

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

**Seventy-Eighth Session  
April 3, 2015**

The Committee on Commerce and Labor was called to order by Chairman Randy Kirner at 2:11 p.m. on Friday, April 3, 2015, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/78th2015](http://www.leg.state.nv.us/App/NELIS/REL/78th2015). In addition, copies of the audio or video of the meeting may be purchased, for personal use only, 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 Randy Kirner, Chairman  
Assemblywoman Victoria Seaman, Vice Chair  
Assemblywoman Irene Bustamante Adams  
Assemblywoman Maggie Carlton  
Assemblywoman Olivia Diaz  
Assemblyman John Ellison  
Assemblywoman Michele Fiore  
Assemblyman Ira Hansen  
Assemblywoman Marilyn K. Kirkpatrick  
Assemblywoman Dina Neal  
Assemblyman Erven T. Nelson  
Assemblyman James Ohrenschall  
Assemblyman P.K. O'Neill  
Assemblyman Stephen H. Silberkraus

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Paul Anderson (excused)



**GUEST LEGISLATORS PRESENT:**

Assemblywoman Heidi Swank, Assembly District No. 16

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Justin S. Gardner, Private Citizen, Las Vegas, Nevada  
Nancy Brown, Chair, Opportunity Alliance of Nevada  
Kathy Doyle, Private Citizen, Reno, Nevada  
Paula Berkley, representing Food Bank of Northern Nevada  
Tony Yarbrough, representing Department of Nevada, Veterans of Foreign Wars, and United Veterans Legislative Council  
Alfredo Alonso, representing Community Financial Services Association  
Keith L. Lee, representing Community Loans of America  
Chris Ferrari, representing Dollar Loan Center  
Chris Publow, Private Citizen, Las Vegas, Nevada  
Jesse A. Wadhams, representing Motor Vehicle Ancillary Products Association  
Dan L. Wulz, Deputy Executive Director, Legal Aid Center of Southern Nevada  
Tyre Gray, representing Motor Vehicle Ancillary Products Association

**Chairman Kirner:**

[Roll was taken. Housekeeping items were discussed.] Today we have two bills that we are going to hear and a work session on three bills. We will start with the work session on Assembly Bill 270.

**Assembly Bill 270: Revises provisions relating to manufactured homes. (BDR 10-1143)**

**Kelly Richard, Committee Policy Analyst:**

Assembly Bill 270 is sponsored by this Committee [Referred to work session document ([Exhibit C](#)).] It revises provisions relating to manufactured homes and was heard in Committee on March 27, 2015. It excludes a manufactured home park or an owner or agent of the manufactured home park engaged in renting or

leasing homes located within the park from the definition of "dealer," and it also modifies the method by which the fair market value of manufactured homes located within certain parks is determined.

There is an amendment [page 2, ([Exhibit C](#))] attached for your review that was submitted by Mr. Joshua Hicks representing the Manufactured Housing Community Organization. The amendment proposes to add a new subsection in section 1 of the bill, which would allow a tenant to request that the Administrator of the Manufactured Housing Division, Department of Business and Industry, appoint a dealer or certified appraiser to make a second assessment of a home's fair market value under certain circumstances. The amendment also clarifies that, in order for a park owner or agent to be exempt from regulation as a dealer under section 2, the homes being rented or leased must be titled in the name of the manufactured home park or in an entity controlled by the owner of a manufactured home park.

The amendment also proposes to add two new sections to the bill. It requires the Manufactured Housing Division to adopt regulations for the issuance of limited lien resale licenses and permits authorizing a landlord or manager to sell a used mobile home if the landlord or manager acquired the mobile home by tenant voluntary surrender. The second new section would exempt manufactured home sellers who engage in five or fewer seller-financed credit sale transactions per year, under certain circumstances, from regulation as a mortgage broker.

**Chairman Kirner:**

I will entertain a motion to amend and do pass. Is there any discussion?

ASSEMBLYMAN NELSON MOVED TO AMEND AND DO PASS AS  
AMENDED ASSEMBLY BILL 270.

ASSEMBLYWOMAN SEAMAN SECONDED THE MOTION.

**Assemblywoman Carlton:**

I want to make sure that I understand the new language under section 1. Would there be a circumstance where someone would not be able to ask for this within 30 days? I want to make sure everyone has their options open.

**Kelly Richard:**

The proposal does indicate within 30 days of receiving a determination of fair market value, so the tenant would have 30 days after he or she received the determination to request the second one.

**Matt Mundy, Committee Counsel:**

That is correct. Everyone would have the opportunity to request a review within 30 days.

**Assemblywoman Carlton:**

I have concerns about this, Mr. Chairman.

**Assemblyman Ohrenschall:**

Existing language in section 1, *Nevada Revised Statutes* (NRS) 118B.130, subsection 9, says that the landlord shall pay the costs associated with determining the fair market value of the manufactured home and the costs of removing and disposing of the manufactured home, pursuant to the earlier subsection. The new proposed language in the amendment, subsection 10, says, "Within 30 days of receiving a determination of fair market value from the landlord pursuant to subsection 8, the tenant may request that the Administrator appoint a dealer licensed pursuant to Chapter 489 of NRS." I am assuming that still falls under section 9 and that no costs will go to the tenant. Would the landlord still pay for the second appraisal?

**Matt Mundy:**

That is correct. I do not think there would be any cost to the person requesting the second appraisal. That language would stay the same and apply to section 10 as well.

**Chairman Kirner:**

I will move to the vote.

THE MOTION PASSED. (ASSEMBLYMEN PAUL ANDERSON, ELLISON, HANSEN, AND KIRKPATRICK WERE ABSENT FOR THE VOTE.)

We will move to Assembly Bill 294.

**Assembly Bill 294: Enacts provisions relating to suicide prevention for veterans. (BDR 54-692)**

**Kelly Richard, Committee Policy Analyst:**

Assembly Bill 294 is sponsored by Assemblyman Tyrone Thompson and was heard in Committee on March 30, 2015. [Referred to work session document ([Exhibit D](#)).] It enacts provisions related to suicide prevention for veterans. The bill requires a provider of health care to complete a three-hour course of instruction relating to suicide assessment, screening, and referral within two years of initial licensure. The measure further authorizes training in such an

area to substitute that training for up to three hours of the requirements for nonethics-related continuing education for that profession. The bill also requires the Department of Health and Human Services to report certain information relating to the suicide mortality rate of veterans to the Interagency Council on Veterans Affairs. The Council is in turn required to report this information to the Legislature or the Legislative Commission.

There is an amendment from Assemblyman Thompson that proposes to remove the reference in subsection 1 of section 1 of the bill to the Division of Public and Behavioral Health of the Department of Health and Human Services and insert "regulatory board of the provider of health care" for purposes of approving the required course of instruction.

**Chairman Kirner:**

I will entertain a motion.

ASSEMBLYWOMAN BUSTAMANTE ADAMS MOVED TO AMEND  
AND DO PASS AS AMENDED ASSEMBLY BILL 294.

ASSEMBLYMAN SILBERKRAUS SECONDED THE MOTION.

**Assemblyman Nelson:**

I agree with the general tenor of the bill. My question regards how broad the scope is for the definition of health care provider. Would this make it so a podiatrist or someone like that would have to be giving the same kind of counseling and take the same training? If so, we should narrow the scope of who is subject to this bill.

**Assemblywoman Seaman:**

I have the same concerns of the provisions as it seems to cover too many providers. Since we have already addressed this issue with Assembly Bill 93, by requiring health providers such as social workers who have more direct and continuous relationships with veterans to take suicide prevention training, I would recommend we remove section 1 of the bill and move forward with section 2, keeping the reporting requirements.

**Chairman Kirner:**

Is that a motion you are making?

**Assemblywoman Seaman:**

I would like to make a motion to amend.

**Chairman Kirner:**

I will go to Assemblywoman Bustamante Adams, who made the original motion. Are you willing to accept the amendment?

**Assemblywoman Bustamante Adams:**

No, I will not because I do not know if you have spoken with the sponsor about that and if he would accept that.

**Chairman Kirner:**

I have spoken to the Minority Leader, and she is fine with it.

**Assemblywoman Bustamante Adams:**

I want to make sure I understand. The amendment is that, instead of making it the Division of Public and Behavioral Health, we are making it so that whatever regulatory board that provider is under has the authority to approve the training. It actually makes it more flexible because it does not have to go through the Division of Public and Behavioral Health.

**Chairman Kirner:**

My question is whether you want to accept Assemblywoman Seaman's modification, which is to remove section 1 in its entirety, which would leave a reporting requirement but not the educational requirement.

**Assemblywoman Bustamante Adams:**

I have not spoken with the sponsor, so I would say no at the moment.

**Chairman Kirner:**

I am going to withdraw your motion and ask for a new motion.

**Assemblywoman Carlton:**

I do not believe you can withdraw her motion.

**Assemblyman Ohrenschall:**

Only the maker of the motion can withdraw the motion.

**Assemblywoman Bustamante Adams:**

I do not want to withdraw it.

