

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

**Seventy-Seventh Session  
May 13, 2013**

The Committee on Commerce and Labor was called to order by Chairman David P. Bobzien at 1:40 p.m. on Monday, May 13, 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](http://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](mailto: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 Ruben Kihuen, Clark County Senatorial District No. 10

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Joseph Brown, representing Security Finance  
Phillip Holt, Senior Vice President, Government and Public Relations,  
Security Finance, Plano, Texas  
Berlyn Miller, representing Nevada Financial Services Association  
Jon Sasser, representing Legal Aid Center of Southern Nevada; Washoe  
Legal Services  
Anthony Vogel, President, Clark County Deputy Marshals Association  
Danny Thompson, representing Nevada State AFL-CIO  
Leonard Cardinale, representing North Las Vegas Police Supervisors  
Association, Inc.; Clark County Deputy Marshals Association; We  
Are Nevada  
Rory Planeta, Chief, Department of Alternative Sentencing, Carson City  
Michael Beam, Chief Probation Officer, Department of Alternative  
Sentencing, Douglas County  
Ron Dreher, representing Peace Officers Research Association of Nevada  
Andres Moses, Staff Attorney, Eighth Judicial District Court  
Patrick Sanderson, representing Laborers' International Union Local 872  
Yolanda King, Director, Budget and Financial Planning, Department of  
Finance, Clark County  
Lisa Gianoli, representing Washoe County  
Sandra Swickard, Workers' Compensation Coordinator, Employee  
Benefits, Officer of the County Manager, Clark County  
Brian O'Callaghan, Government Liaison, Las Vegas Metropolitan Police  
Department  
Robert Roshak, Executive Director, Nevada Sheriffs' and Chiefs'  
Association  
Renee Olson, Administrator, Employment Security Division, Department  
of Employment, Training and Rehabilitation

Kelly Karch, Deputy Administrator, Employment Security Division,  
Department of Employment, Training and Rehabilitation  
Jack Mallory, representing Southern Nevada Building and Construction  
Trades Council  
Darren Enns, representing Southern Nevada Building and Construction  
Trades Council  
Robert Conway, representing Ironworkers Local 433

**Chairman Bobzien:**

[Roll was called.] We will open the hearing on Senate Bill 94 (1st Reprint).  
We welcome the proponents to the table.

**Senate Bill 94 (1st Reprint): Revises provisions governing certain loans.  
(BDR 52-581)**

**Joseph Brown, representing Security Finance:**

With me today is Phillip Holt. He will testify in support of the bill.

**Phillip Holt, Senior Vice President, Government and Public Relations,  
Security Finance, Plano, Texas:**

In addition to my responsibilities for Security Finance, I serve as the Director for  
the National Installment Lenders Association in Washington, D.C.

The traditional installment loan is a safe, transparent, and affordable consumer  
finance product that has been offered for over a hundred years throughout the  
United States. Along with a copy of my testimony, I have provided each of you  
a copy of a resolution adopted recently by the National Black Caucus  
of State Legislators which is a strong endorsement of our industry, and the  
reasons for their support. It clearly outlines the benefits of the traditional  
installment loan product in the communities, and the need for safe and  
affordable loans.

Members of the American Financial Association operate in storefronts in the  
communities we serve and are heavily regulated by the states' financial  
institutions departments. The traditional installment loan industry adheres to all  
federal laws such as the Truth in Lending Act, Regulation Z. The industry  
requires that the lender considers the following factors prior to making a loan:  
(1) the borrower's credit bureau reports; (2) the availability of monthly income  
for debt service; (3) the length of time the consumer has been employed;  
and (4) the amount of the borrower's debt compared to assets and income as  
a condition for making the loan.

The loans are structured to minimize the danger of the borrower falling into a cycle of debt. All loan payments are reported to the three major credit reporting agencies. There is general agreement that installment loans are the safest loan product for the consumer. Loans are not sold off, but are held and serviced in the local branches, giving both borrowers and regulators real people to talk to when they need to.

Rates are fixed, and are the same for all borrowers. There are no prepayment penalties, and the product is as understandable and transparent as we can make it. Unlike other kinds of lenders, installment lenders do not require postdated checks or access to a borrower's bank accounts, or require the title to their vehicle as a condition of the loan. All the loans are signature loans and without any collateral tied to the transaction.

The basic definition of a late charge is a fee to compensate a lender for the additional administrative expense and labor incurred when payments are not received on time. The late charge is necessary due to the cost to collect past-due or delinquent accounts. Without a reasonable late charge, there is little incentive for the borrower to prioritize repayment of his or her loan.

Ninety percent of the overtime expenses in our company, and consistent within the industry, is working to collect past due accounts. The extra time and effort put forth with these accounts equates to an expense that should be distributed not among all consumers, but among only those that fail to live up to their obligation to pay on time. Currently the cost of these measures to collect the late payments is borne by all the consumers, since there is not a fee to offset this expense. The late fee helps our conscientious consumers by disciplining those who do not pay their obligations on time and building a good credit score that will be of benefit to those that do pay on time.

The consumer has complete control over the fee being charged. If they adhere to the contractual terms and pay within their contracted due date, no late charge is assessed. Without a late charge for delinquent payments, the consumer damages their credit score, and our payment becomes less important than their other obligations.

The following are some examples of entities that presently do have the ability to apply a late charge, to encourage the consumer to be responsible and pay promptly for their goods or services: Clark County Public Library, NVEnergy, credit cards, mortgage providers, banks, credit unions, DVD rental stores and kiosks, law enforcement for traffic violations, health care professionals, universities and community colleges, and even our own regulatory body here in the state of Nevada. If we look at the Division of Financial Institutions,

subsection 6 of *Nevada Administrative Code* (NAC) 604A.090, "Fees and assessments," states that "The late fee for each day a licensee fails to submit a report required pursuant to the provisions of chapter 604A of NRS, as set forth in NRS 604A.760, is \$10." This says that every day I fail to turn in my reports on time, I am fined \$10 a day by the state of Nevada.

What our industry is asking for in Senate Bill 94 (R1) is considerably less than this amount. A few examples of other states that we can look to are: (1) New Mexico, 5 percent of the payment; (2) Utah, 5 percent or \$30, whichever is greater; (3) Idaho, 5 percent or \$12.50, whichever is greater; (4) Oklahoma, \$23; and (5) Texas, 5 percent of the payment.

I would like to thank Ms. Buckley and Mr. Wulz of the Legal Aid Center of Southern Nevada for their cooperation in working out the amendment that will be presented to you shortly ([Exhibit C](#)). We think we have come up with a good alternative and good solution to get this bill passed.

**Chairman Bobzien:**

Do we have questions for the presenters?

**Assemblyman Ohrenschall:**

In the other jurisdictions you are familiar with, do most of the high-interest lenders charge a service fee like this in addition to the other charges the person accrues? Is this common?

**Phillip Holt:**

Yes, this is very common. Nevada is the only state I am aware of where we are not able to collect a late fee.

**Assemblywoman Bustamante Adams:**

On the Senate side, they asked the question: is this fee truly a one-time fee regardless of the length of the loan? I believe the answer was no. It is a fee that you can charge every month. Is that correct?

**Phillip Holt:**

Yes, that is correct. Like any other late fee that you have, whether it is your credit card payment, water, utilities, et cetera, it is on a per installment basis. Most of our loans have one payment per month. There is the ability to have a late fee once a month if the consumer does not adhere to the contract.

**Chairman Bobzien:**

Are there any additional questions? [There were none.] Knowing we will have an amendment coming from the people you worked with, we will see if we have anyone else in support of the legislation wishing to testify.

**Berlyn Miller, representing Nevada Financial Services Association:**

We are in support of S.B. 94 (R1) and the amendment presented by the Legal Aid Center of Southern Nevada that you will be considering ([Exhibit C](#)).

**Assemblywoman Bustamante Adams:**

Can you tell me about the demographics of the consumers for this product?

**Berlyn Miller:**

The majority of the consumers that borrow from our members are people who normally do not do business with the banks. Most of them are nonbanked. Mr. Holt can probably answer that question better since he deals directly with the consumers.

**Phillip Holt:**

Our consumers typically have a credit score of 680 and below. Many of them do have banking relationships but would rather deal with our type of lending because it is an approach where they do not need to borrow \$5,000. Banks and credit unions would try to force them into that because that is their lower threshold. If the consumer needs a \$1,000 loan that is equally paid out over a 12-month period and it also reports to the credit bureau to enhance their credit standing, this is usually the choice of those consumers.

**Assemblywoman Bustamante Adams:**

Do you have any other demographics besides that?

**Phillip Holt:**

As far as race and age, it is a broad spectrum. It goes from those who are just now starting in the credit world from 18 years old, out of high school, looking to have a first term at a credit product. It also goes to those of any ethnic race who need a short-term loan that has fixed, equal installments. What is unique about the installment loan industry is that each payment also pays down the principal. It is not loaded up with interest. It is a fully depreciating loan that is closed in. There are no prepayment penalties, as I mentioned in my testimony. If the consumer chooses to pay off early, there are no penalties to do so.

The number-one thing we would like to report is that for each consumer who comes to take out a loan, before we can lend that money, we do a budget with that consumer. It would be of no use to us to loan money to a consumer who

cannot pay back. With no collateral, it is typically a loan that is written off very quickly because we have no recourse through the court system. We are going to do a tremendous amount of budgeting and underwriting with a consumer for a \$1,000 loan. It is about a 45-minute to an hour-long application process to make sure the consumer does qualify.

Another statistic is that four out of ten consumers who come in qualify for these loans. The other six are asked to try to enhance their credit ability to qualify for a loan. If you walk in you are not necessarily getting a loan. There is a lot of rejection through the process.

**Assemblywoman Bustamante Adams:**

What prompted you to go from \$10 to \$25? What was the justification for more than doubling it?

**Phillip Holt:**

In our earlier discussions with Senator Atkinson, \$25 was the amount that he wanted to include. It was not incorporated into the original bill draft, so that was an oversight at the very beginning. The \$25 fee was the original fee we discussed in the preliminary meetings leading up to the session.

