the state? This says that not less than 10 percent of the waste residual on an annual average is going to be recycled. I am not sure how the Health District can prove that it is 10 percent. I toured Waste Management's recycling facility in San Francisco, and it was amazing that, even though they were picking up the recycling bins, they were still getting more than 10 percent in the facility. How will we measure that? Are there changes that have to be adopted in the Health District's codes and how are we going to move it across the state?

Kam Brian:

The Health District requires us to fill out a report of all of the recycling we do every year. We fill out the report, which lists the waste stream, and we list by category the number of tons that we recycle every year. From the Health District's standpoint, there is a mechanism to track the amount of waste. I believe you are referring to the facility that recovers less than 10 percent by weight of the recyclable material, which is the very last item in the proposed bill. That is an exception. It essentially says we are going to exclude recyclers who take into their facility and recycle 90 percent. The MRFs are typically closer to 30 percent. Recycling centers can meet the high standard because they are taking in products that have already been separated.

Assemblywoman Kirkpatrick:

What about the fire safety? There were two fires in two years in recycling facilities in North Las Vegas and that is too many. Will it alleviate that problem or has it been considered?

Kam Brian:

The answer to that question from Par-3 Recycling's point of view is that the MRF is a far better alternative to just about any other facility. They have environmental protections in place. When we built those, the Health District required a whole host of parameters, including concrete for soil contamination, a three-sided building, and dust control. Our building has sprinklers, and every other building is also required to have sprinklers. I think as far as environmental and safety concerns, it is the best place to take recycling. We do not accept tires. Our facility is tightly controlled by the Southern Nevada Health District. We have certain amounts of material that we can keep on the property, as well as certain lengths of time that the materials can stay. I do not know of any problems related to fire or any other safety concerns that have occurred within a MRF in Clark County.

Assemblywoman Kirkpatrick:

I want to know if it will alleviate the safety concerns about the fires we have had.

Senator Denis:

The MRFs process the materials, and they are not allowed to store it. Tires have to be cut, put on a pallet, and shipped to California. They do not keep large amounts of tires for a long period of time. These are commodities and they want to sell them as quickly as they can. There will not be a lot of material stored at a MRF.

Assemblyman Livermore:

There was an interim committee chaired by Assemblyman Ohrenschall which dealt with recycling, and we came to the conclusion that single stream was the best solution. The recyclers are doing well on the free market, but when you start mandating regulations on disposals, be careful what you ask for. There are a lot of other big companies out there who may want to get into the business.

Assemblyman Hansen:

Who will enforce this and what kind of penalties will there be? Will any contractor doing any size project be forced to use these facilities? Is there a size limit? There needs to be a balance. Are these businesses fully free market or do they get government subsidies?

Kam Brian:

We do not receive government subsidies. It is a completely open and competitive part of the market. I do not know if there are any teeth in the legislation.

Chairman Bobzien:

We can get some perspective from Legal on that.

Assemblyman Hansen:

Is there an amount of debris that can be exempted? The way it is worded is for any maintenance project, and that could be a problem for small-time operators.

Kam Brian:

I do not think that is a problem because contractors either take their debris to the landfill or they take it to a MRF. The landfill prices are just as expensive or more expensive for a contractor. It may increase the cost to the franchisee, but that will not affect the general public or the contractors.

Matt Mundy, Committee Counsel:

This will only apply to contractors who are licensed under NRS Chapter 624 and not individual homeowners who are doing repairs. The enforcement provisions for contractors would apply in any violation of the chapter.

Assemblyman Grady:

Do they fall under the Nevada Department of Environmental Protection (NDEP)?

Chairman Bobzien:

They fall under the Southern Nevada Health District.

Assemblyman Grady:

Why would you come to the Legislature if we have no control over it? What will happen if this bill does not pass? You would continue to operate as you are now?

Kam Brian:

The Southern Nevada Health District has to answer to NDEP. The guidelines are the same. The District looks to state regulations, as we do. I believe that is why we are here.

Assemblyman Grady:

How would your business be adversely affected if the bill does not pass?

Kam Brian:

We would maintain status quo. I think the bill is trying to increase recycling rates and get us on a par with our neighboring states and recycling rates across the nation. We are not here to play defense. It is a way to increase recycling. One of the biggest champions for recycling, Rob Dorrance, who recently died, was trying to do this in 2004 and 2005. He was saying at that time that we should mandate recycling because Nevada's rate is too low. This is better late than never.