**Assemblywoman Seaman:**

In that case, I will withdraw my motion.

**Chairman Kirner:**

Assemblywoman Bustamante Adams has made a motion to amend and do pass, and it was seconded by Assemblyman Silberkraus. Assemblywoman Seaman's motion has been withdrawn for the moment. We will take this to a vote.

THE MOTION FAILED. (ASSEMBLYMEN FIORE, HANSEN, KIRNER, NELSON, O'NEILL, SEAMAN, AND SILBERKRAUS VOTED NO. ASSEMBLYMEN PAUL ANDERSON, ELLISON, AND KIRKPATRICK WERE ABSENT FOR THE VOTE.)

I will accept a motion to reconsider the bill as a whole.

ASSEMBLYMAN SILBERKRAUS MOVED TO RECONSIDER  
ASSEMBLY BILL 294.

ASSEMBLYMAN O'NEILL SECONDED THE MOTION.

**Assemblywoman Carlton:**

The motion is to reconsider what? Are you accepting a new motion on the bill?

**Chairman Kirner:**

We have a new motion to reconsider Assembly Bill 294.

**Assemblywoman Carlton:**

You just need a new motion to reconsider. You are accepting a new motion on that. It is not a motion to reconsider; that is a floor move. The first motion failed, so the second motion has been made.

**Chairman Kirner:**

The first motion failed. Now we have a second motion.

**Assemblywoman Seaman:**

I would like to make a motion to amend: that we remove section 1 of the bill and move forward with section 2, only keeping the reporting requirements, as I am very supportive of Assembly Bill 93, which was already passed by this Committee.

**Chairman Kirner:**

Assemblyman Silberkraus, you made the motion; are you accepting of the modification? Assemblyman Silberkraus indicates he is. Assemblyman O'Neill, you seconded the original motion; would you second the change?

**Assemblyman O'Neill:**

Yes, sir.

**Chairman Kirner:**

He does second the change. With that I will take a vote.

**Assemblywoman Carlton:**

Is there discussion?

**Chairman Kirner:**

Yes.

**Assemblywoman Carlton:**

I would be in opposition to this. I support the original bill. I think all of the providers of health care should be on the lookout for this very serious issue that is out there and which we have heard about in a number of bills. Reporting is great, but not everyone sees a social worker. Somewhere in Title 54 of NRS, with all of the health care professionals seeing those veterans, I believe they should all be trained to notice the signs and report them. If you want to have reporting, that is great, but if no one is getting care or being assessed, what good is the reporting? I am in opposition to this.

**Assemblyman Ohrenschall:**

I concur with Assemblywoman Carlton. However, in light of the fact that the sponsor could not be here today, I wonder if the maker of the motion might consider withdrawing her motion, and if the Chair might pass this to another day when the sponsor can be here. The sponsor could then assess how he feels about the motions.

**Chairman Kirner:**

The maker of the motion is Assemblyman Silberkraus. Did you want to withdraw your motion? [Assemblyman Silberkraus indicated he did not want to withdraw the motion.] I will take a vote.

THE MOTION PASSES. (ASSEMBLYMEN BUSTAMANTE ADAMS, CARLTON, DIAZ, NEAL, AND OHRENSCHALL VOTED NO. ASSEMBLYMEN PAUL ANDERSON, ELLISON, AND KIRKPATRICK WERE ABSENT FOR THE VOTE.)

We will move to the work session on Assembly Bill 255.



**Assembly Bill 255**: Provides for the award of certain costs, fees and expenses to prevailing parties in actions before the Occupational Safety and Health Review Board under certain circumstances. (BDR 53-1027)

**Kelly Richard, Committee Policy Analyst:**

Assembly Bill 255 is sponsored by Assemblyman Hansen and was heard in Committee on March 27, 2015. [Referred to work session document ([Exhibit E](#)).] It provides for the award of costs, fees, and expenses to a prevailing party in an action or a proceeding against the Division of Industrial Relations of the Department of Business and Industry before the Occupational Safety and Health Review Board or a court of judicial review, under certain circumstances. The bill specifies that an award of fees and expenses may only be made if the court determines the Division's position was not substantially justified and that no special circumstances would make the award unjust.

Further, A.B. 255 provides that if the Division appeals an award and the award is affirmed, in whole or in part, the Division must pay interest on the amount affirmed. An award made to a prevailing party must be paid from the Fund for Insurance Premiums and approved by the Attorney General or the State Board of Examiners, under certain circumstances. Finally, the bill defines "party" as an individual with a net worth of no more than \$2 million, or a company with a net worth of no more than \$7 million and no more than 500 employees.

**Chairman Kirner:**

This was a bill that we heard last session and that we passed out of the Assembly. It still has a fiscal note.

I will entertain a motion to do pass A.B. 255.

ASSEMBLYMAN SILBERKRAUS MOVED TO DO PASS  
ASSEMBLY BILL 255.

ASSEMBLYWOMAN SEAMAN SECONDED THE MOTION.

**Assemblyman Hansen:**

I want it passed with the approval of the Committee with the understanding that it will be rereferred to the Assembly Committee on Ways and Means.

**Chairman Kirner:**

Yes, which is to say there is still a fiscal note on it.

**Assemblyman Hansen:**

Yes, there is at the moment. I have worked with Mr. Steve George, the Administrator of the Division of Industrial Relations, and we will probably do some amendments. In the meantime, I would like it to go to the Assembly Committee on Ways and Means.

**Chairman Kirner:**

It will go to the floor and be rereferred to Ways and Means, assuming it passes here. I will call for the vote.

THE MOTION PASSED. (ASSEMBLYMEN PAUL ANDERSON, ELLISON, AND KIRKPATRICK WERE ABSENT FOR THE VOTE.)

That will close our work session. At this time I will open the hearing on Assembly Bill 318.

**Assembly Bill 318:      Revises provisions governing financial services.  
(BDR 52-245)**

**Assemblywoman Heidi Swank, Assembly District No. 16:**

I have submitted a PowerPoint presentation ([Exhibit F](#)) that I will be following closely and a one-page summary ([Exhibit G](#)) of the information. Justin Gardner from the University of Nevada, Las Vegas, is here and will be presenting a study that he did on veterans and payday title loan lending.

This is part of a bigger plan to work on increasing financial security for Nevada's veterans. I got to know Dr. Arnold Stalk, President, Veterans Village, Las Vegas, through another committee we worked on. Veterans Village offers both temporary and permanent housing for low-income veterans in Assembly District No. 16. In addition, this organization provides 24/7 crisis intervention, medical and dental health services, job training and referral, as well as many other services with the mission to promote independent living through economic and social self-sufficiency for Nevada's veterans. This is one part of what I hope will be a series of legislation that will help Nevada's veterans. I will talk about veterans nationwide as well as veterans in Nevada. I will present an overview of the Military Lending Act (MLA), discuss my proposed extension, and propose an opportunity to collaborate with lenders.

There are 228,000 Nevadans who are veterans [slide 2, ([Exhibit F](#))]. Veterans face a lot of struggles when they come out of the military. They come from a very structured military life and emerge into much less structured civilian life, which poses a lot of challenges for these individuals. We have a lot of veterans here in the Assembly and the Senate, and these individuals are great examples

of folks who have made a smooth transition. Unfortunately, that transition is not quite so smooth for many others. One of the biggest issues they face is finding a good-paying job. Often, they have difficulty transferring the knowledge they have acquired during their military service to a civilian job. Employers may be wary of hiring veterans, as they see them as having possible mental and physical issues. Therefore, veterans may find it difficult to secure stable employment.

There are recent studies that demonstrate the effects of these struggles that veterans face nationwide [slide 3, ([Exhibit F](#))]. Veterans comprise one in seven of the nation's homeless, and 1.5 million are at risk of homelessness due to poverty and lack of support networks. Although these statistics are from 2010 and may have improved, about 1 million veterans between the ages of 18 and 64 live in poverty. We are not talking about a short period in which our veterans are going through the transition from military to civilian life; we are talking about an impact that has followed them throughout their life span. That is important to keep in mind.

These challenges bring significant economic insecurity, which often equates to an overreliance on nontraditional financial products. Nationwide, 5.5 percent of our veterans have used high-interest lenders. According to the study conducted by Mr. Gardner and his colleagues, 20 percent of Nevada's veterans are using high-interest loans—often in excess of 200 percent interest. In addition, 56 percent of Nevada's veteran households are using these high-interest loans. We hope that our veterans and everyone who uses payday and title loans are using these monies to bridge emergencies, as that is their intent—to get the carburetor fixed or pay for that emergency room visit or do something that is a short-term fix. We know that these loans are used to pay rent, utility bills, and regular monthly expenses instead. If you look at slide 5 ([Exhibit F](#)), you will see that Nevada's veterans exhibit a dependence on high-interest loans that is four times the national average. These are people who have put their lives on the line for us and for our country, and they are coming out of the service having difficulty transitioning, and taking out high-interest loans at four times the nationwide rate.