**Assemblywoman Bustamante Adams:**

How did you come up that number?

**Phillip Holt:**

The \$25?

**Assemblywoman Bustamante Adams:**

Correct.

**Phillip Holt:**

That was an industry number. Looking at other types of lending practices out there and across the various states we operate within, that is a median number that we use.

**Chairman Bobzien:**

Are there additional questions?

**Assemblywoman Carlton:**

In reading this, I am trying to make sure I am coming at it from the right perspective. These are high-interest loans. What type of interest are we talking about?

**Phillip Holt:**

Let me go back. I believe, in the amendment that will be presented today ([Exhibit C](#)), the actual number we agreed to is a \$15 late fee. I want to make sure I got that straight with you.

Our interest rates vary from the size of the loan. With our middle-of-the-line loan for \$1,000, the annual percentage rate (APR) is around 54 percent in the state of Nevada. It is higher than a credit card, but you have to understand that these are unsecured loans with no collateral. The cost of credit will be higher to that effect.

**Assemblywoman Carlton:**

You said 54 percent?

**Phillip Holt:**

Yes, that is correct.

**Assemblywoman Carlton:**

I have not seen a credit card over 25 or 30 percent. That is significantly higher than a credit card rate, and money is worth about 1 percent right now. I cannot even get that on my savings account. These are 54 percent loans.

**Phillip Holt:**

This is for a one-year product. Therefore, the APR number you are using to calculate is based typically on a home mortgage, which is a 30-year mortgage. If I were to loan you \$100 today and ask that you pay me back \$100 plus a quarter tomorrow, that seems reasonable. All I am asking you to pay, with my risk and my capital on the line, is 25 cents. Would you agree?

**Assemblywoman Carlton:**

I am not going there. I am trying to get to the facts of the bill.

**Phillip Holt:**

I am just stating that APR for a loan product under 20 years is sometimes misleading on short-term loans.

**Assemblywoman Carlton:**

I am just saying that the money I am getting on my savings account from a bank right now is in the single digits and almost nonexistent. You are talking about a 54 percent yearly APR.



**Phillip Holt:**

Yes, that is what is posted by law that we have to put on the contracted agreement so the consumers are well aware of that when they sign the contract.

[Assemblywoman Kirkpatrick assumed the Chair.]

**Assemblyman Hansen:**

In the bill it states, "on any loan that remains unpaid 10 days or more after the date of default." After you file this, are there any legal actions that kick in once you have that official date of default? Even though it is a minimal fee, does that allow some additional legal process to kick in at that point?

**Phillip Holt:**

No, the industry will not pursue that because of the fact that these are unsecured loans and the risk is so high. That is the reason the underwriting and budgeting plays such a heavy factor on the front end. If a consumer defaults on a \$600 loan, the cost to recover that through the court system is not justified. The economics are not there. Our cost of doing business is greater than a bank or credit union that advertises most lower rates.

**Assemblyman Hansen:**

It is a minimal fee, but I am wondering if there is some legal factor that once you have that date of default officially entered, you can take additional action.

**Vice Chairwoman Kirkpatrick:**

Are there any additional questions? [There were none.] Is there anybody else wishing to testify in support? [There was no one.] Is there anybody who would like to testify in opposition? [There was no one.] Is there anybody who is neutral on the bill?

**Jon Sasser, representing Legal Aid Center of Southern Nevada:**

I have an amendment that I have offered that has been accepted by the sponsor ([Exhibit C](#)). That does not move us to the support position but merely to the neutral position. We withdraw our opposition to the bill. I do not think the Legal Aid Center is ever going to come out in support of an increase in fees or late fees in NRS Chapter 604A, which is the product of many years of hard work in 2005 and 2007.

Let me explain a little bit about the negotiations we had with the proponents of the bill and why we came to a neutral position. First of all, the description of the business you just heard by Mr. Holt and others is what their company does. That is their business product that they offer. However, that is not who

is authorized to charge this higher rate under the bill as currently written. The way the bill is currently written, all high-interest lenders covered by NRS Chapter 604A would have been allowed to charge this \$25 charge and not just those that follow the business model Mr. Holt outlined. The way high-interest loans are defined in that chapter is anything over 40 percent APR. You have people who are literally charging 1,000 percent and more. There is no limit under our law as to how much interest can be charged.

If the bill had passed in the form that came over from the Senate, any high-interest lender could have charged this \$25 fee. Our negotiations with them is to limit the authorization of a late fee only to those who do follow what might be called this more consumer-friendly business model that Mr. Holt and his company have. They are already recognized in another part of NRS Chapter 604A as having an ability to roll a loan over that others cannot. That is at NRS 604A.480, and there are a number of factors listed. It refers to people who charge an APR of less than 200 percent. Other conditions are:

Requires the customer to make a payment at least once every 30 days; (3) Requires the loan to be paid in full in not less than 150 days; and (4) Provides that interest does not accrue on the loan at the annual percentage rate set forth in the loan agreement after the date of maturity of the loan; (b) Performs a credit check of the customer with a major consumer reporting agency before making the loan; (c) Reports information relating to the loan experience of the customer to a major consumer reporting agency; (d) Gives the customer the right to rescind the new deferred deposit loan or high-interest loan within 5 days after the loan is made without charging the customer any fee for rescinding the loan; (e) Participates in good faith with a counseling agency that is: (1) Accredited by the Council on Accreditation of Services for Families and Children, Inc., or its successor organization.

If those factors that are already in statute are met, the negotiations were that only those people who follow that business model, which would include Mr. Holt's company, could charge a late fee under the amendment ([Exhibit C](#)). We have lowered the fee from \$25 per month to \$15 per month. Those were the negotiations between the Legal Aid Center and Mr. Brown and Mr. Holt. If the Committee chooses to process this amendment, we would be in the neutral position, and if not, we would be opposed to allowing all high-interest lenders to charge these late fees.

**Vice Chairwoman Kirkpatrick:**

Are there any questions? [There were none.] Is there anybody else wishing to testify neutral? [There was no one.] Does the bill sponsor wish to come back up and make any closing comments? My understanding is that the amendment was a friendly one.

**Phillip Holt:**

Yes, we were in support of that amendment. I think the end result would be a good, safe product for the consumers and also one that would be easily adhered to by the industry that operates under that exemption.

**Vice Chairwoman Kirkpatrick:**

Are there any final comments you would like to make?

**Phillip Holt:**

If I can follow up with the example of that \$100 loan, and I charge 25 cents for that day of risk, based on the calculations required by the Truth in Lending laws that APR would be 90 percent. My argument is that the APR is a very hard number to pin down on small consumer loans of less than 20 years. It is one we all had to adhere to based on Truth in Lending federal laws. It is a dangerous tool for us to use for small consumer loans.

**Vice Chairwoman Kirkpatrick:**

Are there any final questions? [There were none.]

[An exhibit was submitted by Phillip Holt ([Exhibit D](#)).]

We will close the hearing on S.B. 94 (R1). We will open the hearing on Senate Bill 208 (1st Reprint).

**Senate Bill 208 (1st Reprint): Revises the definition of "police officer" primarily for purposes of certain provisions relating to occupational diseases. (BDR 53-875)**

**Senator Ruben Kihuen, Clark County Senatorial District No. 10:**

With me I have Anthony Vogel to my left and Danny Thompson to my right. Very briefly, I am going to talk about what the bill does and hand it over to Mr. Vogel, the president of the Clark County Deputy Marshals Association.

Under existing law, court bailiffs and deputy marshals in district and justice courts are not included in the statutory definition of "police officer" for purposes of certain prohibitions relating to the Nevada Occupational Disease Act. The intent of this bill is to expand the definition of "police officer" to include such

persons, thereby making those provisions of the act that are applicable to police officers also applicable to court bailiffs and deputy marshals in district and justice courts.

Furthermore, because various other provisions of *Nevada Revised Statutes* (NRS) reference "police officers" as that term is defined in the act, this bill makes applicable to court bailiffs and deputy marshals in district and justice courts certain provisions concerning industrial insurance coverage, exemption from service as grand or trial jurors, compensation for police officers with temporary disabilities, and certain programs of group insurance or other medical or hospital services for the surviving spouse or any child of police officers and firefighters.

With your indulgence, I would like to introduce Anthony Vogel, who will talk about why this bill is needed and give some examples.

**Anthony Vogel, President, Clark County Deputy Marshals Association:**

I represent roughly 123 deputy marshals in Clark County. As Senator Kihuen stated, Senate Bill 208 (1st Reprint) is an amendment to NRS 617.135, which is the definition of "police officer" for the purposes of industrial insurance. Until the 2007 Session, we were known as deputy sheriffs, which is currently listed under that statute. During that session, our name was changed to deputy marshals and fell out of the coverage it provided.

Since the time that change has taken effect, a number of deputy marshals have been exposed to contagious diseases, and in one case a marshal was injured to the point where he ended his career. I will go into more of a description of that. Deputy Richard Burns was in the courtroom and heard a noise coming from the holding cell in between the courtrooms. He opened the door, and when he walked in, there was a Las Vegas Metropolitan Police corrections officer on the ground bleeding from his face with an inmate standing over him attempting to get his gun out of his holster. Richard Burns came to the aid of that officer, and they were able to subdue the subject. In the fight that occurred, Richard Burns sustained an injury that put him out on workers' compensation. He was then told that if he returned to work, he could injure himself further, so he was forced to medically retire. If we were listed under NRS Chapter 617, he would have had extended light duty and some additional coverage that would have helped protect him going forward.

Another incident that recently happened was that a corrections officer was taking an inmate out of the room, and the inmate put up a fight. The marshal came to the aid of the corrections officer, and the marshal was bitten on the arm where it broke the skin. We later found out that the inmate was hepatitis C

positive. Luckily, so far he has not tested positive, although he is still going through testing. We have another marshal where the same kind of incident happened. There was a fight in the courtroom, and he had blood spit in his face by the inmate. Again, the inmate was hepatitis C positive.

