

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

**Seventy-Eighth Session
April 6, 2015**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair James A. Settelmeyer at 8:37 a.m. on Monday, April 6, 2015, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator James A. Settelmeyer, Chair
Senator Patricia Farley, Vice Chair
Senator Becky Harris
Senator Mark A. Manendo
Senator Kelvin Atkinson

COMMITTEE MEMBERS ABSENT:

Senator Joe P. Hardy (Excused)
Senator Pat Spearman (Excused)

GUEST LEGISLATORS PRESENT:

Senator Aaron D. Ford, Senatorial District No. 11
Senator Don Gustavson, Senatorial District No. 14
Senator David R. Parks, Senatorial District No. 7
Assemblyman Brent A. Jones, Assembly District No. 35
Assemblywoman Dina Neal, Assembly District No. 7

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Dan Yu, Counsel
Renee Fletcher, Committee Secretary

OTHERS PRESENT:

Sharron Angle

Twila Brase, Citizens' Council for Health Freedom, via teleconference from
St. Paul, Minnesota

Michael F. Cannon, Director of Health Policy Studies, Cato Institute, via
teleconference from Washington, D.C.

Janine Hansen, Nevada Families

Lynn Chapman, Independent American Party

Bruce Gilbert, Executive Director, Silver State Health Insurance Exchange

Keith Lee, Nevada Association of Health Plans

Damon Haycock, Chief Operating Officer, Silver State Health Insurance
Exchange

Andres Ramirez, Ramirez Group

Elisa Cafferata, Nevada Advocates for Planned Parenthood Affiliates, Inc.

Pat Sanderson, Nevada Alliance for Retired Americans

Ron Lawrence

Michael Dimengo, Gay and Lesbian Community Center of Southern Nevada, Inc.

Stacey Shinn, Progressive Leadership Alliance of Nevada; National Association
of Social Workers, Nevada Chapter

Richard Dalton

Brock Maylath, Transgender Allies Group

Juanita Clark

Kim Frakes, Executive Director, Board of Examiners for Social Workers

Kristy Oriol, Nevada Network Against Domestic Violence

Paul Moradkhan, Las Vegas Metro Chamber of Commerce

Tray Abney, The Chamber

Bob Ostrovsky, Nevada Resort Association

Brian Reeder, Associated General Contractors of America, Inc., Nevada Chapter

Lea Tauchen, Retail Association of Nevada

Arrick Foster

Chair Settlemeyer:

I will begin the hearing with Senate Joint Resolution (S.J.R.) 14.

SENATE JOINT RESOLUTION 14: Proposes to amend the Nevada Constitution to prohibit any agency, board, commission or political subdivision of this State or any local government from creating, operating or maintaining or entering into a contract for the creation, operation or maintenance of a health insurance exchange. (BDR C-1008)

Senator Don Gustavson (Senatorial District No. 14):

Senate Joint Resolution 14 would amend the Nevada Constitution to prohibit health insurance exchanges. This resolution defines health insurance exchange including an American health benefit exchange or small business health operation program as described in section 1311 of the Patient Protection and Affordable Care Act (ACA), Title 42 USC 18031.

Senate Joint Resolution 14 goes hand in hand with Assembly Bill (A.B.) 368, which requires Nevada to cease health exchange (HE) operations and repeals all provisions in *Nevada Revised Statutes* (NRS). This resolution will permanently prohibit HEs in the State. Nevada is not the first state to repeal portions of the ACA. Georgia, Missouri, New Hampshire, North Carolina and Wyoming have enacted laws to prohibit HEs. Supporters in the five states listed argue that the ACA increases health care costs, insurance premiums and taxes, decreases quality health care and forces businesses and individuals to spend more.

ASSEMBLY BILL 368: Repeals provisions creating and providing for the Silver State Health Insurance Exchange. (BDR 57-1066)

To get around increased costs, some businesses are cutting employee work time to less than 30 hours per week. A constitutional amendment is necessary now to ensure any prohibition on HEs cannot be repealed in the future. I have submitted my written testimony ([Exhibit C](#)).

Sharron Angle:

I support S.J.R. 14 and will present a slide show ([Exhibit D](#)). There are 34 states that prefer not to have a state exchange. The Silver State Health Insurance Exchange (SSHIX) has cost the taxpayers \$75 million. There was an article in the *Las Vegas Sun* <<http://lasvegassun.com/news/2014/jun/19/silver-state-exchange-customers-ask-court-immediat/>> regarding the liabilities caused by the SSHIX. In June 2014, 18 individuals sued the SSHIX for delays in receiving benefits that were paid for.

In May 2014, the Board of Directors of the SSHIX voted to abandon the HE, and now use the federal exchange. The law, however, remains to mandate a state exchange; therefore, S.J.R. 14 would prohibit a state exchange by a vote of the people. The people of Nevada should decide if they want a HE. State control of the HE is an illusion. The SSHIX is subject to all federal rules and regulations. Every individual's personal information is routed to a federal data service hub, creating a conduit for identity theft.

Due to the ACA and HE regulations, we will face a shortage of physicians. There will be fewer doctors participating in programs such as Medicare. I have submitted written testimony from Dr. Brian Romaneschi ([Exhibit E](#)), testifying on the impacts of the ACA on his practice. Nevadans who can least afford it are being charged for the SSHIX program. The SSHIX claims insurance companies are being charged the program fee; however, it is participating individuals who get charged additional fees. The Legislative Counsel Bureau (LCB) says the fee is assessed at \$13-per-person-per month and the SSHIX retains the ability to adjust fees in subsequent years.

Nevada's insurance premiums increased 179 percent in 2013, the largest increase in the Nation. Although lower, premiums continue to increase. We really have to ask ourselves if Nevada is better off after 5 years of the SSHIX. There is citizen resistance, costs are well beyond any promise and there are more uninsured individuals due to policy cancellation, loss of employer-sponsored coverage and we have seen Medicaid enrollment increase. The SSHIX promised greater choices of insurers, when in fact, we only have 4-6 choices, some of which do not include coverage for rural counties.

