

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

**Seventy-Eighth Session
April 22, 2015**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair James A. Settelmeyer at 8:37 a.m. on Wednesday, April 22, 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 Joe P. Hardy
Senator Becky Harris
Senator Mark A. Manendo
Senator Kelvin Atkinson
Senator Pat Spearman

GUEST LEGISLATORS PRESENT:

Assemblywoman Teresa Benitez-Thompson, Assembly District No. 27

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Dan Yu, Counsel
Patricia Devereux, Committee Secretary

OTHERS PRESENT:

Misty Vaughan Allen, M.A., State Suicide Prevention Coordinator, Statewide Program for Suicide Prevention, Department of Health and Human Services
Kevin Burns, Coordinator, Veterans Resource Center; Faculty Advisor, Student Veterans, Western Nevada College

Senate Committee on Commerce, Labor and Energy
April 22, 2015
Page 2

Tony Yarbrough, Junior Vice Commander/Adjutant, Veterans of Foreign Wars
Post 8084

Nick Vassiliadis, R&R Partners Foundation

Dana Galvin, President, Washoe Education Association

Darrol Brown, Vietnam Veterans of America Chapter 388

Lisa Cooper, Executive Director, Board of Massage Therapists

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

Samuel P. McMullen, Nevada Bankers Association

Jesse Wadhams, Nevada Association of Insurance and Financial Advisors

Chair Settlemeyer:

We will open the hearing on Assembly Bill (A.B.) 93.

ASSEMBLY BILL 93 (1st Reprint): Revises provisions relating to the continuing education required to renew certain licenses. (BDR 54-27)

Assemblywoman Teresa Benitez-Thompson (Assembly District No. 27):

The goal of A.B. 93 is to enhance the ability of behavioral health professionals to address and combat suicide. The bill identifies professions we believe would benefit from continuing education units (CEUs) in suicide prevention worth two credits every 2 years for many medical boards. The credits would focus on evidence-based suicide prevention techniques.

Why is there a need now for this bill? You have my handout ([Exhibit C](#)), "Suicide in Nevada Fact Sheet 2012," from the Office of Suicide Prevention (OSP), Department of Health and Human Services. Nevada has the fourth highest rate of suicide in the United States. It is the sixth leading cause of death for all Nevadans and second leading cause of death for ages 15 to 24. Nevadans aged 10 through 19 had the tenth highest suicide rate in the Nation from 1999 to 2009, with an average of 6.27 suicides for every 100,000 youths. Males are 80 percent of suicide deaths, with 33.3 per 100,000 men. Nevadans over age 60 have the highest suicide rate in the Nation, more than double the national average for that age group. More Nevadans die by suicide than by homicide, human immunodeficiency virus/acquired immunodeficiency syndrome or vehicle accidents combined.

Regardless of what age group we looked at, the State has a suicide issue, particularly among our military veterans. I will refer to the document ([Exhibit D](#)) "Revisiting an Epidemic: Suicide Mortality in Nevada's Military and Veteran

Community 2008-2013" from the OSP. The document was part of an executive order established by Governor Brian Sandoval when he talked about Nevada's commitment to its veterans. Another part of the order was to examine veterans' behavioral health statistics, including suicide.

One Nevada resident dies from suicide every 15 hours, while one State veteran does so every 2.8 days. Age is a risk factor for veterans, with the highest suicide rate over age 55. Suicide is a loss of an individual, but we must also consider the impact on the victim's family. Military families suffer financially from historic recessions and deployment, and many reservist and National Guard families have had one or both spouses leave civilian employment due to wartime unemployment. Lack of deployment is not a preventative factor for suicide. Many active duty suicides are by personnel who have never served in a war zone. From 2008 to 2010, the firearms suicide death rate in Nevada decreased for veterans; however, the overall suicide rate for State residents increased nearly twofold.

The goal of A.B. 93 is to better prepare mental health professionals who interact with potential suicides by improving their skill sets. Section 1 of the bill amends *Nevada Revised Statute* (NRS) 630.253. It would require psychiatrists to have 2 hours of evidenced-based suicide prevention and awareness training within their CEU credits biannually. Section 2 involves osteopathic medicine practitioners licensed through the State Board of Osteopathic Medicine. They must have 2 hours of evidence-based suicide prevention and awareness training within their CEU credits biannually.