It is worth noting that many times when people think of bailiff or marshal, they think of the person standing at the back of the courtroom who says "all rise" and "have a seat." As we have all seen on television, violence has been escalating, and our courts are not immune to this. We are basically the law enforcement for the courts. We are the first responders to everything from medical calls to assaults and batteries. We have had strong-arm robberies in the courthouse. We have had people assaulted in the courthouse, and domestic violence happens routinely in the courthouse. We are the ones who respond to these. We respond to roughly 10,000 calls a year, which a lot of people were rather surprised by. In addition to that, we accompany the judiciary off property to different events. The judiciary was just down in Minden for a conference, and we provided executive protection and infrastructure protection. We worked with the local agencies and the Nevada Threat Analysis Center and had bomb dogs there. Our job has developed and grown to become actual first responders.

We deal with 4,000 people a day who come into the courthouse. If any of you have ever been to the Regional Justice Center, the line goes down the street and around the block some mornings. Every one of those people needs to bring in their items and put them through an X-ray. We routinely are touching the personal effects of 4,000 people a day. No patrol officer on the street will ever come close to that. We are exposed to all the people they arrest and detain because all of them come through our courthouse. We deal with the same exact people, so we should have the same exact coverage.

**Danny Thompson, representing Nevada State AFL-CIO:**

I want to thank Senator Kihuen for bringing this bill forward. In 2005, John Duran and I worked to organize the court bailiffs in Clark County who, at the time, were deputy sheriffs. They wore a deputy sheriff uniform with a deputy sheriff badge and patch. When we had done that, it organized into this group that Mr. Vogel represents. There was a bill in 2007 that was brought forward by the sheriff because the law said the sheriff had to appear in person or by deputy in district court. Because the sheriff had lost control of the bailiffs over the years through different agreements, they had his uniform on, but he had no control over them. He asked us to agree to a name change, which seemed reasonable to us. We agreed to this court marshal name with the assurances that it would mean nothing to these individuals.

I think you have heard some of the things that have happened since that name change. This will right that ship back to what it used to be. Through this name change, they have had problems. We support this bill 150 percent. I do not believe this is something that should have ever happened. It all started with this name change. We took them from having a deputy sheriff badge to the court marshals. We wholeheartedly support this bill.

**Leonard Cardinale, representing North Las Vegas Police Supervisors Association; Clark County Deputy Marshals Association; We Are Nevada:**

I am here to make a few comments. We are in support of S.B. 208 (R1). We support the proposals within S.B. 208 (R1) as it defines deputy marshals as police officers for the purposes of occupational diseases. Clark County marshals screen approximately 4,000 to 6,000 people a day and more than 2 million people a year. According to the Clark County deputy marshal records, there have been only one case of HIV and three cases of hepatitis C in recent years. If we were to apply this new change in the law, there would not be an excessive amount of cases that would transfer.

As a police sergeant currently working a busy swing shift in North Las Vegas, I can tell you that the Clark County deputy marshals have more contact with infected people than the average police officer working patrol. Their exposure and risk is much greater than most active police officers because of the frequent and consistent contact with persons who may have contracted an infectious disease. For example, if there was to be a domestic disturbance within a courtroom, and there was a battery and someone had to be arrested and a report generated, they do not call the Las Vegas Metropolitan Police Department (Metro) to come in and take the domestic report. They generate the report, make the arrest, and see that the person being arrested is booked accordingly. They are doing the same work that a police officer would do on the street. They do not just stand by in the court and have the police come deal with it. I thought that was an important point so everyone can understand the level of responsibility.

Any fiscal impact is worth the relative cost to protect those who protect the judges, district attorneys, staff, and the public at large.

**Assemblywoman Carlton:**

When I first read this, I was under the impression that this was a new addition to that workers' compensation section. However, I am hearing that this is not a new addition. These officers at one time had been included under NRS Chapter 617C. They were in and taken back out. Can you tell me when they were in?

**Danny Thompson:**

They were previously deputy sheriffs. They wore the same uniform as Metro. I do not think there was ever a question that they were not covered. The name change came at the request of Sheriff Gillespie because he said, "I do not have any control over these people. They are wearing my uniform and have my badge and patches on. They are Clark County deputy sheriffs."

Over the years, there was a handshake whenever this happened, so I cannot tell you when it happened. Prior to that name change, there had not been any problems. We only agreed to the legislative name change because the sheriff asked us to with the assurance that there would be no complications for those court marshals. Look at the case of the one marshal who is now disabled and was not given workers' compensation and was forced to retire.

**Assemblywoman Carlton:**

They were originally covered under all of the workers' compensation provisions out there because they were classified as a peace officer. The name change took them out. Because we list categories under workers' compensation, that category is not listed. The request is to put them back in.

Now I need to get to the dollars and cents to make sure I understand it. When they were taken out, was there an actuarial change on the workers' compensation to be able to adjust for this? When I look at the fiscal notes, they all say \$0, yet we are putting you back into a workers' compensation system that has to be funded. I do not see anything from risk management on it, but I do see the courts. Did they not ever change the dollar funding when they went out? Have they been funding it at the appropriate level, and that is why there is a \$0 impact?

**Anthony Vogel:**

Not that I am aware of. I do not believe any changes have been made. That would reflect that \$0 because it has always been there. My understanding was that, as you stated, we were deputy sheriffs. They are covered by that, but when our name changed, an oversight occurred where we were no longer covered under it.

**Assemblywoman Carlton:**

I have always been apprehensive about adding more people to heart and lung. It could sink under its own weight if you are not careful. It seems logical that if you were in it before, the funding formula was not changed, and the fiscal impact is \$0, that they did not realize you were out of that until something happened to somebody. Then everybody realized what it actually meant. This is one of the hazards of making these lists. As soon as one word changes,

you have an issue with the list. I will need to reach out to risk management to make sure that we do not get caught up in the money side if there is any issue there.

**Assemblyman Horne:**

Mrs. Carlton touched on the area I wanted to talk about. I am concerned about the heart and lung provisions that these officers would fall under. I would like somebody to give an answer to this. If, in fact, these deputy marshals were already in and no changes were made after they were removed, it should not be a problem putting them back in. There may be a problem if there were changes made subsequently to their titles being changed.

That leads to my question on subsection 17 where it says, "A chief or an assistant alternative sentencing officer of a department of alternative sentencing created pursuant to NRS 211A.080." Can you identify exactly what this particular person is?

**Anthony Vogel:**

We actually have two chiefs here from alternative sentencing. That was an amendment by Senator Settlemeyer. I will let them get into the details of coverage and how that came about.

**Assemblyman Horne:**

That sounds like an expansion.

**Anthony Vogel:**

It is a very small expansion from what I understand.

**Assemblyman Horne:**

It is still an expansion, and expansions cost money.

**Anthony Vogel:**

I understand.

**Assemblyman Horne:**

That concerns me along with the cost of expansion and also the policy that underlies the whole purpose of that heart and lung provision and why it was put there. It was put there for law enforcement officers and firefighters who are exposed to hazards at a greater than regular frequency. You do not want to start throwing people in there who do not fall under those parameters.

[Chairman Bobzien reassumed the Chair.]



**Chairman Bobzien:**

Are there additional questions?

**Assemblyman Grady:**

What category do the officers you represent fall under?

**Anthony Vogel:**

They are all category I and II peace officers. The way the statute is written, the ones who work the metal detectors and patrol around properties are category II, and all of the officers in the courtrooms are category I. Internally, we are working to make everybody category I-certified.

If I can take the opportunity to add something here is that Sheriff Trotter from Churchill County mentioned that he has bailiffs who are not Peace Officers' Standards and Training (POST)-certified. The wording in the amendment we are proposing says those who carry guns and make arrests. It would only be the POST-certified bailiffs and deputy marshals.

**Chairman Bobzien:**

Are there any other questions? [There were none.] Is there anybody else wishing to testify in support?

**Rory Planeta, Chief, Department of Alternative Sentencing, Carson City:**

I am here in support of S.B. 208 (R1). It was Chief Beam and I who requested that Senator Settlemeyer add that language to this bill. I will give you a little background on the Department of Alternative Sentencing. It was created through the Legislature in 1995. It was added to the peace officer chapter, which is NRS Chapter 289. We are specifically under NRS 289.180, subsection 1, paragraphs (c) and (d). It is also with the parole and probation officers, juvenile probation, alternative sentencing, juvenile service, and the like.

Since we are a small county, my department was formed in 1996, and it was just alternative sentencing. I started this job about seven years ago. I came from Douglas County where I had 24 years with the sheriff's department there. Because we were listed under NRS Chapter 289, I assumed that all of the officers were covered under the heart and lung provisions. However, I found out we were not. That is why I requested this to be put in place.

As you see, parole and probation officers are listed under NRS Chapter 617 specifically, and our department was designed to follow the parole and probation module. In the last seven years, we have expanded. I am in charge of all of the security at the front doors as well as all of the marshals and bailiffs in the justice, district, and municipal courts, as well as alternative sentencing.

We cover all of those departments because we are a small municipality. It made fiscal sense to combine everybody under one chief rather than have three separate divisions with three different chiefs.

With probation visits, the officers go into homes and oftentimes find drug labs, drug-endangered children, needles, and drugs. We go in and sometimes arrest people, although our main focus is rehabilitation and trying to get those people home and working rather than in jail. Sometimes we have to put them back in jail to make sure they are completing their court orders.

We are part of the mental health court, DUI courts, and pretrial supervision at this point. All of our vehicles are emergency vehicles with lights and sirens. We assist the sheriff's office. Personally, I was called out to assist at the IHOP shooting we had in town, as well as a gang shooting of one of our deputies in town. We assist the sheriff's office as first responders at times. It was my office that had to secure Judge Tatro's house when it was shot at twice in December. We did 24-hour security for Judge Tatro. My officers were out there potentially risking their lives trying to protect the Judge. I also send two people with Judge Tatro for judicial security as he comes to testify before the Assembly and Senate here at the Legislature.