The Military Lending Act aims to protect active service members and their dependents from the effects of high-interest loans. [slides 6-8, ([Exhibit F](#))]. The MLA was signed into law in 2006 by President George W. Bush. It prohibits high-interest loans to active duty members of the armed forces, members on active guard or reserve duty, and extends to spouses and dependents of these individuals. The protections under the MLA include a 36 percent interest rate cap that encompasses interest, fees, credit service charges, credit renewal charges, credit insurance premiums, and other

credit-related fees. It requires written and oral disclosure of rates and fees in advance, and it does not allow rollover of loans, which means you cannot refinance a new loan unless the new loan has more favorable terms for the borrower. There is no mandatory waiver of consumer protection laws, which means you cannot waive any state or federal laws that would protect the consumer. There is no mandatory arbitration, you cannot be required to submit to arbitration, and you retain access to a court resolution. Nor are there mandatory allotments, which means you cannot require that payments be taken automatically from their paycheck. Finally, there is no prepayment penalty, so you can pay off that loan as quickly as you want to and not pay any penalties.

What I am proposing today is to extend the Military Lending Act [slide 9, ([Exhibit F](#))]. Assembly Bill 318 proposes to extend these protections to Nevada's 228,000 veterans. It will help eliminate the debt spiral that leads to greater financial insecurity. It will safeguard lenders by encouraging more careful consideration of applications. It will strengthen military families and communities by providing that same access to these protections that veterans had while they were active military.

There will be those who oppose this bill. They will tell you that their loans are given with significant risk to the lender [slides 10-13, ([Exhibit F](#))]. They will tell you that high interest is needed to cover individuals who default and that a 36 percent interest rate will put them out of business. They will say that no Nevada payday lender offers a 36 percent interest rate product. I agree. Their products are higher risk; they need to cover losses from individuals who default. I agree that they need to cover those expenses. The current interest rate of 200 percent or higher would apply to the vast majority of loans taken out by Nevadans. We are only asking for this to protect our veterans.

I disagree with them on a couple of points. I do not think that a 36 percent interest rate will put people out of business because the vast majority of borrowers are still at that higher rate. One Nevada Credit Union has a 36 percent interest rate product for active military at the Nellis Air Force Base, and they seem to remain in business, as both a credit union and payday lender.

Nevada works really hard to support our veterans. We offer a variety of discounts, special fee and tuition breaks, and other economic benefits. I asked staff to put together a list of some of these benefits that the state has worked so hard to offer to these folks. These include driver's license designations so veterans can more easily access benefits, which was Assemblyman Anderson's bill last session. We also give in-state tuition to veterans, reduced-cost hunting and fishing licenses, a variety of license plates, some breaks on occupational

licensing, and some tax exemptions. Should A.B. 318 pass, we will add it to that list. There will be a way to assist those who have put themselves in harm's way for us.

My proposal is to pass A.B. 318 to extend protections to veterans, but we cannot stop there [slide 14, ([Exhibit F](#))]. We need to continue to work with our veterans to find ways to make credit more accessible to them—credit that does not leave them in a debt spiral at 200 percent after all they have given for us. I would call on title and payday lenders. This is a great opportunity. We know these people do a lot of good in our communities. I have seen it firsthand. They reach out, they do a lot of good projects in our neighborhoods, and this could be a way for them to further support what the veterans have given to our state. I know they are a private industry and we cannot tell them to do this. But this is a great opportunity for all of us to come together. I would suggest that our payday and title lenders develop a 36 percent rate product that is exclusive to active military, their families, and Nevada's veterans.

There is a great quote that is on the last slide and it has guided me as I have been looking at veterans issues with Mr. Gardner and his colleagues [slide 15, ([Exhibit F](#))]. It is from Congresswoman Sue Kelly of New York, and it says, "We still have a long way to go in fully meeting the promise to our Veterans." I think A.B. 318 brings us a little further along that road. I would hope that we can work together with industry to make sure that our veterans are taken care of.

**Chairman Kirner:**

There are roughly 230,000 veterans in Nevada and, based on your presentation, 56 percent, or more than half of them, are taking out loans in excess of 200 percent.

**Assemblywoman Swank:**

The 56 percent is the household—if you take the veteran, his or her spouse, and dependents. If you look just at veterans, it is 20 percent.

**Chairman Kirner:**

So that would be slightly less than 50,000, based on your population count, who are taking loans out in excess of 200 percent.

**Assemblywoman Swank:**

It is about 45,000 Nevadans. Twenty percent are taking out loans in excess of 200 percent interest, often to pay for things like their monthly rent and to cover emergency expenses.

**Assemblywoman Seaman:**

I like this bill. However, as we have seen with a lot of things in this body, there can be unintended consequences. After hearing the testimony, do you think that this legislation might have the unintended consequence of deterring lenders from lending? I do not want to see that. If this is enacted, I do not want to see a situation where no one wants to lend to veterans. That is my only concern. I am sure you have thought about that.

**Assemblywoman Swank:**

It is one of the things I am concerned about and one of the things the opposition will tell you—that this will disenfranchise veterans. That is why I call upon the lenders to offer the product. I will tell you that for our veterans who get into a debt spiral caused by loans, what they are usually doing to get out of the spiral is to borrow from friends and family. They use a lot of other strategies to pay back those loans at that high interest rate. What I am hoping for, if the lenders do not agree to this, is that this will get our veterans to explore the other options available to them, that they will go to friends and family first, and they will be able to save those interest rates. That is where I hope we can go with this.

I have been talking with some nonprofits in the south who were looking at starting up credit circles for veterans and finding other ways to help them, but we wanted to make sure our veterans are not getting into this debt spiral that leaves them in the 1 million between the ages 18 and 64 who live in poverty. Throughout their lives, they cannot get out of poverty and be part of the middle class. This is to give them a little nudge, and we have plans to support them as that goes along.

**Assemblywoman Seaman:**

I do have reservations after hearing the testimony that this could end up as another problem, that veterans are not going to be able to get loans.

**Chairman Kirner:**

I know there are others who have questions. Would it be of value to have Mr. Gardner present his research?

**Justin S. Gardner, Private Citizen, Las Vegas, Nevada:**

I am a Ph.D. student in public affairs at the University of Nevada, Las Vegas (UNLV). Thank you for allowing me to present our research findings. I would like to start by summarizing the research we completed last fall and go through our findings on payday lending and veterans' financial stability. I will conclude

with where our research goes from here. Research does not stop with this report or with this survey. I will tie in my personal interest in veterans' research and why I am committed to advancing the research around veterans-related policy.

In the fall of 2014, the School of Environmental and Public Affairs was granted a sponsorship by Charles Schwab Bank to do a survey. The goal was to assess the financial stability of veterans in Nevada. We wanted to identify different barriers, issues, and burdens that Nevada veterans face in their daily lives as they transition from that structured military life to a much less structured civilian life. There is a lot of national data that surrounds health, wellness, and education, but there is a lack of data at the state and county level to tell us how veterans are doing in Nevada, especially as it relates to their financial preparedness, financial management, financial literacy, and utilization of payday loans.

We had two main objectives with our survey: first, to investigate veteran utilization of payday lenders and their services, and second, to identify variables that indicate whether and where veterans would use payday lending. Our survey was disseminated to the Nevada System of Higher Education institutions using the veteran program offices. That is where we had the majority of our respondents. The results I am discussing today are much more indicative of what our student veteran population faces because our response rate is so high in that area.

Our survey had 432 respondents in total. There were some missing questions here and there and some incomplete responses. The results I will talk about today are based on 385 respondents who were determined to be "qualified respondents" based on the fact that they completed the entire survey in a valid manner. They had responded to enough of the questions that we were able to get data in an accurate and robust manner.

Our results were interesting and alarming in a certain number of indicators. From those 385 people who responded to our survey, we found that approximately 20 percent of this Nevada population utilized a payday lending service. More alarming was that 39 percent of those people had an existing payday loan debt at the time of our survey. For context, we have a national study that we utilized to build our survey and make comparisons. The National Foundation for Credit Counseling (NFCC) conducted a survey in 2014 that included most civilian populations as well as active duty service members. This was a first for them, so it worked well for our survey. The NFCC found 6 percent of the active duty service members and 4 percent of the civilians have utilized payday lending services. If we look at that 20 percent in Nevada and

take that 39 percent who have an active debt, we see that almost 10 percent of our Nevada veterans have an existing debt to a payday lender. This is a troubling result.

The second finding was how veterans accessed payday lending services; 57 percent said they walked to a storefront location. These findings indicate an interesting and potentially troubling urban planning relationship and geographic connection between veterans and payday lenders. These loans were not hard for veterans to find and access—literally located within walking distance from their homes to the storefront. Sixteen percent accessed online lenders, and the rest of our population were able to do it by driving to a storefront. A vast majority were able to walk to the storefronts to get these loans.

How can we tell who is more vulnerable to needing these services and why do they need them? One of the findings is that there is a relationship between veterans' self-personal assessment of their financial preparedness and subsequent use of payday loans. To be more direct, people who felt less financially prepared were more likely to use payday lending services. This is something we need to further research.