Assemblyman Healey:

I do sustainability management for the casinos. It would be status quo if this does not change. If this bill passes, we will be able to bring Nevada in line with more of our neighboring states in terms of recycle rates. Does that also have a positive effect on job creation?

Kam Brian:

I think it absolutely does. There are statistics that Mr. Madrigal referenced earlier that recycling has the potential to create four new jobs for every recycling facility that comes on line. When the MRFs came on line, it caused

the creation of permits and businesses to use the recycled materials and strengthen the local economy.

Assemblyman Healey:

If this bill were to pass, would you be able to increase the number of employees that you have in your companies?

Kam Brian:

Yes, because I believe it would increase the flow of material to our facility. Every time we increase the amount of material, we have to hire additional labor, buy additional containers and equipment, and put on additional shifts.

Assemblyman Hardy:

If you increase your business and less is going to the landfill, what kind of jobs does that cost at the landfill, and does it affect what the landfill will need to charge?

Kam Brian:

I assume that is why the opposition is here. The one distinction I want to make is that it is not going to cost any more to the general public or the construction industry because this bill does not change the status quo for the private industries or the nonfranchised industries that are competing in this market. Prices are not going to go up there. It may increase prices because the reality is that it costs more to recycle. There is very little value in the commodities except for metal. The value comes in the diversion. It is cheaper to send a load of asphalt or concrete to a concrete plant than pay \$33 per ton at a landfill.

Chairman Bobzien:

We will play Mr. Madrigal's video.

[Lunas, Inc. Material Recovery Facility Video was submitted by Norberto Madrigal ([Exhibit II](#)).]

We will hear from others in support of the bill.

Kyle Davis, representing Nevada Conservation League:

We are in support of this bill. We feel it will result in the increase of recycled materials in our state and it is a good thing to reduce the use of our natural resources.

Warren B. Hardy, representing SA Recycling:

We are here in support of the legislation. Material recovery facilities are an indication of the free enterprise system at work. They are very important to our

business, and we get a lot of our materials from them. SA Recycling employs over 150 people in Nevada in this industry. The recycling industry is alive and well in large part because of MRFs. We appreciate the sponsor's amendment with regard to clarifying recyclable separated materials. From the construction industry perspective, there is a cost related to disposing of the material. Some construction companies separate the material, and that is a revenue source for them, which is why we needed the amendment. They are our customers as well. We are in support of the legislation and particularly appreciate the amendment.

Assemblyman Hansen:

Normally in the free enterprise system, you do not have to have a law forcing people to use only one type of service. Why do we need a law if this is a free market function and these people are providing a service that is advantageous to the contractors? Why do you need to eliminate a part of the competition?

Warren Hardy:

It is an active industry and that is a philosophical question. It is a policy question whether the Legislature wants to encourage more recycling. The MRF system is a way to encourage recycling. Without this, all of the debris will go to a landfill. My client has the technology and the technique to get very fine pieces of copper out of materials.

Assemblyman Hansen:

I have no problem with encouraging recycling, but this is a law and is forced.

Chairman Bobzien:

Are there any additional questions? Seeing none, we will move to support testimony from Las Vegas.

Doug Dobyne, Private Citizen, North Las Vegas, Nevada:

I am employed as a controller for one of the large material recovery facilities and am a member of the Southern Nevada District Board of Health. I support S.B. 316 (R1).

Currently Nevada has one of the lowest recycling rates in the West. In 1991, our Legislature adopted a recycling goal of 25 percent. In 2010, Clark County reported a 17.9 percent recycling rate and in 2011, a 22.3 percent rate. With more than two decades of efforts we have yet to reach the 1991 goal. However, I learned about three hours ago that our 2012 numbers will be 27.5 percent, so we are moving in the right direction. When we look at some of our neighbors, Oregon recycles at 52 percent and California passed

legislation requiring 75 percent recycling by the year 2020. We need to look at ways to improve our recycling.

Construction and demolition debris contains a significant amount of recyclable materials that are comingled with nonrecyclable solid waste. The purpose of a MRF is to remove the recyclables from the other solid waste. By requiring construction and demolition debris to be processed instead of going directly to landfills, we can increase statewide recycling rates significantly. More recycling means jobs and more tax revenues. We need to take the next step by creating businesses that use these recycled materials. As it has been stated, most of the recycled materials are shipped out of state.

I would like to ask the Legislature and the Governor to meet with recycling industry leaders to help develop new business opportunities for our state.