For those reasons, we asked that the chiefs or assistant alternative sentencing officers, which would mean anyone who is a sworn officer, be included in the heart and lung provisions.

**Chairman Bobzien:**

We will take all the testimony and see if we have questions after.

**Michael Beam, Chief Probation Officer, Department of Alternative Sentencing, Douglas County:**

I am here in support of this proposal. We did approach Senator Settlemeyer to ask for the amendment to Senator Kihuen's bill. I thank Senator Kihuen for his efforts. To answer a previous question, there is a fiscal note. Mine is very small for Douglas County. The fiscal note that Douglas County provided to me, and I am not privy to how they came to the number, is \$25,000 annually. We have two officers in my department who would be included. We are asking to be included in this if possible for the reasons Chief Planeta alluded to earlier. We are not primary responders, but we are in the field every day. We are working chiefs. We are in the homes of felons, misdemeanants, and gross misdemeanants. We are on the front line and provide backup services to local law enforcement. We provide court services, and we also collect specimens daily: oral and urine specimens.

**Ron Dreher, representing Peace Officers Research Association of Nevada:**

I am here today in support of S.B. 208 (R1) and ask the Committee to support it as well. Over the years, I have been in front of this Committee, this house, and also in the other house. One of our goals is to have 100 percent of the peace officers in this state have the same benefits I have as a retired Reno police officer. As Assemblywoman Carlton pointed out, the heart and lung provisions of this bill have been difficult over the years. Looking at NRS 617.135, every time someone makes a different classification change, if you are not listed in this particular section, you are ousted. I can take you back a couple years when the Department of Public Safety merged with the Department of Parole and Probation, and all of a sudden, we had a number of individuals who were cast aside because they were not covered here. It took us two sessions to come back and have them listed in here.

As you look at the statute, it is almost like an evolution of who gets to be covered and who does not. There are approximately 8,500 law enforcement officers in the state of Nevada. Of the 8,500 who are in the state, approximately 800 of them do not have the same rights and benefits I have under heart and lung provisions. Included in that number is the department of alternative sentencing, deputy marshals, and bailiffs. As you heard, they are all peace officers. They go through the same things we all go through. Some of their positions are just as dangerous as mine was when I was working the street or homicide.

You see here we have chiefs and investigators. We have attempted to enhance this on purpose because these individuals wear that uniform. When the people out on the street see Chief Beam, they do not see those four stars, they see the badge and uniform. He can just as easily be in a shooting and have the same benefits, or he has to react so fast that he does suffer a heart attack. The deputy marshals were part of this. They had this, and all of a sudden one day, they no longer had it. They should be restored. I have worked with Karen Caterino, the former risk manager for the State of Nevada, about these other 700-plus individuals who do not have the same benefits, and she has advised me over the years, because of the cost, we will slowly but surely come back to this body to try to get them all covered. It is just a matter of cost at the moment. This comes down to equality. There is the same instant where you have to react and do something or put your life in jeopardy and unfortunately suffer a heart attack or be exposed to hepatitis and other diseases we are exposed to. This is why we ask this body to support this. Today, we are asking to cover some of the individuals. These are local government individuals this time and not state. If they were in and we ousted them, they should be put back in. I ask you to support S.B. 208 (R1) and provide the equity that should be provided to these peace officers. They deserve it.

**Andres Moses, Staff Attorney, Eighth Judicial District Court:**

We are the largest judicial district in the state, and we have 52 district court judges, with 20 in family court and 32 in civil and criminal. I would like to echo the comments Mr. Vogel made with regard to the critical services the marshals and bailiffs provide to our court, especially in the Regional Justice Center in Clark County, which is the busiest courthouse in the state. With regard to the provisions that expand the benefits to include the marshals in the Nevada Occupational Disease Act, we are fully supportive of that. I would defer the fiscal concerns to be addressed by Clark County, since they pay for those.

I would note that we would remain neutral as far as the provisions that exempt the marshals from jury service, and we would also be neutral as far as the new amendment that was added to include alternative sentencing.

**Chairman Bobzien:**

Are there any questions for the panel?

**Assemblywoman Carlton:**

I heard something about jury service, and my ears perked up. I have been following that issue for over a decade. Is that in this bill? Did I miss something?

**Andres Moses:**

Yes, it is included in this bill. I do not think it was the intention for them, but when you include the bailiffs and marshals in the definition of "police officer," they are exempt from jury service.

**Assemblywoman Carlton:**

That is right. By changing that name, they are exempted. I understand the officers' concerns in wanting to be included, but we all remember earlier this session when another group wanted to be included in heart and lung. It seems as though we get these every session. I do not know how we are going to have a universal discussion about that and how we want to approach it. It seems to me that doing this for two or three groups at a time is probably not the best way to do the public policy.

I think we need to look back at the discussions that happened in the 1960s when they had the debate about heart and lung and what it was all about. We need to see how it has evolved. The world of the police force has changed a lot since then, and we have many more different, distinct agencies in the state, so I am not sure how we address that. The last thing we want to do is have the weight of heart and lung cause it to fail. It is a significant benefit

to those who do get to utilize it. We have to be wary of how we approach it. It could get to the point where the cost could make the benefit almost impossible to provide. We have to weigh that option also as we move forward with this particular discussion.

**Chairman Bobzien:**

Are there any more questions for the panel?

**Assemblyman Horne:**

For some clarification, when this bill was heard in the Senate, was there discussion about the number of individuals who will be included in this statewide? That would be helpful for me because I do not know if we are just talking about two, three, or more. Chief Planeta outlined well on his duties with exposure, et cetera, but are we going to multiply that by 15 or 16 counties?

Senator Settlemeyer asked for this amendment to place it on Senator Kihuen's bill. Why did you not go to Senator Kihuen for this amendment?

**Rory Planeta:**

I did not realize that Senator Kihuen had this bill forward when we asked Senator Settlemeyer. In our initial discussions back in November, we asked this of Senator Settlemeyer. We did request this prior to the session starting.

**Michael Beam:**

My department is very small. At this time, it would be two officers. We did have a dialogue with Senator Settlemeyer before the session commenced, as Chief Planeta alluded to earlier.

**Chairman Bobzien:**

Mr. Horne, was your question answered?

**Assemblyman Horne:**

I saw Mr. Vogel come back to the table, so maybe he has a statewide number.

**Anthony Vogel:**

In Clark County, there are 123 deputy marshals. Throughout the rest of the state, they are known as bailiffs, and the numbers are very small. Most of them are handled by the sheriff's office. They have a patrol deputy come work the courtrooms. As far as an actual number, I do not have a number for the rest of the state.

**Rory Planeta:**

For my department, it would be approximately eight people, including marshals, bailiffs, and alternative sentencing officers. We actually swear all of them in as alternative sentencing officers and then assign them to the courts much like the deputy marshals are assigned to the courts.

**Assemblywoman Carlton:**

I am trying to figure this out. If they were called something else, they would automatically be included in heart and lung, correct? If you changed the title, then we probably would not be having this discussion.

**Rory Planeta:**

We are called the Department of Alternative Sentencing through statute listed under "peace officer" under NRS 289.180 as alternative sentencing. That is why we chose that. For us, we just expanded it. I was the senior most officer and spent nearly 25 years with Douglas County. I am actually covered under heart and lung as it is. Probably three out of my eight do not have previous law enforcement experience somewhere else. They are all category I peace officers through either deputy sheriffs or another association. In reality, there are probably three people who are not covered through another source. Because of the statute, that is what the department is called. We feel we were left out when parole and probation were put under the heart and lung provision. I do not think it was on purpose but just the way things happened.

**Assemblywoman Carlton:**

That is typical. Many people in different areas, even though the position they are in now may not be delineated in the statute, were in a previous position where they put in enough time to become eligible for heart and lung. My concern is still being able to figure out what the actual fiscal impact on this would be. I am not sure where the county got their number. I could not find it in the system, so I would need a copy of that to be able to take it apart and figure out what it was addressing to see if it is even correct.

**Rory Planeta:**

For Carson City, I asked our finance director, and all he told me was that it would not be a lot. He was busy doing our budget for the year.

**Assemblywoman Carlton:**

It is not the number in front but how many zeros are behind it. We will address it that way.

**Assemblyman Ellison:**

Some of the sheriffs right now are bailiffs and security, so it is covered in some counties, correct?

**Rory Planeta:**

That is correct. In most counties, until they hit a certain population, they are covered by the sheriff's office. In ours, the judges chose to use the Department of Alternative Sentencing and have their own private security as well as appoint marshals and bailiffs, as far as the statute allows them. They did that prior to me becoming the chief. Once I got here, because there were issues with POST and keeping certificates up to date, they asked me to take over those departments because I have a long law enforcement background.

**Chairman Bobzien:**

Are there any further questions for our panel? [There were none.] We are still on those in support of S.B. 208 (R1).

**Patrick Sanderson, representing Laborers' International Union Local 872:**

As far as this bill goes, my father was elected sheriff for four terms in Mineral County. After he was termed out, one of my best friends was the undersheriff. His name was Jerry Martin, and he was the very first person to get workers' compensation after being in a shootout. He had a heart attack the next day. After months of haggling, he finally received workers' compensation.

Unfortunately, you never know if you will get shot at, but for the people protecting the rest of us citizens in the state of Nevada, every single one of them deserves to be covered under heart and lung. I hope you move forward on this bill. Think of what it would be like if you were the one being shot at and what you would go through.

**Chairman Bobzien:**

Do we have any questions? [There were none.] Last chance for support on this bill. [There was no one.] We will move to opposition. We will have the people here in Carson City start, and then we will get additional testimony in Las Vegas.

**Yolanda King, Director, Budget and Financial Planning, Department of Finance, Clark County:**

I do have Sandra Swickard in Las Vegas if you have technical questions I cannot answer. I need to make a couple of clarifications. We are in opposition of the bill. It simply has to do with the presumptive eligibility for heart and lung in addition to the survival benefits. When you look at the cost or fiscal impact,

you will see \$0 fiscal impact for the Eighth Judicial District Court. To them, it is a \$0 impact. However, it is Clark County that would bear the cost of the impact for adding these officers. Clark County provides the budget for the district court, so any type of expenses incurred by district court would be paid for by Clark County. Those are the differences you are seeing in terms of the fiscal impact.