The next question we asked our veteran population was how many other sources they utilized before using a payday lender. This speaks to what Assemblywoman Swank was referring to. Fifty-six percent of respondents did not go anywhere else. They did not try to go to a credit card, another lender, a bank, or family and friends. The first place they went was the payday lending service. That puts 56 percent of our respondents directly into a high-interest loan. This finding needs to be assessed going forward.

Why do veterans need to access these high-interest payday loans? We were able to ascertain some of those reasons with our survey responses. The number-one reason for seeking payday loans was unexpected expenses. The next reason was difficulty paying monthly bills, followed by difficulty paying for housing. The final reason was difficulty paying credit card debt, vehicle loans, or student loans. Remember that most of our population consisted of student veterans. They had problems with unexpected expenses, monthly bills, housing, and other debt such as credit cards, vehicle loans, and student loans. You can see where debt builds debt. The more these people need to take loans, the deeper they will go, and it speaks to the spiral discussed earlier.

These are troubling results. That is why UNLV and the School of Environmental and Public Affairs are going to continue this research into the spring semester. We are doing things right now to get to a more experiential level of data.



We are going to conduct focus groups to find out from veterans what their financial landscape looks like—if they have used payday loans and why—so we can identify variables that speak directly to the veterans themselves. We have based this off of financial literacy, financial management and financial preparedness literature, and the NFCC survey. We want to get a deeper knowledge of what veterans face and apply future studies that address what they need so we can identify problems related to their lives. As part of that, we have been able to contact experts from Nevada and across the nation to identify key components that we should bring up in these focus groups. We want to grow the knowledge base at UNLV to determine these problems on a national level.

**Chairman Kirner:**

How many of these surveys did you get back?

**Justin Gardner:**

We got back 432 in a three-week period. We had 385 that were qualified respondents.

**Chairman Kirner:**

Is that a mathematically significant number?

**Justin Gardner:**

Based on our findings, 385 is a good number from which to make generalizations. We sent the surveys to veteran program offices, so it went out to Nevada System of Higher Education (NSHE) students. Surveys are fickle and you do not get really good response rates. If you get back 5 or 10 percent, you are doing well. We fit into that category.

**Chairman Kirner:**

You had a 5 or 10 percent response rate?

**Justin Gardner:**

If you count all of the people whom our veteran program offices sent that survey to, it would be in that 5 to 15 percent range. I do not have the count of how many emails were sent or if they were sent to active students.

**Chairman Kirner:**

The reason I ask is that I am somewhat familiar with statistics and going through your Ph.D. program. I am trying to find out if that is a statistically significant response.

**Justin Gardner:**

It is a typical response for what we would expect. It was something that we felt was worth noting and reporting.

**Chairman Kirner:**

In your response, you characterize this as Nevada, but most of your responses came from UNLV. Did you get statewide data?

**Justin Gardner:**

We sent the surveys out across the state. All of the different colleges and universities were sent this survey and were asked to send it out to veteran students. We were trying to find the best way to quickly get to a veteran population. This research was part of a course that was restricted by semester dates and deadlines. We were able to do that rather quickly by using the veteran program offices around the state. We got responses from all over the state. I will note that we were collecting other data points, not just these six. We have zip codes and other things we were able to collect to see where these populations are. I just do not have that as part of this report.

**Assemblyman Ohrenschall:**

The district in which I reside, Assembly District No. 12, is just south of Nellis Air Force Base. If you drive up Nellis Boulevard toward Craig Boulevard, near the entrance to the Air Force base, and look across the street, you will see payday loan places all around. It is a concern to me. I have been reading that the Pentagon is adopting new regulations to make sure predatory lenders do not prey on service members. Regarding the veterans who fall into the cycle of predatory debt, do you find this is mostly happening when they are still in the service, or when they separate from active duty?

**Justin Gardner:**

We did ask questions related to that, and we found that there were folks who were taking them out while on active duty. We asked the question related to the last 12 months, and we found that 57 percent of those surveyed had utilized these loans in the last 12 months.

**Chairman Kirner:**

My understanding of the current law is that active military service members cannot get a payday loan. Is that correct?

**Justin Gardner:**

I believe the language in the Military Lending Act says that they can utilize the services for a capped interest rate. They can get a loan for that 36 percent interest rate. There are people who use them, as you saw in the NFCC survey

that we talked about. Six percent of their 214 respondents had utilized payday loans while on active duty. We saw a much higher rate in our survey. We had a large subset of around 40 to 50 percent who had used them on active duty, and 57 percent had used them in the last 12 months.

**Assemblyman Nelson:**

Was your survey primarily responded to by students?

**Justin Gardner:**

Our respondents were mostly student veterans who were at one of the NSHE colleges or universities across the state. They were students because we sent the surveys to veteran program offices to send them out within the student data systems to the veterans. We thought that was a good way to get response rates and a good place to start because we are an academic institution. We did have respondents who were not active students. It was a smaller population of people because of the time restraints of our research.

**Assemblyman Nelson:**

Are you limiting your findings or your thesis to students? Or are you extrapolating to the entire veteran population?

**Justin Gardner:**

This study speaks directly to, and is more indicative of, the student population. The research needs to be furthered; we will build on this study going forward to get a more statewide assessment. This was mainly students, but it piqued an interest to do further research on this statewide.

**Assemblyman Nelson:**

I applaud your efforts. I think it is an important issue, and perhaps we should be doing a lot more educating of all of our students, veterans, and everyone, about debt and financial management.

**Assemblywoman Fiore:**

My heart goes to our vets. The father of my children is a vet; my oldest child was born in Guantanamo Bay, Cuba. I understand, but if banks are not going to lend vets money and they are going to these payday places, have you thought about programs like teaching vets a Dave Ramsey financial stability course or considered other tools where it is more about spending rather than infringing upon businesses? I think we need to teach people how to spend wisely. Have you thought about programs like that?

**Assemblywoman Swank:**

Yes, that is something that occurs at Veterans Village. They do a lot of work on helping servicemen and servicewomen transition as they move out of the military. There is a lot of education out there and that is something we need to increase for our veterans. I also know from the study that Mr. Gardner did that so many of our vets do not explore other options; they go directly to a payday lender instead of looking at a credit card or family member. Having a multipronged approach to help solve such a big problem would be the best way to help them.

**Assemblywoman Bustamante Adams:**

On the federal level, President George W. Bush put the protections of the Military Lending Act into law in 2006. In this bill, you are asking that those protections be offered in Nevada, but currently there is not a program that is offered through the current payday lenders that we could actually deploy. Is that correct?

**Assemblywoman Swank:**

One Nevada Credit Union does have a 36 percent interest rate product that they lend at Nellis Air Force Base. I would be more than happy to work with them to find a way to make that work for veterans too.

**Assemblywoman Bustamante Adams:**

Lending institutions could make the choice to include this as part of their business model, but currently they do not. Is that correct?

**Assemblywoman Swank:**

That is correct. I think this could be a great outreach for them.

**Chairman Kirner:**

There are a number of people who want to support this bill, and we will invite them up.

**Nancy Brown, Chair, Opportunity Alliance of Nevada:**

We are working to create alternatives. We support this bill. There are a lot of innovations going on that are alternatives to payday lending. If we focus our energies on those types of things, we can have some alternatives. But we need to provide protections. We have lending circles. There are other models throughout the United States that have had payday lenders eliminated and have loans that are working. We have to put on our thinking caps and be innovative at the same time.

There was a study in 2011 that indicated that payday lending cost 14,000 jobs and an economic loss of \$1 billion through reduced household spending and increased bankruptcies. Economist Brian Melzer found that, as borrowers shift income to paying off loans, they are more likely to rely on food stamps and less likely to make child care payments. Defenders of the industry claim that most borrowers are paying for one-time purchases, but as we saw, data suggests that most people borrow for routine expenses and continuously roll over their debt. The Center for Responsible Lending estimates that the high annual percentage rate (APR) loans cost consumers \$3.5 billion a year in extra fees. It is a very costly product, and we have the innovation to find alternatives. The Opportunity Alliance of Nevada supports this bill.

**Kathy Doyle, Private Citizen, Reno, Nevada:**

I am here to communicate my support for A.B. 318 and the need to cap interest fees charged by payday lenders. I am an Army veteran and served our country for eight years. I received an honorable discharge from the military in May of 1987. Since I left the service, life has not been easy, especially being a single mom of two with a 17-year-old child at home. I support my family with Supplemental Security Income (SSI), of \$733 per month, and U.S. Department of Housing and Urban Development (HUD) Veterans Affairs Supportive Housing (VASH), of which I pay \$211 a month. All it takes is one small emergency to cause a crisis, especially with medical costs and insurance covering less than before. We are either paying for medication or eating. It really hits hard with over-the-counter medications since these are not covered expenses, especially for my son, a minor with no income.