There are solutions to health care but the SSHIX is not the way to go. We urge the Committee to pass S.J.R. 14 so Nevadans can choose their own insurance providers and their own doctors. There are 35 states that operate high-risk pools to ensure access to coverage on preexisting conditions. Several states allow the purchasing of health plans that may be located in other states.

On a personal level, I was denied a bone scan that was prescribed by my doctor. I went to the facility where I was advised my insurance through the HE and Medicare would not cover a bone scan. I offered to pay cash for the procedure when I was further advised I could not do that either because it will put the facilities' relationship with the health insurers at risk. I was unable to get the care I was prescribed due to the red tape created by the HE system.

Assemblyman Brent A. Jones (Assembly District No. 35):

I concur with comments made by Ms. Angle. Assembly Bill 368 is a sister bill to remove the SSHIX from the constitutional amendment. I would like to mention the expenses of the Xerox debacle which cost Nevadans \$70 million plus promotional costs. The SSHIX enrolled approximately 1 percent of the State's population, from its inception through July 2014 ([Exhibit F](#)). The amount of money spent on the exchange is equivalent to approximately \$2,500 per enrollee, just to enroll each individual, not including any insurance benefits. This is ample proof of the HE's inefficiency. Continuing lawsuits such as *King v. Burwell*, No. 14-114 (U.S. argued March 4, 2015) create uncertainty in the market. Nevada should opt out of the state exchange program.

Senator Manendo:

Is Life Pro an insurance company?

Ms. Angle:

Life Pro is an organization that helped attain this information, which has also been substantiated by the LCB and other research resources.

Senator Farley:

The purpose of the SSHIX was to help Nevada negotiate with local health care networks, get the networks established and help the system run efficiently. If we go to the federal system, will Nevada lose local control and decision-making privileges? Is the high cost of insurance related to the ACA or to state HEs? Do the higher costs include the Medicare expansion? Of the 1 percent of enrollees, there were over 300,000 individuals who did not get insurance through the SSHIX, but went on Medicaid; therefore, the percentage may be inaccurate. Is the loss of control due to our outlook on the ACA, or are there other factors that create a loss for Nevada to retain some authority in the decision-making process?

Ms. Angle:

The Medicaid expansion and the HE are not the same platform. Senate Joint Resolution 14 does not deal with the Medicaid expansion. This resolution is only stating that Nevada wants to abolish and prohibit the HE because it has failed and cost Nevadans too much money. There are more choices of insurance networks available through the federal HE. The State HE only offers providers covering a specific area within Nevada.

Twila Brase (Citizens' Council for Health Freedom, via teleconference from St. Paul, Minnesota):

I am president and cofounder of Citizens' Council for Health Freedom (CCHF). The CCHF is a national health care policy organization that has actively advocated for health freedom on a state and national level for 21 years. The CCHF exists to support health care choices, individualized patient care and medical and genetic privacy rights. I will now read my written testimony ([Exhibit G](#)). We encourage the Nevada Legislature to undo the current HE by passing S.J.R. 14 and make sure that it does not get resurrected.

Senator Farley:

Do you have information on the *King v. Burwell* case and its implications?

Ms. Brase:

The information on the *King v. Burwell* court case, and mandates, can be found at <http://www.heritage.org/research/reports/2015/03/king-v-burwell-and-the-mandates-what-happens-if-the-supreme-court-rules-against-the-administration>.

Michael Cannon (Director of Health Policy Studies, Cato Institute, via teleconference from Washington, D.C.):

I am the director of Health Policy Studies at the Cato Institute. The Cato Institute is a nonprofit, nonpartisan educational foundation to promote individual liberties, limited government, free markets and peace. The Institute does not take positions on legislation, but educates the public and policy makers on the effects and benefits of legislation. Since 2010, I have testified to and spoken with officials in many states regarding the decision to establish an exchange or to leave that role to the federal government. Along with coauthor Jonathan Adler, I conducted the legal research that laid the foundation for the U.S. Supreme Court case *King v. Burwell*, along with three other similar legal challenges.

Nevada originally passed legislation to establish a HE; however, was unable to create a functional exchange consistent with the requirements imposed by the ACA. Nevada would be better off disestablishing its exchange. Establishing a HE does not give Nevada control over its health insurance markets. There is no choice between a state-controlled exchange and a federally controlled choice because all state exchanges are controlled by the federal government. When the ACA increases premiums and user fees for system maintenance, and provides

poor coverage or denied coverage, consumers will blame state officials as long as the exchange is state-run.

Establishing and operating a state HE puts Nevada in the position of implementing the ACA's most unpopular condition of the individual mandate. State funded exchanges must report to the IRS when individuals drop coverage, resulting in penalties to those individuals. Employers must also report if an employee receives a tax credit, triggering penalties against the employer. States must collect and submit data for the federal government to determine eligibility for tax credits which is a crucial component of the individual and employer mandates.

On the other hand, if Nevada opts for a federal exchange, then the federal government must implement its own laws and make the lines of accountability clearer. The federal government would be unable to blame state officials for the government's own failures. Under the ACA as written, refusing to establish a state HE blocks major portions of the ACA in that state. Since the inception of the ACA, 34 states have refused to create exchanges. Under the ACA statutes, refusal to create an exchange has actually shielded employers in those states from a \$2,000 per worker tax. The 34 states without exchanges have exempted approximately 8 million residents from taxes as high as \$2,085 on families of four, earning as little as \$24,000 per year. Those 34 states have also reduced federal deficits by hundreds of billions of dollars by blocking insurance subsidies and freeing residents from the unpopular punitive mandates.

If Nevada disestablishes its HE, then under the ACA statute, Nevada will exempt 4,630 employers from the ACA employer mandate and 793,000 workers from the employer mandate or the individual mandate. With no ACA mandates, people and companies in states with a HE could be lured to Nevada where there are no insurance penalties. Conversely, Nevada could lose companies and individuals due to the penalties.