Section 3 of A.B. 93 is specific to psychologists and psychiatrists licensed through the Board of Psychological Examiners. They must have 2 hours of evidence-based suicide prevention and awareness training within their CEU credits biannually. Section 4 deals with professionals licensed through the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors. They must have 2 hours of evidence-based suicide prevention and awareness training within their CEU credits biannually. Section 5 deals with practitioners licensed under the Board of Examiners for Social Workers. They must have 2 hours of evidence-based suicide prevention and awareness training within their CEU credits biannually.

In discussions of the first version of A.B. 93, we talked about only requiring board-licensed psychiatrists and psychologists to abide by its provisions.

However, we realized that captured just a portion of those professionals, so now it would cover psychologists and psychiatrists licensed by all boards.

The professions in the bill interface the most with clients in behavioral health. I am a licensed social worker who works in hospice care. The bill includes language that practitioners ought to take CEUs within the scope of their professions. That is a very wide range for social workers. I did not realize that I needed suicide prevention training until I had an incident with a hospice patient. Depending on the field, there may not be an obvious connection or nexus to seek out suicide-prevention training.

Assembly Bill 93 will ensure that professionals are provided with biannual, 2-hour classes in evidence-based suicide prevention. Studies have provided new thinking about how to address and tackle suicide prevention. The CEU requirements are not onerous or burdensome. The boards require two or three ethics CEUs biannually, but the other CEUs are not predesignated. I did not want the boards to feel like all of their CEUs would be predesignated. The bill gives professionals a lot of discretion to receive training in exactly what they need. If they must stay current on their ethics training, suicide prevention training is at least equally as important.

My proposed amendment ([Exhibit E](#)) requires the CEU requirements to sunset after 10 years. We are now struggling with the suicide rate, but that might change in 10 years. If we then revisit the suicide issue and decide we are in a good place, we can free up those CEUs for other, needed and urgent public health behavioral issues.

Senator Hardy:

The bill does not include advanced-practice registered nurses involved with mental health facilities.

Assemblywoman Benitez-Thompson:

The intent of my conceptual amendment, [Exhibit E](#), is to add language that CEUs would sunset 10 years after the bill's effective date, July 1, 2016. Professions would have a year after the end of the 78th Legislative Session to begin requiring suicide-prevention CEUs. I would like to hear the Committee's thoughts on including other professions in the provisions of A.B. 93. Public policy mandates in the legislative process are incremental, so I only wanted to include a few professions at this time. I agree with Senator Hardy's suggestion

that advanced-practice nurse practitioners be included because they are increasingly working with the mentally ill, as per NRS.

Senator Spearman:

When I was in seminary, I took a clinical pastoral education course that included suicide prevention. My educational minor was in personal and family counseling. Many times when people are contemplating suicide, if they do not seek professional help, family members may turn to spiritual leaders for advice. How could we use A.B. 93 as a building block for outreach, perhaps through the Division of Public and Behavioral Health, to train spiritual directors of faith communities? They would then have more tools to help, and if not, know where to direct people considering suicide.

Assemblywoman Benitez-Thompson:

That is a great point. The OSP was established in Carson City in 2005 and in Las Vegas in 2006. Its mission has been awareness and education about suicide prevention. Toward the end of his 20-year U.S. Navy career, my grandfather was a chaplain with a divinity studies degree. I am passionate about people of faith who have provided such service in the military.

Senator Harris:

Anyone who has had the terrible experience of a life cut short by the tragedy of suicide understands the relevance of A.B. 93. I need a feel for the breadth, quality, variety and depth of the available suicide-prevention courses. The bill will require many types of professionals to take five different classes on the subject. My professional experience has been that with repetitive courses, you end up taking the same course to satisfy CEUs. I would like that not to be the case with this bill.

Assemblywoman Benitez-Thompson:

I had a good conversation with the OSP about available training and its quality. In an amendment in the Assembly, we added language that the "... course of instruction ... provides at least 2 hours of instruction on evidence-based suicide prevention and awareness." That would make the training more clinically based, versus something more relevant to the response of family members or laypeople. The OSP told me it feels it has very good courses, as listed on its "Training" page on its Website, <<http://suicideprevention.nv.gov>>. A State Board of Osteopathic Medicine psychiatrist told us that, in a 2014 poll, their members asked for more suicide-prevention training, which they now have.

Senator Harris:

How varied are the classes?

Assemblywoman Benitez-Thompson:

The OSP Website lists many courses, so people would not be stuck in the rut of taking the same course every 2 years.