Unfortunately, the good old payday loan trap came about when I needed medical gauze and tape after my son's surgery. I called the doctor after my son came home from the hospital and woke up to use the bathroom. I noticed the bandages were very wet and had leaked through his clothing. The doctor said this sometimes happens. He suggested I go to the pharmacy to get the necessary supplies to repack his wound. It was the Thanksgiving holiday and the church office that I usually call for help was closed. I could not let my son be uncomfortable. I needed money quickly. I went to a lender that had a payment plan, and I was not able to use the service since they needed three references. I went to a payday lender that I had used before and had no problem getting the loan. They gave me a loan in the amount of \$99, a percentage amount of my income, and, with interest, it came to \$107 due in 30 days. To be able to get a payment plan I had to call within 30 days by 3 p.m. I called their toll-free number and, because I had been put on hold until 3:02 p.m., I was required to pay the whole loan off. To my surprise, my bank account had already been garnished. Since my check had not been

deposited, I was charged \$35 from my bank for insufficient funds, plus \$25 added to the \$107 I already owed. I called the lender and told them that they had unfair practices and that I had been denied a payment option due to being put on hold. They finally called me back and allowed me to convert to a payment plan. In all it has taken four months to repay the total of \$191 that included the loan amount of \$99, plus \$32 interest, plus \$60 in other related fees.

It has been a hard road and a lot of sacrifice for my son. He is a little older, 17 years of age, but it hurts just the same around the holiday. We have made it through somehow. I am glad this is the final payment.

My story is not isolated. There are many veterans and families living paycheck to paycheck. There needs to be an affordable resource for families in times of emergencies, but it is not the current practices used by the payday lending industry. I do not have the answers, but payday lending with its charges and fees is a downward spiral that gets worse over time and is almost impossible to get out of once you are in the system.

In closing, I ask that you vote in favor of A.B. 318 and put an end to payday lending rates above 36 percent APR for military families and veterans.

**Paula Berkley, representing Food Bank of Northern Nevada:**

The food bank does a comprehensive study of all the people we serve every three years. Last year we finished our survey and found that 33 percent of everyone we gave food services to are veterans or active military members. They are food-insecure. The Food Bank of Northern Nevada has delivered immediate assistance and long-term support to financially struggling people for 33 years. The advent of payday lending and title loans has accelerated conditions in families with already fragile resources. We see almost daily the devastation and despair of those caught in the deadly web of payday lending. We strongly urge you to pass this bill.

**Assemblyman Hansen:**

Ms. Doyle, I have done a lot of homework on these loans and the types of people who get them. We are talking about veterans. You are a good example because it is overwhelmingly single women with children who use these services. The most vulnerable members of our society pay the highest interest rates. Then you get caught. If you are the lender, the miracle of compound interest is an amazing thing, but when you get caught in the spiral of debt, it is the other side of the same thing.

Historically, there have been significant caps—even in free markets—on how much interest can be charged. We had usury laws for years and years. I want you to know that when I think about these issues, I think about people like you. It is time that Nevada comes up with some sort of cap that can be charged, not just for veterans but for all of the poor people for whom that is the only place they have to turn. I understand that, without that, you possibly could not get a loan, but there has to be a reasonable level there. I cannot imagine that there are any states without some kind of usury caps.

You are a good example of that situation. You can literally spend your whole life paying off interest. I think of the biblical saying, "Inasmuch as ye have done it unto one of the least of these my brethren, ye have done it unto me." I think of people like you and think, why in the Bible are there caps on usury? I am a free-market guy, but I think there are some reasonable caps that should be put in place.

**Assemblyman Nelson:**

Ms. Doyle, if this bill had passed and you went to the payday lender, you would not have been able to get the loan for the gauze that you needed for your son. What would you have done then? Would you have gone to the emergency room?

**Kathy Doyle:**

I probably would have gone to an emergency room, which would have cost me over \$1,000 because it was after 7 o'clock at night and before 7 o'clock in the morning, which is considered twilight hours.

**Assemblyman Nelson:**

Another thing that was mentioned today was family and friends. Would it have occurred to you to try family and friends? I know the church was closed.

**Kathy Doyle:**

My family, friends, and neighbors that I associate with are all almost in the same boat as I am or in a worse situation.

**Assemblywoman Neal:**

What I have seen commonly with people who use the payday loans is that there is no cap on how many you go to. You can go to seven, and all seven will call and ask you for that money because there is no interrelationship between them. The debt rises because the people got \$400 here and \$300 there. It becomes an endless cycle because they can never stop and pay it back; they are always in the hole.

In terms of veterans, is that the same type of situation? I have seen people go to five or six lenders, and they are asked to give references at each one. They are calling 1-800-whomever, and everybody is saying they called me and they are not getting their money back. It is a perpetual cycle. I wonder if it is the same for the veterans. That is what I see in my district a lot.

**Chairman Kirner:**

I do not see any other questions. Are there any others in support of this bill?

**Tony Yarbrough, representing Department of Nevada, Veterans of Foreign Wars, and United Veterans Legislative Council:**

I represent 8,000 veterans for the Veterans of Foreign Wars (VFW) in Nevada. We rise in support of this bill. We have seen repeatedly such circumstances where our veterans have gotten into extremely deep financial difficulty. This bill may not stop all of those conditions. We know sometimes people get into situations when they need help. However, we also know that there are times when this puts them so deep into debt that its negative connotation will literally, in some cases, lead to suicide. From those perspectives, we support this bill.

**Assemblywoman Fiore:**

Thank you for coming forth. I live in Las Vegas, and we have a Catholic veterans charity with a phone number that is available 24/7. Regarding the previous testimony where the woman needed some gauze for her son, I know we have a lot of outreach programs in southern Nevada. I was wondering if we need to connect all of our charitable vet services together so that when people are in a pinch like this, they do not have to spend so much time trying to secure a loan. I am looking at her situation and feeling for her. How much time did it take her to drive and find a payday loan place, fill out the paperwork, get the money, and drive to the drug store, instead of reaching out to a charitable community network that helps vets in need to pick up what she needed from them? Is there a way that we can work with all of Nevada and get our veterans resources together?

**Tony Yarbrough:**

The Office of the Governor and the veterans councils have assembled a publication that puts all of the state resources in one book. Any of our organizations, whether it be VFW, Disabled American Veterans, the Military Order of the Purple Heart, or any of it, all have 24/7 people who respond to these kinds of issues when they are brought to our attention. Sometimes, people do not think or take the time to look, but we are there and available to help. Time and time again, I have taken money out of my own pocket and helped people who have been in need. I know that my veterans organizations



and the organizations that I associate with will do the same thing. Again, if it does not come as the first thought, we see these kinds of situations. We do outreach through many different communities throughout the entire state. We try to find and identify circumstances like this so that we can help people.

**Assemblywoman Fiore:**

Is it possible to designate community leaders to get a list of the veterans in a particular community and send them a letter, or give them a phone call and let them know you are there for them? Can you do outreaches for veterans—if they are stranded or stuck; if they need milk or they need gauze—or something so that we do not get into situations like the one we are hearing today?

**Tony Yarbrough:**

I am sure everyone here is familiar with what we refer to as the Buddy Poppy program offered through the VFW. We have Buddy Poppies that we offer to the general public on certain holidays and occasions, and those drives take place in every community. We also have postings on many community bulletin boards in our neighborhoods. We post our availability and recognize that if veterans need help, they can call us. We have a tremendous outpouring from the Department of Veterans Services. Yes, we do reach out across the communities.

**Assemblywoman Kirkpatrick:**

In 2009, we discussed this very issue. The colonel from Fallon or Hawthorne told us that these loans were detrimental, so we made some changes. Did those changes go far enough, or is this still an everyday problem? He said at the time that many veterans were getting into trouble because they could not pay their basic expenses and were trying to make ends meet. They had escalating loans, getting one to pay off another. I do not see the Governor's Director of Military and Veterans Policy here. At that time we worked on this because so many veterans were moving here and we were trying to get more to move here. I think it was the current servicemen who were being penalized the most. I know this bill touches both current and former members. Did we make any impact with those changes? Did it not go far enough, as demonstrated by the issue we are seeing here today?

**Tony Yarbrough:**

The circumstances that you cite have not improved; they continue to be an issue. I have been to Hawthorne a couple of times and have had dealings with my fellow VFW members there. They have cited some circumstances where, if they had their way, we would tighten this up even more. It is a failure of youth where we think everything is going to be better tomorrow, so we do not plan ahead far enough. We find that we get caught up in that circumstance.

Personally, with my first entry into the military, I thought these loans were the greatest thing. If not for a very generous family member, I would probably be in jail because I could not afford to pay it back. I thought it would be easy and that I could handle it. If you do not sit down and deal with your finances, as we do when we get older, these issues can catch up with you.

**Chairman Kirner:**

We will move to those who are opposed to the bill.

**Alfredo Alonso, representing Community Financial Services Association:**

We respectfully oppose A.B. 318 for several simple reasons that have been discussed. First, everyone can agree that we are not doing enough for our veterans. That is clear. We can also agree that it is not always fair to pick on one specific industry or one type of lender. All a person has to do is bounce a check or get another type of loan through a credit card, and those fees are exorbitant as well. If you compound those fees over a year, the numbers are actually higher. Your typical payday loan facility offers from \$5 to \$15 per \$100. That is significantly less than a bounced check.