Additionally, disestablishing Nevada's HE would eliminate eligibility for exchange subsidies, which has a beneficial effect by adding transparency. Removing the subsidies reveals to consumers, state officials and Congress, the full cost of the ACA exchange coverage. This may spur Congress and the President to inspect the ACA more closely to determine how to improve it and reduce costs.

Janine Hansen (Nevada Families):

Nevada Families support S.J.R. 14. The SSHIX has been a disaster, costing the State \$75 million. The federal government should be responsible for implementing any HE. The previous speakers have identified many benefits for Nevadans if we disband our HE.

Lynn Chapman (Independent American Party):

The Independent American Party supports S.J.R. 14. A failed program at a cost of \$75 million is reason enough to cancel the HE system. The public needs protection from erroneous taxes and fees.

Bruce Gilbert (Executive Director, Silver State Health Insurance Exchange):

With respect to litigation and liabilities referred to earlier, the SSHIX and the State HE have been released from responsibility. It is necessary to understand the ACA and the SSHIX are different entities and should not be confused. The ACA is not subject to repeal by S.J.R. 14. This resolution will only push Nevada onto the federally facilitated marketplace; meaning the federal government will control Nevada's individual health insurance marketplace. State control is not illusory. My staff determines which health plans go onto the exchange, not the federal government.

The SSHIX oversees marketing, outreach and education, as well as working closely with our carrier partners. Nevada's consumers will pay more if they are forced to use the federal government exchange because the Centers for Medicare and Medicaid Services (CMS) fees are higher through the federal government than on the SSHIX. Nevadans will pay \$1.2 million, for federal insurance for the exact coverage, with no additional services or coverage.

The premium subsidies available to Nevadans to help pay for health insurance will be placed at risk. There were 73,000 individuals who enrolled for health insurance and more than \$5 million per month goes to offset those costs. If you do not have an employer who offers health benefits, the only way to obtain insurance is through the SSHIX. Regarding the grant money received by Nevada, there is an external review process that determines if the expense is appropriate, as well as post-award audits by the Office of the Inspector General (OIG) of the U.S. Department of Health and Human Services.

Every dollar of grant money was from the federal government, not State money. The grant fund was authorized and approved by CMS, and approved in the

post-audit by the OIG. To establish a HE is a process with a system of checks and balances that operate prospectively and retrospectively to ensure the exchange complies with making payments of the \$70 million.

Keith Lee (Nevada Association of Health Plans):

The Nevada Association of Health Plans (NAHP) has three members that offer exchange plans. The NAHP is opposed to S.J.R. 14. Although issues with the SSHIX in 2014 are well-documented, NAHP believes that 2015 has shown that a state-based HE can be successful. The SSHIX made numerous changes to address problems experienced by consumers. The U.S. Supreme Court case of *King v. Burwell* could have a significant impact on both federal and state exchanges. The U.S. Supreme Court is being asked to decide whether an individual must purchase health insurance from the federal exchange or a state exchange to be eligible for a premium subsidy.

The NAHP is concerned that withdrawing from the SSHIX could negatively impact all Nevadans who have health insurance coverage, especially if the U.S. Supreme Court decides a premium subsidy is only available with a state exchange. If a subsidy is only available through a state exchange, tens of thousands of Nevadans may be forced to drop their health coverage. I have submitted my written testimony ([Exhibit H](#)).

Damon Haycock (Chief Operating Officer, Silver State Health Insurance Exchange):

The SSHIX cannot locate any federal agency data to substantiate the earlier claims that the number of uninsured Nevadans has increased. Regarding the testimony on the unsecure nature of having personal data transferred to the federal data hub, individuals must still supply the same data on the federal exchange; therefore, that is a moot point. The SSHIX uses the technology platform process at HealthCare.gov. The HE uses the technology hub for identification proofing and income verification. These processes will exist whether it goes through a state HE or directly to the federal exchange.

The SSHIX Board of Directors voted to move away from the previous system integrator to the platform of HealthCare.gov. The SSHIX is responsive, responsible, efficient and affordable. What Nevadans are charged for health care coverage is less than coverage from the federal exchange. The claim that the SSHIX raises, or will raise, costs will only be true if there is a disbanding of the SSHIX.

Senator Farley:

Are employers and individuals more susceptible to penalties and fees with the State exchange or the federal exchange?

Mr. Gilbert:

There is no state where people are immune from the ACA mandate, any state where subsidies are not available or any state that can escape the penalties.

Senator Farley:

As an employer, in the look-back year, I face a minimum penalty of \$80,000 if I do not offer health insurance, or over \$200,000 if I enroll my employees in a health care plan. Other employers are changing employees' schedules to less than 30 hours per week to avoid offering health coverage. Do you have any data with the differences in cost between State and federal coverage?

Mr. Gilbert:

I do not have any data available at this time. Any data I do locate will be governed by the decision in the *King v. Burwell* case.

Senator Atkinson:

If Nevada abolishes the SSHIX, what options remain?

Mr. Gilbert:

No other option exists except the federally facilitated marketplace. The federal government will determine which plans are certified to be part of the exchange. The federal government will charge 3.5 percent of the premium to the carriers. Nevada will have no control, or we will not get any of the \$70 million returned.

Senator Atkinson:

How long did the \$70 million last?

Mr. Gilbert:

I believe the \$70 million was spent over 4 years.

Senator Atkinson:

Have we invested any of the \$70 million?

Mr. Gilbert:

The bulk of the money was used to offset some welfare costs to get established into the HE system. Part of the money was supposed to be paid to Xerox, which was not paid. Very little of that money was needed for operating costs.

Senator Atkinson:

Are you stating that Nevada will have wasted \$70 million?

Mr. Gilbert:

The \$70 million was not State money. We received this money as grants from the federal government. A few investments paid dividends; however, the investment in Xerox's platform gained nothing.

Chair Settlemeyer:

Is there any available data on the number of hours employees are working? Are there many employees on reduced work hours?

Mr. Gilbert:

Any information that has been provided to me is from industry publications. The most recent publication stated that there has not been a migration from employer-sponsored coverage to the individual market.