I would like to address the fires at the recycling centers in North Las Vegas. There was a facility whose license was revoked by the Southern Nevada District Board of Health at the March meeting because of the fires and other reasons. If you have any specific questions, contact Dennis Campbell at Waste Management. As far as I know, a MRF has not had a fire. We are very strict in how we operate our businesses, and we go a long way to protect the environment.

In the 2011 NDEP report, they stated that 1.9 million tons of special and industrial waste were generated in Nevada, of which 90 percent was construction and demolition debris. That is about 1.7 million tons generated statewide. We can recover about 550,000 tons of recycled materials as opposed to taking it to landfill. That is a lot of recyclables that creates more jobs, is better for the environment, and is a win-win for everybody.

Chairman Bobzien:

Are there any questions?

Assemblyman Livermore:

This bill is not about recycling. It is about material recovery. We had an interim study the first six months of 2012. I do not recall if you were there or not, but you should review that study.

Doug Dobyne:

I believe this bill is about recycling. It not only benefits the businesses that recycle, of which there are almost 100 operations in southern Nevada, but it benefits our community. We continue to waste our natural resources because we do not recycle as much as we should. Four jobs are created for recycling

for every one job of landfilling. Sometimes, we need to do what is right for the greater good. The goal was not to force people to recycle through a MRF or a recycling center. The goal is to make things better for everybody in the state.

Chairman Bobzien:

Are there any last questions? Seeing none, we will move to opposition to the bill.

Chris Ferrari, representing Associated General Contractors Las Vegas Chapter and Nevada Contractors Association:

I signed in as in opposition to this bill for the purpose of suggesting an amendment which was addressed by Senator Denis ([Exhibit HH](#)). Our members wanted to ensure that concrete and brick were included to not duplicate existing recycling processes. We are formally neutral on the bill as amended.

Jason A. Jensen, representing Boulder Sand and Gravel, Las Vegas, Nevada:

I submitted my letter of opposition to the Nevada Electronic Legislative Information System (NELIS) ([Exhibit JJ](#)). I did not provide this information in the Senate, but we just became aware of the issue. Boulder Sand and Gravel is a licensed recycling center, permitted through the Southern Nevada Health District to accept aggregate materials, cement materials, asphalt, concrete, reinforcing steels, and soils. The core of our business relies on receiving these materials to process and recycle to aggregate product commonly used by public works agencies, such as Clark County, for roads and other infrastructure projects. Contractors rely on recycled aggregates not only because of the lower costs, but because it has been mandated in *Nevada Revised Statutes* Chapter 338. Clark County is the largest producer of waste in concrete and asphalt materials in the state and uses these recycled materials to make infrastructure improvements.

Senate Bill 316 (R1) as written would strictly prohibit the direct delivery of materials to a legally permitted recycling center. We appreciate Senator Denis's willingness to revise this bill to allow concrete and asphalt to go directly to a recycling facility such as ours. We are willing to work on a revision that makes sense for our industry.

Len Christopher, General Manager, Southern Nevada Recycling Centers, Republic Services, Las Vegas, Nevada:

Republic Services operates 79 facilities throughout the United States. We recycle over four million tons on an annual basis and we are committed to recycling. Before I joined Republic Services, I was one of the owners of Evergreen Recycling, the company that Republic Services acquired in 2010. I come to you with a background as a small business owner and a corporate

executive. I have been involved in the construction waste hauling and recycling business for 16 years. This bill will substantially increase the cost of construction waste. These are not your typical recyclables. These are hard-to-handle items that take a lot to extract. There is less than 15 percent that you can actually sell to generate revenue. There is not enough revenue to subsidize the process that is involved with this type of material. That is why we have to charge a premium for the service. If construction waste recycling was economical, every contractor would be doing it today.

As a former small business owner, we had the contract for City Center and I can tell you it was more than double the cost to recycle versus if it went to the transfer station or a landfill. The total cost for City Center was \$12 million. If we sent that material to a transfer station, that cost would be roughly \$5.6 million. That is a \$6.4 million premium to recycle. With the construction industry beginning to resurrect itself from the recession and the loss of 75,000 jobs in Nevada, it does not seem to be a good time to implement an unfounded mandate. There is also no guarantee that the material will be recovered or recycled. There is no accountability for these facilities to do that. In the reporting, they only ask what was recovered, not what was received. It allows the MRF to act more as a transfer station at a cost to the contractor.