Senator Farley:

I would like to see school professionals trained in suicide prevention. What about teachers and people who are the first contacts for troubled youth, particularly teenagers? Suicide is rising among that segment of society.

Assemblywoman Benitez-Thompson:

The OSP Website's "Training" menu includes curriculum geared toward students and professionals who work with them. I would love to require more people to have suicide-prevention training, but it could be burdensome to require all teachers to have it. I am cosponsoring A.B. 218, which considers the need for more behavioral health specialists within schools.

ASSEMBLY BILL 218 (1st Reprint): Revises provisions relating to emergencies in schools. (BDR 34-666)

More social workers, clinical professional counselors and mental health professionals should be embedded within schools because that is best practice. There are 3.5 such positions in the Washoe County School District and 20 in Clark County School District, where they will lose 8 positions because of failed grant funding.

Senator Hardy:

Studies have shown that many people with mental health disorders see their primary care providers before seeing psychiatrists. The latter treat a mere fraction of mental health patients.

Assemblywoman Benitez-Thompson:

When we were contemplating which professions should be included in A.B. 93, we used what some other states do as our gold standard. Some require all health care providers to have suicide-prevention training. I felt that rather than craft an all-encompassing bill requiring that training of every Nevada medical board, I decided to begin with a handful of boards, whose CEU processes I

could understand. They have similar biannual CEU cycles, so the bill could be tailored to address how those cycles of evidence-based CEUs work.

As per Senators Farley and Hardy's comments, that is why we included marriage and family therapists, clinical professional counselors and social workers in the bill. They tend to be people who are on the frontline of suicide prevention. Marriage and family therapists can be licensed as counselors within the schools. Social workers work in educational psychology services, the U.S. Department of Veterans Affairs (VA) and hospices.

Chair Settlemeyer:

Suicide is sometimes a situation in which people do not seek any kind of help from doctors or therapists because they do not want their intention known. As for the concept of "evidenced-based suicide prevention and awareness," can a person take a class if their field does not offer opportunities to help prevent someone from doing this heinous thing? Those people could be left as the survivors. I have a strange perspective on the matter. My Viet Nam veteran father committed suicide. What about us survivors?

Assemblywoman Benitez-Thompson:

The OSP is charged with doing awareness work throughout the State. It has a suicide-prevention hotline and works with survivors.

Misty Vaughan Allen, M.A. (State Suicide Prevention Coordinator, Statewide Program for Suicide Prevention, Department of Health and Human Services):

The OSP began in 2003 to address Nevada's extremely high rate of suicide; at that point, we were second in the Nation. We work hard—as the national rate has increased, Nevada's rate has held steady, despite our recent severe economic straits. Slowly and steadily, our prevention systems are working.

We support A.B. 93 because we need to establish consistent systems of care. We are working at all prevention levels. The motto of the OSP is, "It's everybody's business." We constantly train community members across the State, including primary care and behavioral health caregivers. We want to increase our efforts with youth: the earlier, the better. Friends, loved ones, fellow students and colleagues are learning how to recognize those pleas for help early on.

Senator Hardy is correct that the role of primary care physicians is crucial. The majority of people seek out mental health care in the primary care setting because of stigma. This is especially true in Nevada, where the psychiatric workforce is lean. Studies consistently show that 20 percent of suicides, especially older adults, saw their primary care physician the day of the act; 40 percent saw those doctors the week they took their lives. We are missing a critical, early-intervention opportunity.

According to the National Action Alliance for Suicide Prevention's Clinical Care and Intervention Task Force, people who contact potential helpers must feel comfortable to disclose their desire to die and thoughts of suicide. They must feel confident the potential caregiver will be accepting and in a position to offer nonjudgmental help. The word "suicide" is so powerful, we often see the knee-jerk reaction that people who express a desire to die must be hospitalized, and emergency services must be called. Yes, sometimes that is necessary, but early recognition can often bring a long conversation about why a person is considering ending their pain. A safety plan that includes the potential victim and his or her support system must be developed.

The training outlined in A.B. 93 can help mental and behavioral health commissions feel more comfortable about having open discussions about suicide. Family members are reaching out to the OSP to learn how to have those discussions in their homes. If it is not blatant, we often do not ask about it. We need to learn that when we see behavioral, emotional or physical changes in friends or loved ones, we have to ask what is going on. Often, once that conversation starts, we say, "Oh, there're risk factors here, and I'm worried." The training required in A.B. 93 will help professionals feel more confident in starting that discussion. We need to look at and grapple with suicide prevention directly, not just as an underlying factor of other conditions. If we can get potential suicides into safe places, they can engage in their own care.