Under the fiscal impact for Clark County, the dollar amount you are seeing is the amount we can calculate, which would be the physicals that are required initially in order to place those individuals under heart and lung. What we were not able to calculate for you, and which we think would be a significant impact to Clark County, is the actual cost of the heart and lung should there be a claim submitted by one of the officers. A claim can easily cost up to \$1 million, so that is where we are citing the significant impact that could occur with Clark County.

In terms of the heart and lung and if the officers were once covered, it is my understanding that they were not covered under heart and lung based upon their being designated as deputy sheriffs. It is also my understanding that if these individuals did become eligible before for heart and lung, they would still be eligible. If they were police officers in another jurisdiction, they would still have that heart and lung benefit. It was not a matter of they had it and we removed it or took it from them. If they had it at one point in time and were eligible for it, they would have that benefit for their lifetime.

**Chairman Bobzien:**

We will continue with Washoe County and get more in depth when we go to Las Vegas.

**Lisa Gianoli, representing Washoe County:**

I am not going to reiterate everything that my counterpart has said about how this occurred. We are a little bit different in Washoe County in that our deputies or bailiffs are still deputized. They are still covered and work under the sheriff. Our impact would come from adding the justice court bailiffs to come under heart and lung. I would echo what Ms. King said regarding once you are in that category under heart and lung, if you meet the minimum time, you never lose that.

**Chairman Bobzien:**

We will take a couple of questions before we move to the Grant Sawyer State Office Building in Las Vegas.



**Assemblywoman Carlton:**

As far as Clark County goes, in regard to the fiscal notes on this bill, I have a fiscal note in front of me that is from local government, and it says \$0. I do not seem to have a fiscal note from Clark County. There are four noted with the bill, but I do not have one from Clark County. Was it presented? This other one is dated March 15, 2013.

**Yolanda King:**

I do not know. I will look. I have a fiscal note that says it was prepared on March 15, 2013, from Clark County. It looks like it is on page 5 under local governments.

**Assemblywoman Carlton:**

Okay, I found it. It is listed at \$1 million over the lifetime of a claim.

**Yolanda King:**

The cost can be up to \$1 million per claim. We could not estimate how much that would cost because it is dependent upon how many claims are actually filed. The fact that it could be \$1 million per claim is quite significant even if you only have one claim.

**Assemblywoman Carlton:**

How many heart and lung claims has Clark County accepted over the last three to four years?

**Yolanda King:**

Over the past ten years under firefighters, we have about 609 claims.

**Assemblywoman Carlton:**

This is not changing firefighters. How many heart and lung claims for peace officers has Clark County approved?

**Yolanda King:**

Four. Are you asking for the bailiffs and deputy sheriffs?

**Assemblywoman Carlton:**

No, just heart and lung claims for peace officers in general.

**Yolanda King:**

I just have the information for firefighters. I do not know if Ms. Swickard has that information.

**Chairman Bobzien:**

We can see if risk management can answer that one.

**Sandra Swickard, Workers' Compensation Coordinator, Employee Benefits,  
Office of the County Manager, Clark County:**

Unfortunately, our risk management numbers are exclusive to firefighters. The Metropolitan Police Department has their own workers' compensation program, and we do not have access to those numbers at this time.

**Assemblywoman Carlton:**

My concern would be that I am not sure what these numbers are based on. They may be working from an inaccurate database, and I think we would have to reevaluate before we can move forward. This would probably end up residing in another committee. If you do not have numbers for police, you cannot base this off of firefighters. These are not firefighters, and it is a totally different world. I think we need more accurate data.

**Chairman Bobzien:**

Would the concern be that we get a fiscal note that is created in consultation with Metro? Risk management can meet with them to try to give us better information.

**Assemblywoman Carlton:**

I would request that we find out when the bailiffs were included previously, what the experience rating might have been, and what type of impact it might have had so we can have something to look at. In the actuarial discussion we had earlier, were they in before and then out? Is there a difference? Clark County is a self-insured group, so was there any change in the rating they assigned to their different groups to pay for workers' compensation. Was there ever a discount applied? If not, they have probably been funding it all along.

**Yolanda King:**

I will get that information to you. As I said before, I believe they were not included; therefore, there may not have been changes in the actuarials. I will contact Metro, as they are a separate agency, to get an understanding of the police officer provision as opposed to firefighters.

**Chairman Bobzien:**

Do we have any other questions for our two panelists here? [There were none.] We will move down to the Grant Sawyer Building in Las Vegas.

**Sandra Swickard:**

I want to address a couple of the things I heard earlier from Mr. Vogel. I did hear him talk about three different claims, all of which met the criteria for a compensable workers' compensation claim. I never did hear him say that any of those employees were denied workers' compensation benefits. I did hear him say that they were denied additional modified duty. Modified duty is something that each and every individual employer designates. Every Clark County employee currently receives 90 days of light duty. I am not sure what that was about. I do want to say that every one of those claims would have been, and I am sure was, a compensable claim under workers' compensation.

He specifically talked about occupational diseases, and I would refer you to NRS 617.481. That statute, with respect to occupational disease, applies to every employee in the state of Nevada. It could be a person working as a clerk at a convenience store or a person working in a hospital, a bailiff, firefighter, police officer, et cetera. That contagious disease statute applies equally to all employees. The one difference that an employee would get under the designation of a firefighter or police officer is that if you were to contract hepatitis A, B, or C, it would be a no-questions-asked claim. When you came in as a new hire, we would test you to see whether or not you had one of those contagious diseases. We would send you for an evaluation annually if, from the time you were hired to the time you had a follow-up evaluation, you contracted hepatitis A, B, or C. That would be a compensable claim, presumptive, no questions asked. However, in the bailiff's situation they were talking about being bit, spit on, and being exposed to blood-borne pathogens, we have those claims quite frequently. What happens is that they file their claim and are immediately sent to University Medical Center (UMC), where they have their blood drawn and inoculations. The donor is tested, and Metro works with us on getting that donor tested without violating any Health Insurance Portability and Accountability Act rights. We would find out if that donor was carrying HIV, AIDS, tuberculosis, or hepatitis A, B, or C. Once we knew that, we would continue to monitor that employee who was exposed to determine whether or not he actually contracted the disease as a result of the exposure. He would be entitled to the same exact benefits that any other employee would be entitled to under the law: permanent disability, temporary total disability, or vocational rehabilitation benefits.

There is no question as to whether or not an occupational disease would be compensable, with the exception of if there was not a specific incident, and for some reason you showed up with hepatitis C at the next evaluation. We would not ask any questions of a firefighter or police officer and would assume that you got it in the course and scope of your employment.

As far as people who are disabled permanently from work, that happens in all occupations, and vocational rehabilitation services and permanent disability benefits are afforded equally to all employees who are in that situation. I am not aware of bailiffs ever being part of these workers' compensation benefits, but the presumptive for lung is very specific to heat, smoke, fumes, tear gas, or other noxious gases arising out of the course of employment. I can appreciate in those smaller jurisdictions where employees wear many different hats and are required to do different things, but in Clark County, we have 154 employees who fall under the category of bailiff. Anyone who is a police officer works for Metro. Our annual physical for our bailiff is approximately \$6,100. If we were to put those employees under the criteria for having their physicals done annually, that would increase our cost from a one-time cost of \$6,100 to \$74,733 a year. What makes these claims so expensive and volatile as far as cost is concerned is that you never know. Everybody's medical condition is different. Your heart or lung claim may go along very smoothly without much medical information or treatment. It could just be every six months you see a doctor, or it could be major multiple surgeries. We do have claims that exceed \$1 million. Ultimately what will happen is the employee will most likely die from those claims, and their spouse will receive benefits until that spouse dies. You can see how these claims can be extremely expensive over the life of a claim. It is not until they actually develop that we know what our full potential exposure is.

I also want to say that the statute requires self-insured employers to purchase an excess insurance policy. For those who may or may not be familiar with excess insurance, it allows a self-insured employer to share the burden of the cost. Historically, Clark County has purchased excess insurance where we only assume liability for the first \$500,000, and anything over that \$500,000 goes to an excess carrier. Since 2002, excess carriers have been unwilling to provide excess insurance coverage to municipalities because of the high dollar amount of these heart, lung, and cancer type claims. Because of the presumptive claims, they do not want to write the coverage for us. It puts us in a precarious situation. We must have excess insurance per statute, so specifically in Clark County, we buy a \$900,000 policy every year for excess insurance. Quite honestly, that insurance is not worth the paper it is written on because we will never be able to file a claim based on the way they write it. They write it as such to meet our statutory requirements, but they also write it to protect themselves because they do not want to pay for these claims. I asked our broker to go to the three largest insurance companies. He went to the three largest insurance companies in the world and in the nation, and all three of them declined to write our business. Insurance companies do not want to write the policies because they understand the risk. It leaves the taxpayers in the state of Nevada to pay for 100 percent of these costs.

When we decide to afford these benefits to people who may be responding to serious situations but not to the same extent that our firefighters and police officers are, I think it is something that needs to be given serious consideration.

**Assemblyman Ellison:**

Let us say I am a fireman with ten years invested. If I retire or leave and I am a heavy smoker for 20 years afterward, can I come back and collect on heart and lung even though my problem may have been from the smoking and not from the job?

**Sandra Swickard:**

That is one of the things that could be taken into consideration. It becomes a medical question and not a factual question. We would send all of that information to the doctor, along with the statute, and ask that doctor whether or not the primary cause was smoking, which would bar the person from the presumptive benefit, or if that smoking was not a contributing factor of the lung condition or cancer.

**Assemblyman Ellison:**

There is no way to determine if it was caused by the smoking or from breathing smoke from fires. Basically, you can be put on the hook for somebody's habits 20 years down the road. Is that correct?