Senator Farley:

Information that I received from my business insurance agent made it clear that any employee meeting full-time status would be assessed for possible penalties in 2016; therefore, many businesses will opt to cut employee hours to avoid these penalties.

Andres Ramirez (Ramirez Group):

My company is the statewide navigator group for the SSHIX. The Ramirez Group opposes S.J.R. 14. The SSHIX has succeeded in the enrollment of tens of thousands of Nevadans into qualified health plans, and thousands more into Medicaid, cutting the uninsured population in half. This success is in spite of any problems caused by the Xerox platform. There are reports by the Kaiser Foundation showing insurance rates have decreased after the implementation of the ACA and state exchanges.

I am a small business owner, with more than 20 full-time employees. As a participant in the SSHIX, I have offered our employees health benefits through

one of the SSHIX plans. There seems to be some misinformation regarding what opportunities are offered to small businesses. The small business owners I have spoken with have determined that it is beneficial to participate in plans within the SSHIX, as there is a tax credit.

Senator Atkinson:

How many individuals have enrolled in the SSHIX?

Mr. Ramirez:

At the end of the second enrollment period, over 73,000 Nevadans have enrolled in a qualified health plan. Additionally, hundreds of thousands have enrolled in Medicaid. Many consumers are not certain for what they qualify. Many brokers and navigators have helped consumers enroll in the SSHIX.

Senator Atkinson:

If Nevada was to abolish the SSHIX, what happens to the health coverage for the consumers who are enrolled?

Mr. Ramirez:

If we abolish the SSHIX, we would fall into a federally facilitated marketplace. There would not be many resources to help individuals with the enrollment process. The federal government will decide what, if any, resources or consumer assistance it will provide. Presently, the government offers a toll-free phone number for assistance, but no person-to-person assistance in Nevada.

Elisa Cafferata (Nevada Advocates for Planned Parenthood Affiliates, Inc.):

I have submitted written testimony stating Planned Parenthood's opposition to S.J.R. 14 ([Exhibit I](#)). I agree with the other opposition testimony and would like to reiterate whether or not there is a State HE, the provisions of the ACA do remain in effect. It is a question of what control Nevada has and our ability to talk to Nevadans about the process.

Pat Sanderson (Nevada Alliance for Retired Americans):

If Medicare is abolished, what happens to retired Nevadans? Without health coverage, just one major medical issue will put the average person into bankruptcy. Once you file bankruptcy, you lose your house and end up with State subsidized care. The SSHIX was passed so consumers could take care for themselves. Nevada has suffered through 6 years of recession, 5 of those years included the ACA mandates. More people are now able to afford health

coverage and can take care of themselves and more doctors have signed up as Medicare providers. I urge the Committee to oppose [S.J.R. 14](#).

Senator Gustavson:

With initial support of a State HE, many others and I believed the State would have better control over the exchange; however, it seems the State has less control. Subsidies come from taxpayers, so everyone pays the federal government to offer subsidies to states.

Senator Manendo:

It is unpatriotic to deny health coverage to the working poor.

Chair Settlemeyer:

I will now close the hearing on [S.J.R. 14](#) and open the hearing on [Senate Bill \(S.B.\) 353](#).

[SENATE BILL 353](#): Enacts provisions relating to sexual orientation conversion therapy. (BDR 54-748)

Senator David R. Parks (Senatorial District No. 7):

[Senate Bill 353](#) prohibits conversion therapy (CT), sometimes referred to as reparative therapy. Conversion therapy is a range of treatments aimed at changing sexual orientation from homosexual to heterosexual. [Senate Bill 353](#) prohibits a mental health provider from trying or helping to change an individual's sexual orientation if that individual is under the age of 18. The prohibition includes efforts to change behavior or gender expression, eliminate or reduce sexual or romantic attractions or feelings towards individuals of the same gender.

Conversion therapy is unscientific and unethical, and is condemned by medical and mental health experts from across the Country and around the world. The medical establishment agrees that CT does not work and can even be cruel. Conversion therapy has been regarded as harmful by many organizations which you can find listed in my written testimony ([Exhibit J](#)).

California, New Jersey and Washington, D.C., have enacted laws protecting lesbian, gay, bisexual and transgender (LGBT) youth from CT, and more than 12 other states have introduced similar legislation. California's ban on CT was upheld by the U.S. Court of Appeals for the Ninth Circuit in August 2013. The

U.S. Supreme Court declined to hear a case challenging California's law last year.

Chair Settlemeyer:

Will S.B. 353 prevent other types of therapy such as incest?

Senator Parks:

Other psychological illnesses or sexual exploitation will not be affected by S.B. 353, only CT.

Ron Lawrence:

I am a licensed family and marriage therapist, as well as the executive director of the Community Counseling Center which serves 3,200 individuals per year for substance abuse and mental health recovery. I have served many individuals and families who have been victims of CT. Changing sexual orientation is like trying to change eye color. Conversion therapy is not scientific. Dr. Dean Hamer from the National Cancer Institute, Dr. Alan Sanders and Dr. Brian Mustanski of the Evanston Northwestern Healthcare Research Institute, and Dr. Simon LeVay all agree that there is a biogenetic component to human sexuality. The Kinsey scale, developed in 1948, which indicates the wide variety of sexual orientations, is still relevant today

I have treated numerous gay men who have been severely traumatized by CT received from the time these men were adolescents through their adult years. I was shocked to learn of a 14-year-old boy receiving CT from a female therapist who was associated with the boy's church. When the boy realized his sexual orientation was not going to change, he committed suicide via pistol. There is another case of a boy committing suicide via opiate medication, and a transgender youth threw herself in front of a tractor-trailer. These suicides are due to rejection and the confusion caused by CT.