I think your veterans, like anyone else, are looking at the price of these loans or the cost of bouncing a check or using their credit card, and weighing their options. The solution is looking at this issue globally, if there is a problem that needs to be solved here. If you were to lower a typical payday loan to 36 percent, that is \$1.50 on a \$100 loan for two weeks. It is almost impossible to hire someone to do the loan and pay them to do the loan. We are all very aware of the situation and understand, but I think, with respect to the veterans issue, you will no longer have loans to this group of people. That is unfortunate because, in this day and age, where else do you go?

The other issue is that this would drive people to the Internet. There are a lot of companies that exist—offshore entities—that offer loans. There is no jurisdiction or ability for our Division of Financial Institutions, Department of Business and Industry to go after these people when they charge too much. I think it is a global problem. You have the commitment of everyone here at the table to help find a solution, but mandating a usury on one group of people without looking at all of the other factors is very difficult and simply will not work.

**Keith L. Lee, representing Community Loans of America:**

We do business in Nevada as Nevada Auto Title and Payday Loans. We did work on this issue in 2009, and from that time forward, we have recognized the Military Lending Act. If a payday or auto title loan company has a product at 36 percent APR or less that fits within the Military Lending Act, that is available

to members of the military. My recollection was that in 2009, we had no discussions with respect to veterans. This is the first time discussing whether veterans should be included in that same 36 percent APR cap that is provided for in the Military Lending Act. My client does business in 34 or 36 states, and we do not have a product as part of our business plan that is 36 percent APR or less. We do not make loans to active members of the military or their dependents in accordance with the Military Lending Act. We do not keep track of how many veterans we lend to, but we would not have a product that would be available to them should this bill pass. With respect to my client, the veteran population would be disenfranchised from being able to get loans.

On a more global aspect, and we have talked about this, my company and others who are regulated by *Nevada Revised Statutes* (NRS) Chapter 604A did not create this. We filled a niche that was created because the traditional lending facilities—banks, credit unions, credit card companies—were not extending credit to these individuals. We are talking about people who are under-banked. We talked earlier about financial literacy and credit counseling; those are pieces that need to be included here. We have had several conversations with Assemblywoman Swank and will continue to do so in an effort to see if we can provide some assistance with her goals. As a veteran myself, I believe our goals are the same. We want to do what we can for veterans to honor their service to our country. If we are going to have that conversation, we need to include traditional lenders, other providers, credit counselors, and financial literacy folks, along with the organizations we have heard from today to reach that resolution.

**Chris Ferrari, representing Dollar Loan Center:**

My clients have an A-plus rating with the Better Business Bureau (BBB). They employ more than 250 Nevadans and have \$8 million in annual payroll. All employees receive a 401(k) retirement plan with a 50 percent employer match and full benefits, including dental and vision. They lease 26 buildings throughout the state, pay more than \$200,000 a month in rent, and support a number of statewide charities. I want to put those points on the record to let you know that that these are legal and recognized employers throughout our state, and many of our companies are doing very good things in our communities.

One of the issues that came up was people not being able to repay loans. I can speak for the industry as a whole that it is not the intent of these lending companies to provide a loan to someone who cannot pay it back. That does not work for anybody, to push somebody into a debtor situation where they cannot pay back. That is not the goal. The intent is to provide a bridge loan to help with needed services.

We appreciate Assemblywoman Swank's intent and understand that she is trying to protect veterans. Looking at the practical implications of the bill, however, section 3 indicates that the loan application would have to include a space where someone could indicate if they were a current or former member of the military. I have not served in that role, but I would not want to be someone who works for my client in a store setting where a veteran comes in, checks that box, and then to suddenly have to say that I have to deny the loan. I would not want to explain to a veteran that the law creates a different class of consideration for veterans and, therefore, I cannot process the loan.

We appreciate the intent, but limiting access to financial opportunities for what are seemingly some of the most responsible people in society, who have given so much, seems like a poor policy. We are more than willing to work with Assemblywoman Swank, but do not believe this is the right way to go.

**Assemblywoman Kirkpatrick:**

In 2009, when we worked on legislation, we had many current service members here in our building and videoconferenced to Nellis Air Force Base in Las Vegas. What we saw then was that, if these individuals did not pay back their loans, their higher ranking officers were getting the calls from the lending companies inquiring about payments. The economy was declining and it was a big issue. I respectfully disagree with Mr. Ferrari. You can put a box on the application for those things. If you go to Home Depot and buy something on Veterans Day, you show a copy of your DD-214 military discharge paperwork or something similar and get a discount. There are easy ways to do that because it is required in everything that we do. At the time, one of the compelling points was that the service members were not paying back the loans, which was not helping loan companies to service them anyway. I am hearing a conversation that this might deter folks, but it was already deterring people because they were not paying it back. I do not know how that is different from offering a product that could be paid back.

Mr. Lee, you said your companies do not track the data on veterans, but somebody must track it because, in a marketing world, you send the information out and tell people they can obtain these loans. There are at least five payday loan offices less than a half mile from Nellis Air Force Base. There is a reason they are close by, and I would like to see the data. You must market to them or you would not be that close.

**Alfredo Alonso:**

Our members ask whether someone is active military when they come into our stores. Every store has a list of active military, and we work with the base commander in every case. We simply do not loan to active military,

and that has been a long-standing policy. Obviously the veteran side is more difficult because there is no list and no way of knowing other than to ask. Could we put a box on our loan application? Yes, we could, but the problem is, if they come into one of our stores and they are denied because they checked the box, they will go to the next store and not check that box. That is the concern. Is it worth our company getting in trouble with the Division of Financial Institutions or someone else over something that is untrackable, other than with their discharge papers?

The bigger problem is that you have Internet lending, and there are so many of those lenders. Once they have these accounts, who knows where the lenders are coming from. They will make loans, and they are not subject to Nevada law because they are not based in Nevada.

**Assemblywoman Neal:**

This question is for Mr. Alonso. First, there are unregulated Internet lenders that could be more predatory than the brick-and-mortar companies. The second issue is that veterans can go to the lender, check the box, and then be denied. Why do we see the denial as passing them on to a lender who could be worse than the brick-and-mortar outfit? The ultimate issues we are trying to deal with are the need to control debt and the behavior that is causing it. These loans hurt people because the rate is too high, and it is not functional because there is not enough revenue to pay them back. The denial is actually a good thing because it saves somebody from a bad decision, one that has not been thought out or is a part of a perpetual cycle where they will not ask for help because they cannot manage their money. When the doors stop opening, they are more likely to take action to resolve the issues and figure out a way to make their money work.

**Chairman Kirner:**

We have somebody ready to testify in Las Vegas, and we have some Committee members who need to leave for Easter weekend. Please be quick with your responses.

**Alfredo Alonso:**

I agree with you, and I think everyone agrees with you. Part of the problem is you are only addressing one issue. You drive them from a payday loan, which is the cheapest model, and they will bounce a check. I am referring to everyone, not one particular group of people. This applies globally, and that is the problem. The reason someone uses a payday loan is that it is cheaper than getting a late fee on a credit card, cheaper than bouncing a check, and better than going into further debt. That is part of the problem. People need to be educated on how to use credit cards and banking so that ultimately there is

a good reason to go to alternative credit. It is a much more complicated problem than saying we are not going to loan to veterans anymore or we are going to lower the rate so you cannot loan to veterans. I am not sure what problem it solves other than to say they will not use a payday loan facility anymore; they will go elsewhere. They will go to online lenders, unfortunately.

**Chris Publow, Private Citizen, Las Vegas, Nevada:**

I am in opposition to A.B. 318. I have been in Nevada since 1963 and am also a veteran. I was appointed to the United States Military Academy in 1967 by Senator Howard Cannon. I worked with people all of my life, and many of them are veterans. After my time in the Army, I was in senior-level management. My experience is that not all people are good money managers. From time to time, there would be situations where money is needed in a hurry. I remember when one of my employees came to me; his father had died back East and he needed \$700 or \$800 to go home. He came to me to ask permission to take money out of his 401(k). I warned him that, in order to take money out, they would take 10 percent of the money and he would have to pay taxes on it. For the airfare that he needed, he needed to take about \$1,000 out of the 401(k) plan. The bank would not help him. He needed the money in a couple of days to be with his mom. He went to a payday loan center, received the money, and had it paid back in a month or so. He was able to do that.

When I heard about A.B. 318, I was shocked that there would be a proposal that would discriminate against a veteran. In the same scenario, that same guy would not be able to obtain a loan from a payday loan center. It would have been awful for him to take that money from his 401(k) and have to pay penalties and taxes. As a veteran, I do not want to be singled out because I served my country. I want all of the freedoms and privileges of the next person. If I need \$200 to take care of an emergency, I ought to have the right to do it.