As a recycling general manager for Republic Services, I find it extremely hard to testify against a bill that could increase recycling. Our construction waste business is down 80 percent over the last five years. We do not want contractors to have to pay more or have this additional cost set back a project from moving forward. There are a lot of stakeholders involved if this mandate moves forward. In its present state, Republic Services cannot support the bill because it increases the costs to our customers. I would ask that you vote against the passage of this bill.

Matthew Rager, Owner, Empire Waste Systems, Mound House, Nevada:

My business hauls trash, and everybody should know that we like to recycle. It has to make economic sense to make it happen. I have experience with construction and demolition recycling and operated my own little facility. I have done green waste recycling, and currently what works for our business plan is concrete and asphalt, metals, and occasionally we do cardboard. We can do site source recycling by putting out receptacles to provide a recycling environment for contractors. Some sites do not have the size to have that many dumpsters, and the waste is comingled.

I operate at Incline Village, and the most direct route to take materials is over the Mt. Rose Highway, which is dangerous. We have had some deaths and flipped-over trucks. We typically go over Spooner Summit to Carson City, and it

makes the most business sense to us to use the Carson City landfill. Cost, energy, and carbon footprint-wise, it works. If this bill is passed, we feel we will be required to go to Reno, utilize a MRF, and then return, which will cost about \$150 to \$200. We do not feel safe that the rates at the MRF will be affordable for our business to operate. I called the two closest MRFs at Tahoe City and South Lake Tahoe and found the average price was \$75 per ton. If we carry a maximum weight load of eight tons for a roll-off truck, it will cost \$600 to \$650 for disposal. When I go to the Carson landfill it costs \$36 per ton and will cost about \$280. At the Lockwood landfill the price is about \$270. The cost at Lunas, Inc. in southern Nevada is \$36.50 per ton. I am not sure how they operate at those rates and maintain profitability.

As far as the Reno and Sparks market, if S.B. 316 (R1) passes, we have Waste Management, which has the volume and the control. I understand the amendment and that there needs to be two MRFs to require us to deliver there. So, Waste Management builds two MRFs or someone else does, and it still will not change the operating costs that I am seeing from other MRFs in the local areas. We run into predatory pricing from the larger company. If we lose our ability to use the Carson City landfill, we will be forced to pay those rates, and I do not think it can work economically in our plan. I submitted a letter ([Exhibit KK](#)) and background information ([Exhibit LL](#)) on NELIS. I will be happy to answer questions.

Chairman Bobzien:

Are there any questions?

Assemblyman Hardy:

Mr. Christopher, you presently have the contract in the Moapa Valley, and you do not have to haul the construction debris if it is left at your site?

Len Christopher:

We do have a MRF and we process some loads through that facility depending on what it contains. We have customers who want their materials recycled and are willing to pay a little more for it, as with Leadership in Engineering and Environmental Design (LEED) jobs.

Assemblyman Hardy:

The key to that is pay more money.

Len Christopher:

That is correct.

Chairman Bobzien:

Are there others in opposition to the bill?

John Madole, representing Nevada Chapter, Associated General Contractors:

If you raise the cost so substantially to get rid of an old building, it might be economically more feasible to leave the building standing. A good example is the YMCA building in Reno. It could increase the cost of razing a building by hundreds of thousands of dollars if this bill were passed. At some point the builder may decide that it is cheaper to go somewhere else and just leave some of the old buildings standing. We probably have more of that in Reno than Las Vegas. If one company put a MRF in Carson City and another in Reno, they could pretty much set the price.

Darren Schultz, Deputy Public Works Director, Carson City:

Carson City owns and operates a landfill. Last year, we had eight counties that disposed of construction and demolition waste in our landfill. Our method of operation includes that waste as far as how we process the waste and how we have built our landfill. A reduction in that would affect how we manage our landfill and would have a direct impact on jobs. We would either build our own MRF to try to compete, or we would have to lay off people. If we were to build a MRF to adhere to this and to continue to receive the construction and demolition debris, there would be a substantial cost that we would have to pass on to people bringing material to the MRF and to the general public who use our landfill. We would see an increase in cost in Carson City and our surrounding counties, as well as a possible reduction in employees. I think the testimony about whether it is northern Nevada or southern Nevada is very relevant. If this is a recycling issue, we need to look at recycling across the board and maybe raising the percentage of the required recycling in the state. The results of that not only affects the construction and demolition debris, but also household waste. By doing that, you are leveling the playing field as far as recycling. We are opposed to this bill.