Symptoms that I have witnessed from victims of CT are related to post-traumatic stress disorder. Victims are exposed to threats of their salvation and condemnation. They have distressing thoughts of their personal worth and well-being, and have an intense fear of rejection from family, social groups and their spiritual community. Individuals of CT have dissociative reactions, such as flashbacks, especially if the CT has involved punishing physical stimuli; for example, electroshock therapy to the body or genitalia, or ammonia sniffing. Conversion therapy victims experience persistent, exaggerated negative beliefs

about themselves and their self-worth, have major depression, withdrawal from family and social activities, detachment from others, irritable behavior with angry outbursts, reckless and destructive behaviors to include cutting on the body and suicide attempts. These individuals have problems with concentration, cannot sleep properly and hypervigilance accompanied with shame and fear.

In addition to traumatization, CT obliterates an important developmental process that takes place in mid and late adolescence. Psychosocial theorist Erik Erikson speaks of the development of psychosocial conflict, called identity development versus identity diffusion, which occurs during mid to late teenage years. When a youth identifies with a sexual orientation that others disagree with, then healthy identity development is sabotaged and the youth will feel fragmented and confused. This leads to depression, anxiety and eating disorders.

The conversion therapist is far from guiltless because of the mythologies he or she perpetuates. One myth is that there is only one way to be human on this earth, and that being gay is not one of those ways. Another myth is that it is immoral to be homosexual; therefore, the individual must participate in CT. Yet another myth is something went wrong in the environment of the family and the way the parents raised their children. This myth heaps feelings of shame on the entire family. Gay men are told they have a dysfunctional connection with their fathers, and once they remedy that connection, they will become heterosexual. One other myth told to homosexual individuals is that if he or she is able to have an orgasmic relationship with the opposite sex, it means the individual has become heterosexual.

Therapists do not pay any attention to connections of the heart. Therapists tell individuals in CT that they will die an early death if they live as homosexual people, which threatens the patients' very existence. The therapist will minimize the concept of sexual orientation by labeling it as a same-sex attraction, while it may truly be part of an individual's very being.

Individuals who commit human torture, whether psychological or physical, end up in prison, except in the case of conversion therapists. Such incarceration would be a worthy punishment for these therapists, as they have ruined the well-being of individuals and families. Passing S.B. 353 will help young people, who are trying to understand themselves, to have opportunities to experience healthy identity development, avoid trauma and other psychological afflictions and develop a strong sense of self-worth.

Senator Farley:

Are licensed medical practices performing CT? Are the majority of therapists found in religious-based practices? If S.B. 353 passes, will it prohibit therapists from expressing that CT is scientific and will help cure a patient?

Mr. Lawrence:

There are several licensed mental health professionals in southern Nevada who have perpetrated CT on young individuals, mostly due to religious beliefs. There is a code of ethics stating religious beliefs should not be part of psychotherapy.

Senator Farley:

Should the code of ethics keep services such as CT from being provided? Is there a process to keep CT services from being offered?

Mr. Lawrence:

A licensed professional should not provide CT services. The process to stop these services is S.B. 353.

Chair Settlemeyer:

How many physicians or therapists practice CT in Nevada? How many individuals are receiving CT?

Mr. Lawrence:

Due to the education on this procedure, fewer providers offer CT. I know of one person in southern Nevada performing CT.

Michael Dimengo (Gay and Lesbian Community Center of Southern Nevada, Inc):

The Gay and Lesbian Center supports S.B. 353. The Center serves more than 87,000 individuals on an annual basis. On a daily basis, I witness the vulnerability of youth who seek assistance to come forward regarding his or her sexual orientation. From personal experience, I know that CT performed on young people is damaging. Passing S.B. 353 will bring conversion therapists to accountability by law.

Stacey Shinn (Progressive Leadership Alliance of Nevada; National Association of Social Workers, Nevada Chapter):

In 1992, the National Association of Social Workers' (NASW) national committee on LGBT issues recognized the emergence of misleading therapies and released the following statement for its members:

The increase in media campaigns often coupled with coercive messages from family and community members has created an environment in which LGBT individuals seek conversion therapies which cannot and will not change sexual orientation.

Aligned with American Psychological Association's 1997 position, we believe such treatment potentially can lead to severe emotional damage. No data demonstrates that any CT is effective, in fact, they are potentially harmful. Literature also indicates that CTs that attempt to alter sexual orientation have succeeded only in reducing sexual behavior and self-esteem, rather than actually shaping the attraction for the opposite gender. Practicing discriminatory therapies like CT is against our national code of ethics, and as a profession that is nurturing and supportive to the LGBT community, we would like to see S.B. 353 become policy in Nevada.

Richard Dalton:

I am a former reverend and have experience in this field as I pastored a fundamentalist church. I witnessed friends who went through CT, and all the therapy did was harm them, causing several to commit suicide. I saw no positive benefit to any of the therapy. It takes months, if not years, of the correct type of therapy, such as with licensed counselors and social workers, to help individuals heal from the destructive effects of conversion type therapies. I would like to see this type of legislation pass to protect individuals.

Brock Maylath (Transgender Allies Group):

Leelah Alcorn came out as transgender at the age of 14. At age 16, Leelah's parents sent her to CT hoping to reject her identity and accept her birth gender. As a result of the CT and social isolation, Leelah committed suicide by stepping in front of a semitruck. In her suicide note, Leelah asked that her death would create a dialogue about discrimination, abuse and lack of support for transgender people. Please amend S.B. 353 to include gender identity and expression and pass this bill so there are no more Leelahs.

Ms. Cafferata:

The Planned Parenthood Affiliates support S.B. 353 for the reasons testified by the other proponents.