**Sandra Swickard:**

We are put on the hook for that. We have people who retire and could be overweight. I have a court case right now that went to appeals, and we are considering it for district court. This employee was a 24-year employee from the fire department. Every year we pay for him to go to his physical, and every year his doctor told him he needs to lose weight and do something about his diabetes and blood pressure. There is no incentive for him to do that other than taking care of himself. We went all the way to court to say he did not do what he needed to do to take care of himself; therefore, we do not believe the presumption applies. The court said, according to the documents, he tried to lose weight. I sit here in front of you as a person who struggles with weight. I try to lose weight. He ended up with coronary artery disease, which is a fatty lining of your arteries.

Did that come from his work as a firefighter? The courts say, yes, it did. A general health practitioner may say something different. It could have been controlled through diet, exercise, and monitoring of his blood pressure. The taxpayers are on the hook for 100 percent of the cost of the claim. He has the right to continue working, or he can choose to medically retire. That is no longer a medical decision but the employee's decision under presumptive.

In the event he ultimately succumbs to heart disease, his surviving spouse will receive free health care benefits for herself and her family and his disability benefits for life.

**Chairman Bobzien:**

Let us try to get back on the bill. Do we have any questions?

**Assemblywoman Carlton:**

I understand you are in opposition of this bill, but bringing up a particular case and going through it is inappropriate. This is a presumptive benefit. I cannot tell you how many people I have spoken to that have had to spend years of their lives fighting for a presumptive benefit. They were put through the mill and went through multiple depositions. They had their whole lives turned upside down because they tried to get this benefit for their families because they felt it was right. Because the people on the other side have deep pockets and lawyers on their payroll, the individual worker is sometimes put at a great disadvantage in getting this benefit. That is the reason I asked how many times this benefit has been granted. I have personal knowledge of this benefit. I lived with it, fought it, and gave up on it because we were put through the same thing. When they do the physicals every year, they make sure they note something every single year to make sure they have grounds to deny this benefit. There are two sides to this coin. The fact of the matter is the Nevada Legislature years ago said this was presumptive, and we should honor that. However, the insurance companies and carriers fight their guys to the very end to make sure they do not get this benefit. They do not want to give it to their families. It is wrong.

**Chairman Bobzien:**

Do we have any other opposition testimony? [There was no one.] I think we have people signed in as neutral. At this point, we were hoping to hear some comment from Metro.

**Brian O'Callaghan, Government Liaison, Las Vegas Metropolitan Police Department:**

We are neutral on this, and I will get that information to you that you requested.

**Assemblywoman Carlton:**

The other concern is the discussion we had about how these people were in and then they were out. How were they classified when they were with Metro? Did this benefit exist for them at that time? I think we need a little more history. Clark County has one version, yet they were Metro employees, so we would like to know how Metro categorized them.

**Brian O'Callaghan:**

I think there is some confusion there. I am not sure of the answer, but I do believe the bailiffs were category II. Some of them go through category I training, but the job position is classified as a category II.

**Assemblywoman Carlton:**

Would category II be covered?

**Brian O'Callaghan:**

No, not that I know of, but I will get those answers for you.

**Assemblywoman Carlton:**

We would need some documentation to help us with this. We know where this is going to head. I appreciate your help.

**Chairman Bobzien:**

Are there any additional questions? [There were none.]

**Robert Roshak, Executive Director, Nevada Sheriffs' and Chiefs' Association:**

We are staying neutral on this bill, but we do appreciate the comments that it affects those who are POST-certified.

**Chairman Bobzien:**

Are there any other questions? [There were none.] We normally give the bill proponent a chance to come back up, but he is not in the room. We will let that stand. Please send any additional information regarding the bill to our Committee staff. We will close the hearing on S.B. 208 (R1). We will open the hearing on Senate Bill 36 (1st Reprint).

**Senate Bill 36 (1st Reprint): Makes various changes concerning unemployment compensation. (BDR 53-371)**

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

Thank you for the chance to explain our request of Senate Bill 36 (1st Reprint). With me today is Kelly Karch, who is our deputy administrator in charge of the unemployment insurance program. He is going to help me out with answering some of your questions. Posted on the Nevada Electronic Legislative Information Service (NELIS) is an informational document that addresses some questions from our first hearing on the Senate side ([Exhibit E](#)). We hope you find that helpful in considering this bill. This is a bill that has many parts to it. I call it the "kitchen sink" bill. I am going to start with the first section and walk through it that way.

You will see sections 2 through 11 amended out in the current version of the bill. These were sections that addressed the Work Share Program that we had originally included in the bill. We later found out that the cost of the program is prohibitive. We knew going into it that for the first couple of years we would have funding for most of the administrative staff costs. Looking at the programming cost, it was about \$650,000 that we did not feel we had to support that program at this time. We requested an amendment to remove the work-sharing sections from the bill. Part of section 20 was amended to eliminate reference to the Work Share Program. That part originally referred to section 10, which was amended out. Also deleted were sections 29 and 31, which also referred to work sharing.

Sections 12 through 19 and section 26 address our request to be able to establish a program for garnishment of wages. If you would rather refer to it as a withholding of wages for the repayment of judgments the Division has filed wherein people have obtained benefits through fraud, misrepresentation, or willful nondisclosure. Prior to filing the judgment, the Division provides the claimant many opportunities to establish a payment program with us for the repayment of those improper payments. Only if they do not make a reasonable effort to make those payments do we move towards judgment and garnishment. It is the intent of the bill to mirror the process followed by the Department of Health and Human Services, governed by *Nevada Revised Statutes* (NRS) Chapter 31. Section 21 of the bill amends language in the current statute to refer properly to the wage garnishment authority established in sections 12 through 19.

Section 22 of the bill requests authority to impose a waiting week on the first payment of a claim for benefits. The waiting week would give the Division additional time needed to collect and receive relevant separation information from employers. This information is needed to ensure that accurate claim decisions can be made and overpayments or improper payments are avoided. Employers are notified when a claim is filed and are requested to provide the separation information. They currently have 14 days to submit to the Division that information confirming or disputing the reason for the separation. As the process stands now, the claims are paid prior to the end of that time frame. We have a situation where an improper payment can occur. This measure would reduce improper payments and help the Division reduce the number of overpayments being made. It also prevents claimants who, through an error or misstatement, might create an overpayment they did not intend to create. Later down the line it is harmful for them.



Section 25 of the bill holds employers responsible for the timely submission of separation information. We hope the employers will be more likely to provide timely information for us to make an appropriate decision on a claim.

Section 23 involves penalties and fraud. It establishes a four-year statute of limitations versus the current two-year period by which the administrator can make a determination finding that fraud was committed. This four-year period starts after the first day of the benefit year in which the person committed the fraud. Experience with the Great Recession has taught us that there are cases where we detect fraud occurring further back than the current two-year period provides. This section also changes when the benefit payment disqualification period starts. This impacts the size of the overpayment assessed. As the law stands now, the disqualification period goes all the way back to the first week claimed in the benefit year. There could have been weeks during that time period where there was no fraud and the fraud occurred later. During that time, the claimant was entitled to receive those benefits. This change marks the start of the disqualification to the point where fraud actually occurred, which is what we believe was the original intent of the law when it was established in 2009.

This section further addresses a federal conformity issue. It imposes a 15 percent penalty for fraud and requires that penalty to be deposited into the trust fund. The federal law we are attempting to conform with is the Trade Adjustment Assistance Extension Act of 2011. This section further adjusts penalties currently in the law to a level that incorporates the 15 percent into the original penalty maximum of 50 percent. In addition to the 15 percent we are delineating according to federal law, the administrator may impose the following schedule: from \$25 to \$1,000 in fraudulent overpayments, the administrator can impose a 5 percent penalty; from \$1,000 to \$2,500, a 10 percent penalty; and the maximum penalty of anything over \$2,500 is 35 percent. These funds must be deposited into the Penalties and Interest Fund in Budget Account 4771.

Section 23.5 addresses concerns raised during opposition at the first hearing of the bill that employers were being held to providing all relevant facts about a separation. It was the perspective of employers that they may not have all relevant facts to provide. The word "known" was inserted to state that employers will submit to the Division all known relevant facts.

Section 24 of the bill provides for the transfer of unpaid contribution liabilities with the transfer of their experience rating. *Nevada Revised Statutes* 612.550 provides for an established experience rating to be transferred to a successor employer. Section 24 of the bill amends NRS 612.550 to provide that where an employer is able to transfer its experience rating to a successor employer,

and that business is liable to the Division for unpaid contributions, interests, or forfeits, the liability should be transferred to the successor employer as well. This provides a means by which the Division can transfer the predecessor account debt so we can pursue collection of the unemployment taxes due.

Section 25 is another federal conformity issue that requires the Division to not relieve the employer's record. This is the section I referred to earlier when I was speaking about the waiting week. It requires the Division to not relieve the employer's record for experience rating for an improper payment of benefits caused by the employer's failure to respond to the Division's inquiry for separation information. This is compliance with the same federal law I quoted earlier. This is another measure that will help prevent improper payments, including fraud and other overpayments.

Section 30 of the bill sets forth that the provisions of section 25 apply to claims for benefits paid after October 21, 2013.

Sections 26 and 27 align current statutory language with the changes made in sections 12 and 19 for the establishment of the garnishment process.

Section 28 amends NRS 612.695 to extend the existing provisions to also apply to the transfer of assets to a business by means other than sale. What we mean by that is that this change would require an employer to assume the unemployment insurance contributions debt when they acquire a company or its assets through some form of transfer as opposed to outright sale of the business. Existing language in the statute only refers to the sale of a business and requires the seller of the business to pay remaining liabilities. This has created a situation where business assets are being transferred for the purpose of avoiding payment of those liabilities. This will allow us to clean up an existing loophole in the statute and holds the employers properly responsible for taxes due.

**Chairman Bobzien:**

I think we have a few questions.