Cory Cormier, Owner, TrashCo Dumpster Service, Washoe Valley, Nevada:

Once a MRF is built, if the rates stay where they are now, I am looking at tripling my tipping fees from what they currently are. It makes no economic sense. It puts me out of business. I oppose this bill.

George Hutchinson, Private Citizen, Reno, Nevada:

My interest in this bill is because Cory Cormier is married to my daughter. There is an 800-pound gorilla in northern Nevada that seems to come at the small entrepreneurial independent waste haulers time after time. In Reno, in order to build the recycling center that will be built in the next couple of years, they have to be subsidized. The independent haulers cannot pursue commercial

businesses. The businesses are paying for recycling. They have the only landfill in the Reno area, and the landfill in Carson City provides competition. The rate differential in the landfill alone is significantly higher in Reno than in Carson City. If it is a mandated requirement, then the costs are going to go up and the public will pay for it. There can be unintended consequences of other jobs being lost. I think the bill is poorly written even as amended. Northern Nevada should be excluded because it will drive the smaller people out of business.

Chairman Bobzien:

Are there any questions? Seeing none, is there any other opposition?

Bob Coyle, Vice President, Republic Services, Las Vegas, Nevada:

We have determined that the cost is going to increase substantially. I would raise the same question as Assemblywoman Kirkpatrick raised earlier—why now and what has changed? As Assemblyman Hansen said, why do we need a law? I think I heard that the first panel said their three MRFs had excess capacity. Therefore, let us get the state to pass a law to take up our excess capacity and make sure contractors have to put their material here. Currently, every contractor in Clark County has the option of taking their construction waste material to a MRF, or a landfill, or recycle it themselves. Why not leave them with those options? What has changed so that now we have to mandate it? The man from Las Vegas pointed out that Clark County for the first time has exceeded the state recycling goal of 25 percent. So why do we have to mandate this now?

Chairman Bobzien:

Seeing no other opposition, is there anyone to testify from a neutral position on this bill? Seeing none, Senator Denis will provide some closing remarks.

Senator Denis:

There are conflicts about the costs, but the question is do we want to recycle more or not? It took us 20 years to meet our goal for recycling, and that is why we want to do it now. I understand why Republic would want to oppose this bill, but when we heard it in the Senate, none of them were there. I understand that some people would not want to oppose this in a hearing and would rather go to a reporter and make an issue about the fact that I used to work in this industry and that somehow I benefit personally from this. I am doing this because I think recycling is an important thing. It is a decision we need to make—do we want to recycle more or do we want the status quo? There could be a win-win for everybody. I heard the issues of the northern Nevada people and I am willing to consider that. The intent is not to make it harder. Now is a good time to recycle more, and I urge the Committee's support.

Chairman Bobzien:

Thank you, Senator Denis. I will close the hearing on S.B. 316 (R1) and open the hearing on Senate Bill 127 (1st Reprint).

Senate Bill 127 (1st Reprint): Prohibits employers from conditioning employment on a consumer credit report or other credit information. (BDR 53-453)

Senator David R. Parks, Clark County Senatorial District No. 7:

This bill is about fair employment practices. It prohibits employers from conditioning employment on a consumer credit report. It is especially important in today's tough economy where so many individuals have faced incredible financial setbacks in recent years. This session we have heard many bills relating to getting workers back to being employed. Senate Bill 127 (R1) is also a jobs bill which makes sure employers in our state use consumer credit reports for employment purposes only when they are relevant to job duties.

Section 7 prohibits an employer from conditioning the employment of an employee or a prospective employee on his or her consumer credit report or other credit information. It also prohibits an employer from taking certain employment actions based on the refusal of an employee or prospective employee to submit a credit report or other credit information or on the results of such a credit report or information unless it is otherwise necessary. It further prohibits an employer from taking certain employment actions where an employee or prospective employee files a complaint, testifies in any legal proceeding, or exercises his or her rights with respect to any violation committed by the employer. Section 7.5 was a friendly amendment from the Retail Association of Nevada which provides for a number of exceptions to requiring a credit report.

Chairman Bobzien:

Are there any questions?

Assemblyman Ohrenschall:

Would this bill, if passed, still allow an employer to ask permission to run a prospective employee's credit report?

Senator Parks:

An employer or prospective employer could make a request, but that request should be based on a requirement specific to the need to have that information.

Assemblywoman Diaz:

What was the genesis behind bringing this bill?