Juanita Clark:

Living in a free country, I should be able to make the decision whether or not I want CT, and that opportunity should be available to me. As a comparison, I fought long and hard to have a bus stop relocated, which did not occur. At that bus stop, a vehicle jumped the curb injuring many people. The Regional Transportation Commission has a right to place bus stops without heeding the voice of the public. A person should not be forced to do anything, but should have a choice to ride a bus or eat any color of apple he or she wishes. Every individual is uniquely different. You cannot outlaw the opportunity to seek this type of therapy, if a person so chooses. We have only heard the bad stories. I am sure there are success stories. We are who we are and we all seek justification. I oppose S.B. 353

Kim Frakes (Executive Director, Board of Examiners for Social Workers):

The Board of Examiners for Social Workers echoes the sentiments of the NASW. My testimony, which I have submitted ([Exhibit K](#)), has more to do with housekeeping measures as it pertains to the list of mental health practitioners who can practice CT. There is a distinction between independent social workers and clinical social workers, as listed in section 1, subsection 2, paragraph (a), subparagraph (3). While both types of social workers must obtain a master's degree and undergo 3,000 postgraduate supervised hours, the independent social worker does not undergo the additional 2,000 supervised hours of psychotherapy, to include CT, as defined in the *Nevada Administrative Code* 641B.057. Since the independent social worker lacks supervised clinical training in CT, our Board requests the words "an independent social worker or" be deleted from this subparagraph.

Chair Settlemeyer:

If CT is outlawed, yet is not effective until January 1, 2016, is there any concern for a statute of limitations from the date of implementation? Can an individual under the age of 18, prior to the implementation date while CT was legal, file a lawsuit after the implementation date?

Senator Parks:

I do not know the answer to your question; however, I will verify that information. I would like to reiterate testimony from Mr. Lawrence on the comparison of CT to torture. Over the years, there have been numerous practices that have been proven ineffective. Enacted legislation has banned these ineffective practices. Conversion therapy fits within this category and should be outlawed.

Chair Settlemeyer:

I will now close the hearing on S.B. 353 and open the hearing on S.B. 259.

SENATE BILL 259: Requires an employer to provide paid sick leave to each employee of the employer under certain circumstances. (BDR 53-973)

Senator Aaron D. Ford (Senatorial District No. 11):

Senate Bill 259 requires an employer to provide paid sick leave (PSL) to its employees. We must consider whether PSL is an employee right, or an employee benefit. Typically, employee benefits are provided to attract and maintain workers, while labor rights are inalienable and serve to level the playing field among employers. Over the last century, our Country has developed a history of instituting labor protections into state and federal law, such as the Family Medical Leave Act (FMLA), which creates a right to time off to care for a newborn child or an ailing family member.

Paid sick days are a basic labor standard. Americans rate paid sick leave as more important than several other labor rights already required by law. In a study provided by the University of Chicago, 75 percent of Americans consider PSL a basic employee right and employers should be required to provide PSL. The study also stated that 86 percent of Americans endorse a plan that would require a minimum of 7 days of PSL per year, 70 percent back a plan for 9 days, and over 71 percent favor plans that would grant part-time workers PSL proportional to their work hours. This issue is overwhelmingly supported by Americans.

Opponents will argue that PSL makes it harder for companies to remain competitive and hire new employees, and by requiring businesses to provide PSL will force them to raise prices and consider reducing work hours and/or other benefits. Granting PSL would mean workers no longer need to choose to go to work sick or remain home without pay. Public health improves if sick

employees are not at work infecting others. Lack of PSL strains the health care system, actually driving health care costs up. Individuals without PSL are twice as likely to seek care after work hours from hospital emergency rooms, or send sick children to school. The truth is that businesses profit from healthier employees and lower turnover.

In 2007, San Francisco instituted the first PSL law. The Institute for Women's Policy Research released a report in 2011, which stated 6 out of 7 employers did not report any negative effect on profitability as a result of PSL. Despite the availability of either 5 or 9 days of PSL, the average time taken off for PSL was 3 days, throughout a 1-year period. Twenty-five percent of employees did not use any PSL. Three states have set comprehensive minimum legal standards for sick leave; Connecticut, California and Massachusetts. Several major cities, including New York City, Seattle, Newark, Philadelphia and Washington, D.C., have passed similar laws.

Assemblywoman Dina Neal has also introduced [A.B. 235](#), providing PSL based on Connecticut laws.

[ASSEMBLY BILL 235](#): Requires an employer to provide paid sick leave to each employee of the employer under certain circumstances. (BDR 53-1059)

Under [S.B. 259](#), an employer must provide an employee with 1 hour of PSL for every 30 hours worked; a maximum of 48 hours per year of accrued PSL may be carried over from year to year. An employer may limit the amount of PSL to 3 days per year. An employee may use PSL after the ninetieth day of employment, and PSL may be used for the employee or to care for family members. Additionally, PSL may be used for issues associated with domestic violence or sexual assault.

Employers, due to collective bargaining agreements, contracts, policies or other agreements, who provide employees with a minimum of 3 days of PSL per year are exempt from the provisions of [S.B. 259](#). The effective date would be immediately for any regulatory or preparatory purposes; otherwise the legislation will go into effect January 1, 2016. There are 25 co-sponsors, which underscores the economic importance of PSL, particularly to middle- and low-income workers who are not likely to have such a benefit.

Assemblywoman Dina Neal (Assembly District No. 7):

Senate Bill 259 is an important piece of legislation. Think about the cities and states that have enacted this law, and the individuals being supported by PSL. There are stories of single mothers who have lost pay when they needed to care for a sick child, then have tried to make up lost time by working long hours. This legislation will help families maintain an income that cannot afford to be cut short.

Senator Atkinson:

Are there any current regulations for employers to offer PSL, such as the number of employees, or only full-time employees?

Senator Ford:

Many employees are unaware that PSL may not be offered as a standard benefit, as employees consider PSL as a right. One right given to employees for time off is FMLA. Some companies offer PSL as part of collective bargaining. If a business already offers PSL, then S.B. 259 would not apply to that company. Senate Bill 259 would create PSL as a policy to all employers in Nevada.

Chair Settlemeyer:

Is there a difference between PSL and paid time off (PTO)? If a company offers PTO, must the company also offer PSL?

Senator Ford:

If a company offers PTO, it does not need to offer PSL, nor will the employee get extra days for PSL. Whether PTO or PSL, there is an established number of days an employee can take time off work with pay. If the PTO allows a minimum of 24 hours for health care, it meets the requirement of S.B. 259.

Chair Settlemeyer:

You may want to amend S.B. 259 to clearly state that PTO can be counted as PSL, so there is no misunderstanding.