I can remember in 1967 when I first put on a uniform. People were not as kind to soldiers as they are today. They called us a lot of names and spit on us. I know what discrimination feels like and it is not pretty. If you want to help the veterans—and you have talked about some great things today—come up with some great plans, especially for the impoverished ones. I do not think that discriminating against veterans and not giving them an opportunity to use their own judgment is the right thing to do.

**Chairman Kirner:**

Did you say you were the class of 1967?

**Chris Publow:**

I was the class of 1967 from Western High School, not West Point. I was in the class of 1971 at West Point.

**Chairman Kirner:**

Are there any questions for this individual? [There were none.] Seeing no others in opposition, I will invite those who are neutral on the bill to come forward. [There was no one.] We will invite the bill sponsor up for closing comments.

**Assemblywoman Swank:**

Before we passed the Military Lending Act, we had a significant problem with our active military taking out these high-interest loans, so much so that it was threatening national security. With the MLA being enacted, our active military are still functioning. They have found ways around, worked together, and found other ways to get short-term credit without taking out loans that were in excess of 200 percent. They found a way.

I would also like to address the point about credit cards being more expensive than payday loans. If you can pay back a predatory loan in a month, it is probably not so expensive. We need to keep in mind that there is a whole idea about ability to repay, and in Nevada, the ability to repay statutes are nowhere near as strict as it is when you get a credit card. When you apply for a credit card, they check your credit rating and run your credit score, so they know you will be paying it back. That is not something that we require in Nevada. We have some ability to repay requirements, but not as stringent as other states.

Finally, regarding Ms. Doyle and where she would have gone to get the gauze for her son, this is not an easy fix, but there is a lot of outreach that is being done. You heard from Mr. Yarbrough; you heard from Ms. Brown from the Opportunity Alliance of Nevada. I spoke with Director Katherine Miller at the Department of Veterans Services about the work that they do. A lot of information is being put out there for our veterans to become more financially secure.

However, given that predatory lenders are usually the first stop for veterans before looking at other options, we know that education is not necessarily encouraging them to make the changes that need to be made. We all know, as adults, that changing our behaviors often takes more than people telling us how we could change them. A nudge in conjunction with all of this work that our different nonprofits and state offices are doing to educate our veterans would help move these folks more into that middle class. I really think this

could be a great opportunity for our lenders to follow the example of One Nevada Credit Union: develop something, work together, and let us find a meaningful solution so that our vets are serviced and get loans at 36 percent interest rates.

**Chairman Kirner:**

With that, I will close the hearing on A.B. 318 and open the hearing on Assembly Bill 365.

**Assembly Bill 365: Enacts provisions governing vehicle protection product warranties. (BDR 57-1055)**

**Jesse A. Wadhams, representing Motor Vehicle Ancillary Products Association:**

I want to thank Assemblyman Oscarson for sponsoring this bill for our clients. We have submitted an amendment ([Exhibit H](#)), and I will be working from that. This bill and amendment would add definitions of products our clients offer to *Nevada Revised Statutes* (NRS) Chapter 690C, which is the current law on service contracts, a chapter under Title 57, the Insurance Code, that is regulated by the Commissioner of Insurance and has been in law for 16 years.

Let me start with what a service contract is. That definition is found in NRS 690C.080, as "a contract pursuant to which a provider, in exchange for separately stated consideration, is obligated for a specified period to a holder to repair, replace or perform maintenance on, or indemnify or reimburse the holder for the costs of repairing, replacing or performing maintenance on, goods." These are typically sold in conjunction with the sale of an automobile.

Section 3 would add a definition of the types of incidental or consequential costs which may be reimbursed under these service contracts. The new section 3A would define road hazards that may be encountered; note that this is without limitation so it tries to make it as broad as possible. Section 4 defines some of the vehicle protection products. Section 5 would state that the costs incurred by the consumer of the service contract may be reimbursed using a method specified in the contract or through itemized costs.

Skipping to section 12, it adds various products to the definition of service contract, such as repair or replacement of tires and wheels, removal of a dent or crease, repair of chips or cracks in the windshield, and replacement of key fobs, or keys. Section 16 ensures that these companies offering the products have sufficient capital to satisfy their obligations to consumers. The rest is relatively transitory language.



What is the purpose of this bill? There is an Attorney General's opinion from about nine years ago that states about a similar type of product that these are properly regulated under Title 57 by the Insurance Commissioner. This bill does exactly that. It places these products under the purview of the Division of Insurance and Title 57 of NRS. There will now be a known and stable regulatory environment for the offering of these products. I would note that this gives the Commissioner of Insurance the authority to regulate, among other things, prohibiting deceptive trade practices, misrepresentation, and forcing consumers into these products. This bill is about providing consumer choice in purchasing these products, giving the consumer recourse with the Division of Insurance, and placing these products into Title 57 of NRS.

**Chairman Kirner:**

Is there additional testimony? Otherwise, we will open it up to questions.

**Tyre Gray, representing Motor Vehicle Ancillary Products Association:**

I am here to help answer any questions that the Committee may have.

**Assemblywoman Fiore:**

How are these businesses regulated now, and why do you need this change?

**Jesse Wadhams:**

Currently they are being sold and that is part of the issue. We need some clarification as to which chapter of the Insurance Code they properly belong under. This would clarify that they belong inside the insurance contract provision.

**Assemblywoman Fiore:**

If you change where they are going to belong, you are going to impose a new fee on them, correct?

**Jesse Wadhams:**

No, I do not believe that is the case. We believe that these are already properly in service contracts, but there is some discrepancy as to where they might belong. We think that these properly belong in the current definition of service contracts.

**Assemblyman Ohrenschall:**

Are these products currently being sold in Nevada? If so, is there any regulatory structure in terms of consumer protection, or will this add something that is not there now?

**Tyre Gray:**

Yes, these products are being sold in Nevada. By placing them into Title 57 of NRS, we have the opportunity to add more consumer protections. Now the consumer of the product will be able to go through the Division of Insurance if there is an issue with it. There is an added layer there by taking the actions that we are taking today and passing the bill.

**Assemblywoman Kirkpatrick:**

In section 13 of the bill, it says the Insurance Commissioner can adopt regulations identifying specific products that are not included in the chapter. What are some examples of what that might look like?

**Jesse Wadhams:**

I am sorry. I am looking at the amendment.

**Chairman Kirner:**

Section 13 is being deleted by the amendment.

**Assemblywoman Kirkpatrick:**

So there would be no regulations then.

**Jesse Wadhams:**

No, that is not actually correct.

**Assemblywoman Kirkpatrick:**

I liked the other answer better.

**Jesse Wadhams:**

This moves into a current section of Nevada law, which does have regulatory authority from the Commissioner.

**Chairman Kirner:**

We have someone in Las Vegas. Are you testifying in support, sir?

**Dan L. Wulz, Deputy Executive Director, Legal Aid Center of Southern Nevada:**

I am testifying in opposition.

**Assemblyman O'Neill:**

The other day in the Assembly Committee on Transportation, we were discussing warranty programs that were sold through the mail and looked like they were official government products. Would they also be regulated under this proposal?

**Jesse Wadhams:**

No, they would not be addressed with this legislation. There are different chapters for warranties, and this is service contracts that we are discussing.

**Assemblyman O'Neill:**

What is the difference between service contracts and warranties? They were warranting and saying they would service your vehicle for everything short of bad radio reception.

**Jesse Wadhams:**

The difference is that typically the warranty is offered by the manufacturer or the direct vendor of the product, whereas with the service contract, there is the idea of someone repairing your vehicle for a price and you try to lower your costs. For example, with appliance repair, you might pay a certain amount every six months, and when your appliance needs to be repaired, they will do it for less. Warranties are directly from the manufacturer, and service contracts are with a different party.

**Chairman Kirner:**

We will now move to those who support the bill. [There was no one.] I will now move to opposition and start with the gentleman in Las Vegas.

**Dan Wulz:**

I have represented low-income consumers in auto fraud cases and cases involving the purchase of contracts covered by A.B. 365. My prepared testimony ([Exhibit I](#)) is six pages long, and I have rewritten it.

**Chairman Kirner:**

Mr. Wulz, you may submit your testimony to the secretary and cover what you need to cover.

**Dan Wulz:**

This is a very important bill; it seeks to radically change the law and overcome an Attorney General opinion letter. I strongly disagree with Mr. Wadhams on that point. The bill seeks to legitimize mainly out-of-state corporations—such as Ally Financial Inc., Arch Insurance Group, Daimler Insurance Agency, Toyota Motor Insurance Services, and the like—selling contracts to Nevadans at unfair prices. I say "unfair" because the bill allows an unregulated price. If the proponents were willing to sell at a fair price, they would acknowledge the contracts are insurance and accept the rates set by the Insurance Commissioner

based on loss experience. The proponents are here to take extra money; typically hundreds of dollars; out of the pockets of hard-working Nevada car buyers. If the Committee feels that is good policy, then the bill should be passed. If not, the bill should be amended as I have proposed ([Exhibit J](#)).