Senator Parks:

There were perhaps two experiences. I saw that approximately half of the states have passed or entertained legislation similar to this. I also had a constituent who was refused employment because of a bad credit history, which was really not her credit history but that of her ex-husband.

Chairman Bobzien:

Are there other questions for Senator Parks? Seeing none, are there people to testify in support of the bill?

Lea Tauchen, representing Retail Association of Nevada:

There was a coalition of industry group representatives that worked with the bill sponsor in the other house. We ensured that the exemptions that were provided in this bill are adequate to allow employers to do their due diligence when making their hiring decisions. A credit report does not need to be run for every employee or for all jobs because they are actually expensive to run. They serve as a very important tool for screening an applicant who will handle money, make fiduciary decisions, or have access to private customer or employee data. We believe this will allow employers to hire the best person available for the job.

Bill Uffelman, President and CEO, Nevada Bankers Association:

We support this bill.

Chairman Bobzien:

Are there any questions?

Assemblyman Livermore:

If you were going to hire a branch manager in a bank, is a credit check a condition of employment?

Bill Uffelman:

They certainly will run a credit report. You could have a bad credit report and still get that job. There are explanations that have nothing to do with how you behaved. There are valid reasons to request the credit report, examine it, and make it a part of the discussion.

Chairman Bobzien:

Are there additional questions? Seeing none, is there further support for this measure? [There was none.] Is there any opposition? [There was none.] Is there anybody who wants to testify from a neutral position? Seeing none, thank you, Senator Parks. I will close the hearing on S.B. 127 (R1) and open the hearing on Senate Bill 235 (1st Reprint).

Senate Bill 235 (1st Reprint): Authorizes a local law enforcement agency to establish or utilize an electronic reporting system to receive information relating to purchases of scrap metal. (BDR 54-869)

Senator David R. Parks, Clark County Senatorial District No. 7:

The measure requires that the electronic reporting system be electronically secured and accessible only to a scrap metal processor for the purpose of submitting certain information, an officer of the local law enforcement agency, and an authorized employee of any third party that the local law enforcement agency contracts with for the purpose of receiving and storing the information submitted by a scrap metal processor. A person is immune from any civil liability for any action taken with respect to carrying out the provisions of this bill if the actions are taken in good faith and without malicious intent. The bill further requires a person who possesses the information required to be submitted to a local law enforcement agency to keep the information confidential. A person who knowingly and willfully violates the requirements will be guilty of a gross misdemeanor.

Terry Graves, representing Scrap Metal Processor Group:

I have a friendly technical amendment to the bill ([Exhibit MM](#)). I have a client in Las Vegas who was unable to stay to provide testimony. He wanted to make the point that the scrap metal processors are also frequently victims of copper theft or metal theft crimes. The biggest issue in bringing this bill forward is the concern over data security in submitting information to an online system. One of the greatest assets that the scrap metal processors have in their business is their client list. For that reason, we requested that the business-to-business transactions be exempt from the reporting system. That is reflected in the bill. My client also feels that the biggest part of the problem with the metal theft issue is with individuals who walk in off the street to sell their scrap metal.

Section 2, subsection 1, paragraph (c), subparagraph (1) should have read, "Personal identification card issued by this State or any other state or territory of the United States." That comports with the lines below which refer to the driver's licenses which can also be issued by this state or any other state or territory of the United States. That was an oversight in drafting, and I think all of the parties agree that the personal identification cards should be amended this way.

Warren Hardy, representing SA Recycling:

I should note that, in the interest of brevity, I also represent several other interested parties in presenting this. The bill presented today is the product of over a year of work. I also have a friendly amendment ([Exhibit NN](#)). When the

legislation passed the Senate, there was a clarifying amendment. It was always the intent that the police departments could use a third-party processor to be able to process and maintain the information that is being submitted. It was not clear in the bill. When it was amended in the Senate, it then became clear that that was the intent. Three or four other companies came forward with concerns about the third party.

The friendly amendment deals with the regulatory process for developing standards for the third parties. Nobody has an issue with giving information to law enforcement agencies. We believe there are plenty of protections for that. If there is going to be a third party who collects this information, it will be a sole-source contract, and we believe there should be very specific standards for what those companies need to achieve to protect the information they receive. We want it to be consistent across the state. This amendment achieves that and is agreed to by all interested parties. As we looked at model legislation throughout the country, the departments of public safety showed up in many models regarding who would promulgate the regulations. We added that to the amendment at the last minute and when I contacted the Nevada Department of Public Safety, they said they do not do regulations. We will replace that with the Department of Industrial Relations. Administrator Donald Jayne said as long as it was just setting up regulations one time to govern this, he did not believe that there would be a fiscal note.