Assemblywoman Neal:

Section 1, subsection 5, paragraph (c) states that the provisions of S.B. 259 do not prohibit or preempt other contracts or more generous sick leave benefits.

Chair Settlemeyer:

It may need to be more specific since some individuals will misunderstand this section. What happens if collective bargaining within a union does not bargain for PSL in lieu of higher pay or a greater amount of vacation hours?

Senator Ford:

I believe that once there is a state law for a minimum requirement, it cannot be bargained away; however, I will clarify that with legal counsel.

Senator Settlemeyer:

If a salaried, self-employed individual does not offer himself or herself PSL, is that individual in violation of the law?

Senator Farley:

I own a business and offer my employees PTO. I employ some individuals who live in California; therefore, I must heed some California laws, one of which has a higher minimum of PSL days. It costs a company to pay an employee who is not at work, plus I must pay an individual to keep track of individuals taking PTO. It is a concern that section 3, subsection 1 states that it is a misdemeanor if a company violates any provision of NRS 608.005 to 608.195. If I am paying an individual to track days off, then I need to pay someone to keep records for a minimum of 3 years and ensure my company is in compliance with all rules and regulations. How many employers in Nevada do not offer PSL or PTO and how many employees are affected?

Senator Parks:

I do not have the data you are requesting on the number of companies that do not offer PSL. The exemptions in NRS that apply to employees for overtime pay will also exempt the requirements of PSL, to include domestic service workers residing in the household where they work, taxicab and limousine drivers, outside salespersons receiving commission, agricultural workers, employees within a small business with gross sales volumes of \$250,000 or less, employees covered by collective bargaining agreements, executive, administrative or professional employees, employees of air carriers and railroads and some others.

Connecticut has opted to institute this type of bill to employers who employ 50 workers or more. I am amenable to that stipulation; however, S.B. 259 has exemptions so that small businesses are not negatively impacted, yet protecting

and expanding the middle-class worker. The misdemeanor component language is meant to protect workers by enforcing employers to comply with PSL laws.

Chair Settlemeyer:

Must an employee use the hours available to him or her through PSL?

Senator Parks:

An employer must offer PSL; however, an employee is not forced to use it.

Senator Atkinson:

How much PSL must an employer offer?

Senator Ford:

Section 1, subsection 1, paragraph (a) specifies the accrual of PSL at a rate of not less than 1 hour for every 30 hours worked. Paragraph (b) specifies that a maximum of 48 hours may be carried over from year to year, and paragraph (d) specifies that an employer may limit the amount of PSL to 24 hours, or 3 days, per year. An employee must work 90 days to be eligible for PSL.

Senator Farley:

If S.B. 259 enacts misdemeanor charges for not offering PSL, many companies will most likely make employees bring a doctor's note to prove he or she was sick. To protect and grow the middle class means we allow businesses to grow to create more jobs. Creating laws regarding benefits that may already be covered does not necessarily protect the middle class, it is just another law that can be burdensome to businesses.

Senator Ford:

Growing the middle class and allowing businesses to grow are not mutually exclusive; both can be accomplished at the same time. Six out of seven businesses in California reported there was no loss of profitability for allowing PSL. Businesses can develop their own policies on how to implement PSL. If an employer requires a doctor's note for an employee using PSL, or if a business wants to call the time off PTO instead of PSL, that is at the discretion of the individual company.

Senator Farley:

While I agree with the concept of S.B. 259, there needs to be a way to benefit employees while making it affordable to businesses because many companies

will worry about being charged with a misdemeanor, which will become a burden to businesses.

Senator Ford:

We have done extensive research to maintain palatable language in this bill and I am willing to entertain any changes that the Committee sees fit.

Senator Atkinson:

Are there any federal laws allowing for a doctor's note after only 1 sick day? There should be a clarification between PSL and PTO.

Chair Settlemeyer:

How did you arrive at the decision of 30 hours of work to accrue 1 hour of PSL?

Senator Ford:

We researched the other states that have enacted this legislation as well as the National Conference of State Legislatures' database for the particulars used in this type of law.

Kristy Oriol (Nevada Network Against Domestic Violence):

The Nevada Network Against Domestic Violence supports S.B. 259. It is of vital importance that victims of domestic violence and sexual assault be able to take time off to receive medical support as well as counseling or to attend court hearings. We consistently hear from victims who do not attend court, speak with a program advocate or even seek medical attention because they cannot take time off work without losing pay. A real concern is that many women are not able to get protective orders on the abusers because women cannot afford to lose pay to attend court. Economic security is a fundamental piece of survival for victims of domestic violence or sex crimes. Senate Bill 259 would allow these victims to increase their security level. Perpetrators of such crimes take advantage of a victim's need for security.

Ms. Shinn:

Implementing a PSL policy is a winning proposal for all parties involved. There are 44 million workers across the Country without PSL; 12 million, or 58 percent of working Latinos; 7 million, or 44 percent of African-American workers; 43 percent of private sector working women and more than half of all working mothers cannot take off a sick day with pay. Studies show that when

sick children are cared for by their own parents, the children recover quicker. The presence of a parent reduces a child's hospital stay by 31 percent.

Another group affected by this policy is low-wage workers. There are 82 percent of workers making \$8.25, or less, per hour, who do not have access to PSL. Just 3.5 days off work is equivalent to 1 month of groceries to the low-income worker. Paid sick leave is a good policy practice for businesses, as it helps reduce turnover, lowers health care costs and reduces the spread of contagious diseases. One study showed that two-thirds of restaurant servers and cooks admitted to working while ill.

Senator Farley:

Is there any protection for domestic violence or sexual assault victims under FMLA?

Ms. Oriol:

I will check to see if FMLA covers victims of domestic violence or sexual assault.

Chair Settlemeyer:

Of the percentages of workers that do not have access to PSL, how many of those positions are considered exempt under NRS 608?

Ms. Shinn:

I do not have that data at this time.

Senator Farley:

Many states have expanded the provisions of FMLA. Is there a way to protect employees through FMLA?