**Assemblywoman Carlton:**

On the one-week waiting period, how many weeks does it currently take once you start the process to receive the first check?

**Renee Olson:**

Right now, it can take up to 11 days to receive your first payment. With the waiting week, it would extend that to up to 18 days. It does not always take that many days, but that would be the outside range.

**Assemblywoman Carlton:**

On the statute of limitations and taking it from two years to four years, how does that compare to the statute you would have on being able to go back and get employers who had not paid appropriately? I know we discussed that on an earlier bill. I want to make sure we have the correct information.

**Renee Olson:**

I think I misunderstood the question the first time. I will have to go back and verify that. I was thinking of it in terms of general statute of limitations. I will double-check to make sure it is the same on the employer's side as on the benefit side.

**Assemblywoman Carlton:**

With what you mentioned about any benefits paid after October 21, 2013, does that mean you will not be able to go back four years before now and look at those after this bill passes? I think the ultimate goal was to go back and find those. I am a little confused there.

**Kelly Karch, Deputy Administrator, Employment Security Division, Department of Employment, Training and Rehabilitation:**

It is upon the detect date. If we detect it after October, we can go back four years. The date that counts is when we discover the fraud.

**Renee Olson:**

If we have the four years to go back and detect fraud, if we find it anytime in those four years, it would be anything we detect after October 21, 2013, with the ability to go back four years in order to do so. Therefore, the detect date is the trigger.

**Assemblywoman Carlton:**

I will need to get out a calendar and figure that one out. The Department of Taxation's fiscal note was not addressed on the Senate side. It is \$103,000.

**Renee Olson:**

I think that has to do with the Work Share Program that was initially set up. It affected the modified business tax. Now that it has been amended out, I was told that fiscal note would be removed with that amendment.

**Assemblywoman Carlton:**

As long as we have something on the record, that helps.

**Assemblywoman Kirkpatrick:**

I want to go back to page 7 when we talked about the overpayment due to fraud. There were a lot of things going on. I had several constituent calls during that first economic downturn. If you are looking to go back four years from the date this bill is passed, I do not know what we gain from that except that they cannot draw unemployment in the future until it is covered. Is that going to be perceived dollars that are available for collection out there that becomes this magic number that everybody thinks we are supposed to recover? I want to follow up on Mrs. Carlton's question. Why four years and not just two? In the last two years, we got a lot of it. Some of it was our fault, and some of it was our constituents' fault. I do not know how that makes this process better.

**Renee Olson:**

I am going to let Mr. Karch answer that question.

**Kelly Karch:**

What happens with that is a lot of that is our fault, for example, programming issues where we cause an overpayment; we relieve the claimants of that. That is not their fault. What we are really concentrating on is fraud, whereby they were working and collecting at the same time, or they went back to work and continued to collect for two or three weeks. It could have been absolute fraud where they used false names, false identifications, and other people were involved. The people who have an overpayment through no fault of their own, we take care of in the system. We have had many issues when you have a Great Recession like we had and 99 weeks of benefits was the maximum. We are going to pass \$7 billion cash pay tomorrow morning in this system that goes back to July of 2008. We do look out for our claimants, but those who defraud us, we do go after. If others do not pay us back for fraud or even some of the overpayments that they could have done something about, we do go after that. It has to be their fault. We are not out to punish people. If you look at the garnishment section, there are many people we cannot garnish. They just do not make enough money right now. It has to be at least \$342 a week take-home before we can even start to garnish. That is at a 25 percent clip. We are concerned about our customers. They are our customers. We are less concerned about those who outright defrauded us.

**Assemblyman Daly:**

On page 4, section 14, where you are going to send this notice to employers on a garnishment, it says you can do this electronically. It includes the person's name and social security number. Is there some protocol you have when you send this by email to protect that person's personal information in accordance with NRS 603A.040? You would have to have a designated person who

receives that or something similar to what they do with drug testing. Otherwise, I think you run afoul of personal information rules on state records. We try to get away from that. You can cure it by just giving the last four digits of the social security number because that is allowed under NRS Chapter 603A.

I would like to get a little more explanation in regard to page 16, section 24, subsection 9, paragraph (d). I understand that is an employer strength. If a company owed money to you, and they sold the assets, you could do it, but they just transferred, and the law did not allow that. Could you give me an example? Say a person goes out of business and transfers the assets to another company and says, nope, I am not that guy anymore, so I am not going to pay you. I want to see if that is what we are trying to capture.

On page 18, section 26, subsection 6, where you say you can take any money you get from these fines, what did you used to do with the money? What are you planning on doing with the money? To me, you could use it to decorate the chief's office or something. If that is your answer, no, you cannot have it. Does the money just go into your General Fund? If you have something specific in mind, maybe you should say what you are going to do with it.

I think you should come with the bill next session to strengthen our protocols for employer fraud, which is twice as big as any problem we have with employee fraud. It may be even more than twice.

**Renee Olson:**

We might have to tag-team these questions. I am going to start with the last one. The funds you are referring to on page 18, section 26, subsection 6 are the Penalties and Interest Fund and Budget Account 4771. That is governed by statute that states what we can use the funds for. When we speak of protecting the integrity or furthering the integrity of the system, it means things like preventing fraud or preventing overpayments and strengthening our processes so that claims are accurate and timely. Those funds would be governed by the statutes governing Account 4771.

**Chairman Bobzien:**

This is the hazard of asking three questions, then asking for a follow-up. Do you want a follow-up on that? I thought that was good to get that on the record. It was what you were going for, correct?

**Assemblyman Daly:**

Yes, that is what I was going for. You collected fines and penalties before this statute. Where did they go then? This language seems to say something different. There are parameters so it would go into your fund for general

purposes of the Division. That is what it says, that you could just use it for those things. That is written somewhere else in statute, correct?

**Renee Olson:**

Correct. That is in NRS Chapter 612. It addresses the Penalties and Interest Fund and the Employment Security Special Fund. I can find the exact section of the statute. It is NRS 612.615. It talks about how the Penalties and Interest Fund can be used.

Regarding the transfer of assets question, we have had situations where people have passed companies to family members. Instead of an outright sale, they do it as a document transfer of assets. It is the language that is catching us up. They are transferring their business assets to a family member, and they are creating a new experience rating and trying to save money on the tax they are paying us versus the experience that was gained through the previous company. We can provide you some specific examples in a follow-up.

Electronic means of transferring information through the garnishment process was your other question. This is where I may need Mr. Karch's help, but I can start out by saying we do not email any social security numbers. The security of those situations is very important to us. We do protect identification in that regard. I am going to let Mr. Karch follow up and talk about if we have a current process for doing that in place. This legislation enables us to adopt that process.

**Kelly Karch:**

We have a designated contact with all employers on their registration. We may have one person we talk to about taxes, and we may have another person who is the human resources (HR) representative we talk to. That is up to the employers to decide what they want to do. Through our unemployment insurance monitoring program—UINV—they will have two separate log-ins. There will be one for the HR person because we do not like our information or their information to get out, especially in their office. There will be a log-in for the financial tax issues.

**Chairman Bobzien:**

Are there additional questions?

**Assemblyman Ellison:**

In most cases, is the fraud individual employees or employers?

**Kelly Karch:**

At one point in time during the Great Recession, we were paying close to 140,000 individuals a week. We have right now 57,000 employers. It is different types of fraud. We have cases going on with employers right now. Some are administratively being investigated and others are criminally being investigated with our partners at the federal level. With the claimants, the vast amount of fraud occurs when they go back to work and continue to file for a week or two. That is about 50 percent of the fraud. We have an education process. We have a "wall of shame" on our website showing those we convicted of fraud. They are not getting paid for that first week when they go back to work, so they figure they are entitled to that week of payment. There is a group out there who we chase incessantly who defraud us at will. We have another group that once they are convicted of fraud of over \$10,000, they are done. They cannot file another unemployment benefit for the rest of their lives until they pay us back \$10,000.

**Assemblywoman Bustamante Adams:**

This is in reference to the section you want to delete referring to the Work Share Program. Could you expand a little bit about that? What does the program do? How does it tie to the modified business tax?

**Chairman Bobzien:**

To clarify, since we are in the first reprint of the bill, you are looking for historical reference to what was there prior to that amendment.

**Renee Olson:**

The Work Share Program is a program that assists companies that may be having a temporary downturn in their business. The purpose of it is to avoid layoffs. The purpose is to come to an agreement with that company. It hinges on the type of positions they have. I think high-tech manufacturing is a good example of that where the company may have high-tech machinery that the employees are very highly trained to operate. To lose employees through a layoff would be detrimental to their business. Maybe they are willing to enter into an agreement where they say we are going to reduce everyone's hours, or a certain number of people's hours, and they can apply for a partial unemployment insurance benefit for that reduction in hours. That is what the idea of the plan is. It is really for businesses who have hard-to-find employees who are highly trained and highly skilled and are hard to replace. The problem we came across was that we were looking at about \$650,000 to program our system to pay the benefits and the different manner in which they are calculated and maintained. It was a financial decision not knowing what was ahead with sequestration.

I would have to look up again in the original bill to the part that referred to those people who participated in a work-sharing program. It would give relief to the modified business tax in part of the section. I can look that up and supply it for you separately.

**Chairman Bobzien:**

Are there any further questions? Ms. Olson, could you comment on the proposed amendment deleting section 22 ([Exhibit F](#))? We will hear the presentation about that amendment by the amendment's proponent.

**Renee Olson:**

I will start by saying that the Employment Security Division has no desire to cause undue hardship to people filing for unemployment insurance benefits. We have no desire to single out a particular industry. We do have a fiduciary responsibility to protect the health and sustainability of the benefit trust fund. There are two sides to that coin. There is the benefit side with the amount you are paying out in benefits, and there is the tax side with how much you are collecting in taxes. What we have not done in the state of Nevada is take measures such as reducing the number of weeks available to benefit recipients. Other states have cut benefits. I believe Missouri cut their benefit weeks down to 18 weeks total. That is all you can claim. We still have 26 weeks.