This bill is important to our industry. It is important that we have a reporting system to catch people who are stealing metal. We fully support this bill with the amendment.

Chairman Bobzien:

Are there any questions?

Assemblyman Ellison:

I understand why you need to get these reports and get the information to the law enforcement agencies, but it is still going to take a lot of work to get all of the different vendors to report. How much time will you give the scrap metal processor and what kind of expense will it be for them?

Warren Hardy:

We do not believe there will be any additional cost because we are already required to keep this information. Currently the law says when a customer brings in the information, we collect it and keep it in a book. The book is required to be turned over to law enforcement at their request. In a lot of ways, this is a benefit to us. It is worth it to us because it will go across state lines and we will be much more effective in catching the bad guys.

Chairman Bobzien:

Are there any other questions? [There were none.] Is there further testimony in support?

A.J. Delap, representing Las Vegas Metropolitan Police Department:

I have learned a lot about scrap metals over the interim. This issue was brought to our office within our agency by the construction theft detail, and it is their hope that this information will help with their investigations. It is a huge problem in Las Vegas, and it will be catastrophic once the construction industry starts to improve. We appreciate the industry's willingness to provide this information for us. The scrap yards are currently required to keep a book in which they record the information required by this law. That book will continue to be maintained. There are photos and fingerprints that are in the book that we are not having uploaded to the data system because of the difficulty of doing that. This is a great way for our detectives to be much more efficient in their duties and their investigations.

Eric Spratley, representing Washoe County Sheriff's Office and Nevada Sherriffs' and Chiefs' Association:

I agree with the other proponents of this bill.

Chairman Bobzien:

Are there any questions for the representatives of law enforcement? Seeing none, is there additional testimony in support of the measure? [There was none.] Is there any opposition testimony?

Jonathan Friedrich, Private Citizen, Las Vegas, Nevada:

I am speaking as a private citizen and a victim of copper theft. I own a one-story office building on Buffalo Drive. About two months ago, two rooftop air conditioners were vandalized for the copper. The replacement cost is \$8,000 for each air conditioner. About 14 months ago, one of the air conditioners that was just vandalized was stolen. In the same complex, six other air-conditioning units were stolen. It is a quiet area and it was in the back of the building.

After reading the bill, I contacted Senator Parks because the existing language on page 4, lines 26 through 29, requires identification, physical description of the seller, including the seller's gender, height, eye color, and hair color. I asked that two other items be added to the bill. It needs to include the address where the material came from, and if it came from a residence, that the owner would give a release saying that it was not stolen and it was from his home. In addition to this, Senate Bill 278 (1st Reprint) [mentioned, no jurisdiction], which was sponsored by Senator Ford, creates a registry of abandoned homes.

In Clark County, that is public information. Anyone looking to strip copper out of a home, from the air conditioner or inside the structure, can go to the registry, find out which homes are abandoned, and go in and do tremendous damage.

My request is to include in the bill where the material came from, because it is important information. I applaud the bill. It is needed; \$16,000 was a tremendous expense for me, and I am not the only one who is suffering.

Chairman Bobzien:

Did you discuss your proposed amendment with the bill sponsor and did you discuss it in the Senate?

Jonathan Friedrich:

I sent an email with the proposed change to Senator Parks, and he told me he would pass it to the appropriate individuals. I was not aware of the bill when it was in the Senate.

Chairman Bobzien:

Are there any questions? Seeing none, is there additional testimony in opposition to the bill? [There was none.] Is there anyone to testify from a neutral position? Seeing none, Senator Parks, will you close?

Senator Parks:

I did communicate with Mr. Friedrich regarding his request and since this was a by-request bill, I asked that he deal with the requestor of the bill. I did indicate in my response that the material that would be accumulated would not be capable of being verified.

Terry Graves:

I discussed this with my client, and we sympathize with Mr. Friedrich's loss; this story has probably happened many times. What he is requesting is unworkable for my clients. The biggest problem is that it is not verifiable. My clients take precautions against people walking in with materials you suspect they should not have. It is in the law that they are not allowed to take in materials that they suspect are stolen. Beyond that, I would not know how you would deal with this. It is important that people who have materials stolen from them report it as soon as possible. Even if you suspect materials are stolen, identification is still a problem. It is an unfortunate part of this business.