Paul Moradkhan (Las Vegas Metro Chamber of Commerce):

The Las Vegas Metro Chamber of Commerce opposes S.B. 259 as many of its members offer competitive benefits and businesses are supportive of their employees. Most companies within our membership have adopted the PTO system to allow the employees greater flexibility. Our membership employs approximately 250,000 Nevadans; therefore, we are concerned that this legislation may inadvertently cause burdens to employers or the economic environment. Employers are trying to adjust to the costs of the ACA regulations and there are concerns that this bill will have additional costs. While the intent

and concept is understood, we are also concerned about the misdemeanor aspect of this bill.

Tray Abney (The Chamber):

I agree with the testimony of Mr. Moradkhan and The Chamber opposes S.B. 259. Jobs are not created by making every job created more expensive. The majority of our members offer some form of paid time off. Those companies that do not offer PSL usually operate on thin margins with entry-level employees. This bill states every employer in private employment and we must clarify what exemptions apply. Many small business owners are in the middle class and are concerned about compliance costs.

Bob Ostrovsky (Nevada Resort Association):

There are concerns with some of the language in S.B. 259. Most members of the Nevada Resort Association do offer sick leave but have done away with the concept of sick leave. There has been talk of pooling of benefits, such as holiday pay, vacation pay and sick leave programs. Our concern is that if an individual exhausts his or her pooled time off, and needs additional days off due to illness, would that individual be required to pay beyond the pool? That issue is not clear within S.B. 259.

Depending on what database you research, there are approximately 69 hours of sick leave an individual can build through the year. The cost of paying sick leave in the State is between \$171 million and \$350 million per year, deducting each employer's PSL program. This bill says an employer would need to compensate an employee any commission he or she lost due to taking a PSL day. There have been comments on the burden of additional record keeping, and the bill says an individual can take 2-hour increments of sick leave, which will create more burdensome record-keeping.

In collective bargaining, there are decisions made between an employer and a representative about how dollars will be spent in a contract with specific workers. Senate Bill 259 would be outside any collective bargaining agreements. The exemptions for collective bargaining agreements should be extended throughout the statute.

Brian Reeder (Associated General Contractors of America, Inc., Nevada Chapter):

The Associated General Contractors oppose S.B. 259 for the same reasons stated by previous testimony.

Lea Tauchen (Retail Association of Nevada):

The Retail Association of Nevada opposes S.B. 259 for the same reasons stated by previous testimony.

Arrick Foster:

I am a Nevada citizen and I support S.B. 259. I have to deal with the issue of paid time off, as I have sickle cell anemia. I have gone through FMLA, the Americans with Disabilities Act (ADA) and the numerous issues regarding this bill. There are buckets of time frames which an employer can give employees; however, it is also an employer's right to decide if time off is drawn from a particular bucket of time. Personal time off is for scheduled days off, where PSL is for nonscheduled days, such as calling in sick. If an employee exhausts a bucket of time, some employers will allow an employee to go into the negative on that bucket, unless it is for sick leave.

When I have a crisis or ailment due to my disability, for every 1 day I push myself at work, it will take me 3 days to recuperate, causing even more nonproductive days for my employer. As I heard earlier, if an employer is going to require a doctor's note for 1 day of sick leave, I will have to pay a copay at the doctor's office, which is what I got paid to take a day off to rest. Therefore, I am no better off than if I had just gone to work sick.

It is a privilege to work just like it is a privilege to own a business. As a disabled employee I should have the right to have my job protected beyond the FMLA and ADA; however, neither of these acts have any consideration for me to make up my time off, such as with overtime.

Senator Atkinson:

Are you referencing FMLA, ADA or both?

Mr. Foster:

I am referencing both FMLA and ADA.

Senator Atkinson:

To clarify, FMLA can be used consecutively or intermittently. You should be eligible to call your employer for time off when you have an episode caused by your disability and count it towards your intermittent medical leave. If you call your employer to take a sick day, do you have to use your PTO days before you can use FMLA?

Mr. Foster:

Yes, I am required to use my PTO days to get paid for the days I cannot work. The FMLA is more for the protection of my job. I support S.B. 259 because I can accrue 1 hour for every 30 hours I work, whereas, if I use my PTO days, then I am forced to use FMLA or I will lose pay for any day off.

Senator Ford:

Senate Bill 259 has no intent to harm businesses, large or small. Although there is a statement that all businesses will be impacted by this bill, there are other statements regarding the businesses that are exempt. Regarding collective bargaining, the bill states that if there are any policies or agreements that offer a PSL statement, then S.B. 259 does not apply. To address the opposition statement that companies will need to pay lost commissions to an outside salesperson if they use PSL, the bill is clear that an outside salesperson is exempt from this legislation. There is no data showing that businesses are losing money if they have a PSL or PTO program. It is more profitable for a company to have healthy, productive workers.

Assemblywoman Neal:

I want to reiterate that nothing in S.B. 259 will change any existing agreement or discourage any contract that protects employees with a sick leave program. This bill will not take away any sick leave program already in place.

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Chair Settlemeyer:

I will now close the hearing on S.B. 259. With no further business to discuss, the meeting is adjourned at 11:09 a.m.

RESPECTFULLY SUBMITTED:

Renee Fletcher,
Committee Secretary

APPROVED BY:

Senator James A. Settlemeyer, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	7		Attendance Roster
S.J.R. 14	C	3	Senator Don Gustavson	Written Testimony
S.J.R. 14	D	14	Sharron Angle	Slide Presentation
S.J.R. 14	E	2	Sharron Angle	Written Testimony from Dr. Brian Romaneschi
S.J.R. 14	F	1	Assemblyman Brent A. Jones	Chart
S.J.R. 14	G	3	Twila Brase	Written Testimony
S.J.R. 14	H	1	Keith Lee	Written Testimony
S.J.R. 14	I	2	Elisa Cafferata	Written Testimony
S.B. 353	J	2	Senator David Parks	Written Testimony
S.B. 353	K	1	Kim Frakes	Written Testimony