This bill can be anticompetitive, and it overregulates some products while it underregulates some insurance-like contracts. This bill seeks to legislate that exotic insurance-like contracts are not insurance, contrary to an Attorney General opinion letter. The proponents wish to create contracts covering a risk of loss and, by legislative declaration, say that it is not insurance. Indeed, the proponent's website, <MVAPA.com> expressly states that its legislation is meant to "eliminate the risk that these products will be considered insurance."

The bill radically changes the fabric of the business of insurance and the fundamental assumptions underlying the business of insurance in existence for hundreds of years. In addition, A.B. 365 enables car dealers, in connection with selling a car, to prey upon trusting, unsophisticated, or gullible consumers in selling to them, in some instances, contracts of esoteric value, and contracts they would not purchase in any other setting.

It is important to separate two very different things in this bill. The first are real, actual products you can hold in your hands. I am speaking of alarm systems, steering locks, pedal and ignition locks, fuel and ignition killing switches, and electronic, radio, and satellite tracking devices—all found in section 4 of the bill. There is absolutely no need for a law on these products. No consumer of these products is here complaining and asking for regulation. These are products one typically sees sold and installed by custom stereo shops. This first category of products should be deleted from this bill. My proposed amendment does so.

There is a second category of "products" which are not really products but are contracts with an insurance component. In the proposed amendment's section 4, these are named "product for marking body parts" and "product to etch a window." The Attorney General opinion letter attached to my prepared testimony says the window etch contract that it reviewed is insurance; however, if the bill is passed, it would say such contracts are not insurance. Proponents are putting it in NRS 690C.100, subsection 2, where it says, "The sale of a service contract pursuant to this chapter does not constitute the business of insurance for the purposes of 18 U.S.C. §§ 1033 and 1034 [*United States Code*, Title 18, Sections 1033 and 1034]." Existing statute, NRS 690C.120 says, "Except as otherwise provided in this chapter, the marketing, issuance, sale, offering for sale, making, proposing to make

and administration of service contracts are not subject to the provisions of title 57 of NRS, except...," and there is a limited laundry list of those statutes that apply here.

Section 12 of the proposed amendment includes the definition of "service contract," which is expanded to include tire and wheel damage from a road hazard, dent and ding repair, windshield damage from a road hazard, key replacement if lost or inoperable, and all of the "vehicle protection" products in section 4 involving payment of incidental costs when a vehicle is stolen and not recovered or recovered as a total loss. These contracts are insurance and, as such, they call to be recognized as insurance to protect consumers and to prevent the abuses fully described in my prepared testimony, which includes exhibits to reinforce my argument ([Exhibit I](#)).

I would submit that it is bad policy to create a new category of insurance-like contracts that are not subject to our insurance laws. Conservative principles ought to dictate great care and skepticism in the creation of such contracts. I have attached documents to my prepared testimony showing that in my experience, consumers (1) do not even know they have purchased the contract or are led to believe it is not optional; (2) are sometimes secretly charged for the contract; (3) are not given the benefit of typical consumer protections in the purchase of insurance; (4) have been sold grossly overpriced contracts; (5) have been sold incomprehensible contracts; (6) have been sold contracts which cannot be canceled and, therefore, are not eligible for a pro rata refund as it would be if it were recognized as insurance; (7) have been sold contracts containing forced arbitration clauses which often strip them of consumer rights and remedies; and (8) can be subject to discriminatory pricing because consumers do not know and cannot determine the value of the contract as there is no established market for such products. As I said, my full written testimony goes into greater detail. I hope that any members voting to pass the bill will take the time to consider that testimony as well as my exhibits.

**Chairman Kirner:**

I did look at your testimony on the Nevada Electronic Legislative Information System (NELIS).

**Assemblyman Hansen:**

I remember buying a car from a Reno dealer, and they offered me a service contract that I ended up purchasing. In subsequent auto purchases, I did not buy the service contracts. Have you found these to be typically ridiculously overpriced? Is there a certain level of "buyer beware"? Where does it fall on my shoulders when I chose to purchase the service contract? I do not feel like I was ripped off. They made a reasonable offer and because the pricing was

reasonable, I took it. Where do you make the distinction between reasonably fair when offered by a legitimate dealer and the flat-out dishonest examples you have experienced?

**Dan Wulz:**

As concerns your personal experience, the purchase of an extended service contract that covers mechanical failures and such is a typical extended service contract, and that has been covered by NRS Chapter 690C for years. The price of those is not regulated as insurance under that chapter, so the dealer can charge what they want. They can negotiate with you. A savvy consumer typically understands that product and can negotiate that price. With respect to these products, historically they have said they would etch your windows and, if your car is stolen and not recovered, or is recovered and is a total loss, they would pay you \$1,000. One of the examples I submitted was that they were routinely charging \$199 to cover that kind of unlikely risk. I would submit that, if that was regulated as insurance, and the Insurance Commissioner set the rate based on loss experience, the price would be far lower. That is why they do not want it regulated as insurance, so they can charge what they can get a consumer to pay.

It is very important to recognize the real-world reality of the situation in which these contracts are sold. I personally have never made it out of a Las Vegas dealership in less than four hours. I am an auto fraud attorney. I know what I am doing. I know what the tricks are. I have read the book, *Don't Get Taken Every Time*, which is hundreds of pages about the tricks the dealers use to get people to buy things they do not understand or do not want. One of the tricks is to manipulate the process by keeping people there for hours. When it is time to go into the finance and insurance manager's office to sign the documents, you are handed a stack of documents to sign, and no one in this room will take the extra two hours to read all of those documents.

When I have interviewed clients who have purchased things like vehicle theft protection or invisible phantom footprints—which were sold on my own car—and I have asked them if they bought it, most of them were not aware that they bought it. They just signed the stack of papers. If someone actually noticed it and the charge was itemized on the contract and they asked about it, the dealers say all of their cars come with that or not to worry because dealers are highly regulated, and the Department of Motor Vehicles and the Division of Financial Institutions looks at all of this paperwork. People sign it, and that is how these things get sold.

**Assemblyman Hansen:**

Are you comfortable with this bill if we roll it into the insurance statutes, rather than where they are now?

**Dan Wulz:**

Absolutely. The amendment I prepared regulates these products as insurance, at least the two window-etch kinds of things. I took out of my amendment the products you can hold in your hands, because I do not see a need to regulate those at all.

**Assemblyman Ellison:**

I cannot believe that you are saying used car dealers are not honest. I bought the extended warranty on the last two cars I purchased. They were \$3,000 or \$4,000 each. I did have a problem, and I called the insurance people. I took it to the dealership, and they took care of the problem. I was happy with the way I was treated, but I only used it once. It worked out for me. If he is saying these are not working, I have testimony that two of them do.

**Assemblyman Ohrenschall:**

The products here in A.B. 365 are already being sold in Nevada, and this bill proposes to have the aggrieved consumer seek a remedy through the Division of Insurance. Where does the aggrieved consumer seek a remedy now? Is it through the court system? Is there not a state agency that they can go to? What is the difference between your amendment and the original bill?

**Dan Wulz:**

Currently, if people were following the Attorney General opinion letter, the aggrieved consumer should be able to contact the Insurance Commissioner and tell him they purchased a product that should be treated as insurance. They should say they want the full penalty of consumer remedies that are applicable to insurance. Those remedies are greater than those available in NRS Chapter 690C, which is where the proponents want to put this—along with other service contracts.

**Chairman Kirner:**

Are there others in opposition to the bill? [There were none.] Are there any people who are neutral on the bill? [There were none.]

**Assemblyman Nelson:**

Have you had input from the Insurance Commissioner on how he feels about this bill?

**Dan Wulz:**

I have not. Back in 2006, we got ahold of the Insurance Commissioner, who contacted the Attorney General, who wrote the opinion letter that is attached to my testimony ([Exhibit I](#)).

**Chairman Kirner:**

I will close the hearing on A.B. 365 and open it up for public comment. Are there any folks who would like to make a public comment? [There were none.] I will adjourn the meeting [at 4:21 p.m.].

RESPECTFULLY SUBMITTED:

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Jennifer A. Russell  
Committee Secretary

APPROVED BY:

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Assemblyman Randy Kirner, Chairman

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



**EXHIBITS**

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

**Date:** April 3, 2015

**Time of Meeting:** 2:11 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 270	C	Kelly Richard, Committee Policy Analyst	Work session document
A.B. 294	D	Kelly Richard, Committee Policy Analyst	Work session document
A.B. 255	E	Kelly Richard/Committee Policy Analyst	Work session document
A.B. 318	F	Assemblywoman Heidi Swank, Assembly District No. 16	PowerPoint Presentation, Military Lending Act Extension
A.B. 318	G	Assemblywoman Heidi Swank, Assembly District No. 16	Military Lending Act Extension flyer
A.B. 365	H	Jesse A. Wadhams Motor Vehicle Ancillary Products Association	Proposed amendment
A.B. 365	I	Dan L. Wulz Legal Aid Center of Southern Nevada	Testimony in opposition
A.B. 365	J	Dan L. Wulz Legal Aid Center of Southern Nevada	Proposed amendment