Chairman Bobzien:

I will close the hearing on S.B. 235 (R1) and will now open the hearing on Senate Bill 287 (1st Reprint).

Senate Bill 287 (1st Reprint): Revises provisions governing cosmetology.
(BDR 54-830)

Senator Joseph P. Hardy, Clark County Senatorial District No. 12:

This bill deals with the cosmetologist who works in more than one place of business and literally has to take his or her license off the wall and take it to the other place of business. This allows them to have a duplicate copy of their license.

Chairman Bobzien:

Are there any questions? [There were none.]

Gloria Alexander, Office Manager, State Board of Cosmetology:

I am here in support of S.B. 287 (R1). Gary Landry, the Executive Director of the Board, submitted a letter in support of the bill ([Exhibit OO](#)).

Annie Curtis, Chief Inspector, State Board of Cosmetology:

I would like to add that the Board unanimously supports S.B. 287 (R1).

Chairman Bobzien:

Are there any questions? [There were none.] Is there anyone else to testify in favor of this bill? Seeing none, is there any opposition? [There was none.] Is there anyone to testify from a neutral position? [There was none.] I will close the hearing on the bill. Is there anyone wishing to make public comment? [There was no response.] Are there any matters to come before the Committee? [There were none.] The meeting is adjourned [at 5:49 p.m.].

RESPECTFULLY SUBMITTED:

Earlene Miller
Committee Secretary

APPROVED BY:

Assemblyman David P. Bobzien, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: May 10, 2013

Time of Meeting: 1:17 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 29	C	Kelly Richard, Policy Analyst	Work Session Document
S.B. 35 (R1)	D	Kelly Richard	Work Session Document
S.B. 40 (R1)	E	Kelly Richard	Work Session Document
S.B. 41 (R1)	F	Kelly Richard	Work Session Document
S.B. 153	G	Kelly Richard	Work Session Document
S.B. 154 (R1)	H	Kelly Richard	Work Session Document
S.B. 268 (R1)	I	Kelly Richard	Work Session Document
S.B. 438	J	Kelly Richard	Work Session Document
S.B. 506	K	Kelly Richard	Work Session Document
S.B. 507	L	Kelly Richard	Work Session Document
S.B.266 (R2)	M	Tom McCoy	Handout
S.B. 266 (R2)	N	Carla Brutico	Prepared Testimony
S.B. 266 (R2)	O	Senator Joyce Woodhouse	Prepared Testimony
S.B. 266 (R2)	P	Michael Hackett	Prepared Testimony
S.B. 266 (R2)	Q	Michael Hackett	Handout
S.B. 266 (R2)	R	Michael Hackett	Handout
S.B. 266 (R2)	S	Cari Herington	Prepared Testimony
S.B. 266 (R2)	T	Samantha Guild	Letter in Support
S.B. 266 (R2)	U	State Patients Equal Access Coalition	Memorandum in Support
S.B. 266 (R2)	V	James Jackson	Letter of Opposition
S.B. 266 (R2)	W	Adam Plain	Proposed Amendment
S.B. 266 (R2)	X	Adam Plain	Prepared Testimony
S.B. 267 (R1)	Y	Senator Joyce Woodhouse	Prepared Testimony
S.B. 267 (R1)	Z	Senator Joyce Woodhouse	Handout
S.B. 267 (R1)	AA	Stacey Escalante	Handout
S.B. 267 (R1)	BB	Stacey Escalante	Video
S.B. 267 (R1)	CC	Tom McCoy	Handout
S.B. 267 (R1)	DD	Cari Herington	Prepared Testimony
S.B. 267 (R1)	EE	Samantha Guild	Prepared Testimony

S.B. 267 (R1)	FF	Dirk M. Elston	Letter of Support
S.B. 267 (R1)	GG	Joseph Levy	Handout
S.B. 316 (R1)	HH	Senator Moises Denis	Proposed Amendment
S.B. 316 (R1)	II	Norberto Madrigal	Video
S.B. 316 (R1)	JJ	Jason Jensen	Letter of Opposition
S.B. 316 (R1)	KK	Matthew Rager	Letter of Opposition
S.B. 316 (R1)	LL	Matthew Rager	Handout
S.B. 235 (R1)	MM	Terry Graves	Proposed Amendment
S.B. 235 (R1)	NN	Warren Hardy	Proposed Amendment
S.B. 287 (R1)	OO	Gloria Alexander	Letter of Support