The other tack you can take in that regard on the benefit side is to reduce the maximum weekly benefit. You reduce the amount they can collect each week. We feel this is a way to prevent improper payments, which is very important. We would rather prevent those improper payments than try to collect them later. I see potential here to make a mistake when filing or recertifying a claim. If we can prevent that error in that time frame, we can prevent the big bill they will get down the road when we decide it is an improper payment. That does not do the benefit recipient any good in the long run.

We have the solvency question and integrity question. We believe a waiting week provides us some time to make a more accurate decision on a claim to prevent fraud and overpayment. Thirty-six other states now have a waiting week. I would say that the timing of when we require the employers to provide the information with the timing of when we make that first payment now is out of sync. One does not work with the other in order to get the information in the right time frame. We are not taking away any weeks of benefits but just delaying that first week. I think what the proponents of the amendment would say is that if somebody returns to work before they exhaust their benefits, they miss a week of those benefit payments. That is true, but they are going back to work. The benefit payment is not lost if they return to unemployment. It is still available to them.



**Assemblywoman Carlton:**

I need to understand all of the time frames involved. You said it was 11 days, but you just brought up an issue with syncing of information from the employer's side. If someone becomes unemployed, how long does the employer have to notify you and provide you the correct documents for you to evaluate this claim?

**Renee Olson:**

It can take up to 14 days with the consideration the law has for mailing time. They have ten days and one day for mailing on the front end and three days for mailing on the back end.

**Assemblywoman Carlton:**

Does this have to be done by mail, or can it be done electronically? When you let someone go, you have to pay them immediately. You are not allowed to make them wait. Why can they not get that information to you sooner so you can evaluate it? I can understand a day or two, but a whole week, especially if we are giving the employer two weeks. In this information age, it does not seem like two weeks is reasonable anymore.

**Kelly Karch:**

We have ten days, and that is for both sides. We contact both sides of the equation. We want to talk to the claimants and find out what happened. We want the employers to tell us exactly what happened. The four additional days is because district court demanded that we put four additional days on. That is how this originally occurred. We do get a good portion of our documents from the employers coming through faxes, which are digitized into our files now. The claimants are interviewed in person over the phone and we ask them exactly what occurred. They may not have the facilities the employer has. In many cases, the claimant may not even be told what happened as far as why they were terminated. We will hear later why they were terminated. That is the issue of the charging.

Employers, at one point in time, are getting two bites of the apple. In other words, if they fail to respond in the original 14 days, we pay the individual. They can respond when they receive their tax charging statement, which could be one, two, or three months down the road. At that point in time, they would be relieved of all charging, and the claimant would have an improper payment and have to pay us back. With the changes in law through conformity, they have to respond in a timely manner. They do not get that second bite of the apple for failing to respond. It was a big problem for many employers to get that information to us in time. We cut that on the front end.

I will go through the 14 days. The claimant can tell us what is going on. The reality is that we are paying the claimant. If you file your claim Monday, you are not getting paid until next Tuesday, so that is eight days out. You could get paid in this new system with that waiting week within 11 days if you filed on a Friday or filed online Friday night. We are compressing that time. We are giving you the outside boundaries of when the claimant is paid, which is 17 to 18 days with the waiting week. It could be upwards of 10 to 11 days on the normal week. We want to make sure the employers will be held accountable with the conformance issues of having to respond timely, or they will pay the charging, and vice versa. We need the claimants to make sure they bring everything to us so we make the proper payment. In this economy improper payments are very difficult for our claimants to pay back. We are trying to eliminate as much of that as possible.

About 25 percent of those individuals who file for a claim have vacation or separation pay. They are not getting paid until we have all of those documents. That counts towards the paying of the first benefit. It is a very nuanced system. I think that we are working both sides against the middle to get a better and more accurate system to hold people accountable.

**Assemblywoman Carlton:**

It is a long time to go without a paycheck.

**Renee Olson:**

The 14 days has been driven by the courts and how they have interpreted the administrative law for how long it can take these employers to respond to us. Even with electronic means and the new system we are putting forth so employers can provide us things quicker, that court decision that they have 14 days creates that roadblock for us.

**Chairman Bobzien:**

Are there additional questions? [There were none.] Do we have anyone in support? [There was no one.] Let us move to opposition.

**Jack Mallory, representing Southern Nevada Building and Construction Trades Council:**

We have submitted an amendment to delete section 22 from S.B. 36 (R1) (Exhibit F). We also submitted our reason behind the proposed amendment, which has been acknowledged by the Employment Security Division. We appreciate the fact that they have heard our concerns. However, we still do not believe that doing away with one week's worth of compensation for 61 percent of the individuals who file claims is an appropriate way for the state to save money. In testimony during the Senate hearing, they made it very clear

there would be a savings enjoyed by the Division's trust fund of \$25.5 million from October 1, 2011, to October 1, 2012, because 61 percent of unemployment insurance claimants do not exhaust their benefits. Therefore, they would lose a week's worth of benefit.

I represent workers in the construction industry. For the last seven years, it has been a living hell for them. I think some of you know better than others. Living week to week is the established norm and has been for a number of years. To go from what they have indicated as being as little as 7 days before receiving the first payment to as many as 18 days, we are talking about putting people on the street, people not being able to eat, and not having utilities. Unfortunately, that is the way the world is right now. If this was an argument that was occurring in 2007, I think people would have a different opinion. Everybody was enjoying a fruitful life at that point in time, and that is not the case today.

**Jon Sasser, representing Legal Aid Center of Southern Nevada; Washoe Legal Services:**

We are in support of the amendment offered by Mr. Mallory ([Exhibit F](#)). If that amendment is not adopted, we are opposed to the bill. The amendment deals with the elimination of section 22, which is the one-week waiting period. There have been two justifications offered for the one-week waiting period. At first, one of them sounds sympathetic. We do not want to have inaccurate claims, so we want extra time to get all of the information so we make accurate determinations. We do not want to deal with overpayments. I approached Ms. Olson and Mr. Karch and said, if that is the case, we should give you the one week to get the information but not lose one week's benefit. If I get a job within 26 weeks and go back to work, give me that check on the back end. They said they were not interested in that discussion, even though three states do that and do give that check on the back end. Some states have a minimum time if you are on benefits in order to earn that. I offered to have that discussion, and there was no appetite for it. If the Committee wants to give them extra time for administrative accuracy, you could still deal with it on the back end so the worker does not lose that check.

On the other hand, I completely agree with Mr. Mallory that the one-week waiting period at the time when you have lost your job with no money coming in and bills left to pay, when the check does come, it will be about half of what your wages were before. It is not like you will be rolling in dough when you finally get that check. I have a great deal of sympathy for the workers who are in that waiting period. It is a balancing act. What is the hardship to the worker versus the increased administrative difficulty for the agency?

I would note, even though Ms. Olson did not mention it, there is a federal law that was passed in 1980 that encourages states to have this one-week waiting period. The encouragement involves if you go beyond the 26 weeks, and are in a period of time where extended benefits are offered, and the one-week benefit, which is normally 50 percent federal and 50 percent state; if you do not have that one-week waiting period in your state, you can ask the state to pay 100 percent of that. In the last five years, that has not happened. That is because in the Great Recession, the federal government has paid 100 percent of that. I do not believe that since 1980 there has been a case where that happened. It could happen in the future; if we have a bad economic time in Nevada but not a bad national time, and the federal government does not step up to the plate as it has, there is that potential down the road. Nevada has known that since 1980 and has had the courage to stand up for workers like 12 other states rather than taking the easy way out moneywise.

I encourage you to continue that proud tradition going forward. Unlike the rest of the bill dealing with fraud and whatnot, this is money right out of the worker's pocket. I ask you to adopt Mr. Mallory's amendment.

**Chairman Bobzien:**

Do we have questions for our panel? [There were none.] If there is anyone else in opposition here in Carson City, please come to the table. With that, we will move to Las Vegas.

**Darren Enns, representing Southern Nevada Building and Construction Trades Council:**

Mr. Mallory stated very well what we believe in southern Nevada. I would like to make note of who is here today in opposition to this bill. They include the roofers, operating engineers, boilermakers union, sheet metal workers union, ironworkers both structural and reinforcing, plumbers and pipefitters, glazers, tapers, painters, and floor coverers. We might be more amenable to being at least neutral on this bill if the amendment is adopted.

**Chairman Bobzien:**

We do have you on video, and we do see a number of people in the audience. Thank you for staying with us to this late hour to get your voice heard.

**Robert Conway, representing Ironworkers Local 433:**

As Mr. Enns said, we support pretty much what Mr. Mallory said. To make working families wait this 18 days is too long. For that reason, we encourage you to vote against this bill.

**Chairman Bobzien:**

Do we have any questions for our panel in Las Vegas? [There were none.]  
We will come back to Carson City.

**Patrick Sanderson, representing Laborers' International Union Local 872:**

Ditto on the last part as far as getting rid of section 22. It is not the fault of the working men and women of the state of Nevada who have found themselves unemployed that workers' compensation has gone in the hole. It is because of the recession we had. We hope that you get rid of section 22. That is the easiest way to say it.

**Chairman Bobzien:**

Are there any questions for Mr. Sanderson? [There were none.] Is there anyone here who is neutral on the measure? [There was no one.] We will close the hearing on S.B. 36 (R1).

Do we have any public comment? [There was none.] Are there any matters to come before the Committee? [There were none.]

The meeting is adjourned [at 4:00 p.m.].

RESPECTFULLY SUBMITTED:

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Julie Kellen  
Committee Secretary

APPROVED BY:

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Assemblyman David P. Bobzien, Chairman

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Committee on Commerce and Labor

**Date:** May 13, 2013

**Time of Meeting:** 1:40 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 94 (R1)	C	Jon Sasser	Proposed Amendment
S.B. 94 (R1)	D	Phillip Holt	"Business, Financial Services, and Insurance"
S.B. 36 (R1)	E	Renee Olson	Clarification and Supporting Documentation
S.B. 36 (R1)	F	Jack Mallory	Proposed Amendment