As far as Senator Spearman's comments about safe communities, the OSP is training spiritual advisors, and one of our most promising and rewarding partnerships is with the Nevada National Guard chaplains. They are doing side-by-side training with soldiers and civilians, and we need more of that. I appreciate Senator Spearman's perspective.

The OSP and Assemblywoman Benitez-Thompson have committed to consulting with the medical boards in A.B. 93. As per Senator Harris's concern, we will

help them find varied, evidenced-based CEUs. There is a national Zero Suicide Initiative that believes the primary health care system is crucial to attaining that goal.

Ironically, after 40 years of suicide-prevention efforts, the rate is rising. We are missing the boat because we are not tackling systems. When rates began to drop in Nevada, we let go of that boat. We need to have a paradigm shift. Prevention must be part of everyday communication and systems care. The OSP will consistently seek out the most up-to-date clinical or nonclinical training. We will add a menu to the OSP Website to connect the medical boards in A.B. 93 to whatever they need to ensure they have the most effective training courses for all levels.

Kevin Burns (Coordinator, Veterans Resource Center; Faculty Advisor, Student Veterans, Western Nevada College):

I am cochair of the United Veterans Legislative Council. It was formed in 2014 so all of the veterans services organizations—American Legion, Disabled American Veterans, Veterans of Foreign Wars (VFW), Marine Corps League—could come forward with one combined voice. At the Western Nevada College (WNC) Veterans Resource Center, I look after 157 veterans every day. I lost one in 2014 to suicide. I took it personally, even though my suicide-prevention training told me not to. He was a student veteran at our Fallon campus. I nearly lost one in December 2014; the only reason he did not ultimately kill himself by hanging is because his wife came home early and cut him down. These are just the incidents about which we know.

It is estimated that 8,030 U.S. veterans will kill themselves in 2015. In 2014, 130 Nevada veterans committed suicide. Since the 78th Legislative Session began on February 2, 2015, about 27 veterans have done so. As per Chair Settlemeyer's comment, each suicide affects six people. My World War II veteran father struggled with post-traumatic stress disorder. When I was 10, he hanged himself. It deeply affected me and my mother. I spent years wondering why I was not a good enough son, and my mother wondered why she was not a good enough wife that my father would want to stay alive.

I have had several levels of suicide-prevention training under Ms. Allen. For many in the veterans community, she is an angel who has worked tirelessly to develop training programs so we can start taking care of ourselves. She provides a 4-hour Suicide Alertness for Everyone Tell, Ask, Listen and

KeepSafe, safeTALK, suicide-awareness training that we present every semester to every WNC faculty member and as many students who wish to participate. The next level, Applied Suicide Intervention Skills Training (ASIST), is a 2-day seminar. I have done four interventions at WNC in the last year. I am an ASIST trainer, and we will offer it at our Fallon and Carson City campuses to the veterans community. We seek to have trained people at every American Legion post, Marine Corps League Detachment and VFW post.

People do not observe the signs of suicide. Potential suicides tend to isolate themselves. We need to be trained to realize that is happening and to look them in the face and ask, "Are you contemplating suicide?" If we get an invitation to help, we have a chance to reconnect them with life because not everything in their lives has been bad.

Tony Yarbrough (Junior Vice Commander/Adjutant, Veterans of Foreign Wars Post 8084):

The veterans community considers A.B. 93 a strong bill. Each of the military hats in this room represents a large number of veterans. The VFW Post 8084 has about 8,000 members. The Nevada State VFW Commander, David Sousa, was on the Veterans Suicide Prevention Council during the 2013-2014 interim. He was "resurrected" from contemplating suicide. When he returned from a tour of duty in Afghanistan, he decided to help others dealing with suicide. That has become the Nevada VFW's watchword.

If we do not have the necessary formal suicide-prevention training, the hardest thing to do is ask a veteran if he or she is contemplating suicide. It is equally difficult to swallow their answer.

Nick Vassiliadis (R&R Partners Foundation):

As per Senator Farley's concern, how could A.B. 93 be applied to schools to help students? Part of the Governor's budget package is funding for more social workers in schools. There are no professionals trained in suicide prevention on State school grounds to identify at-risk students and direct them toward help. If we combine the Governor's proposal and A.B. 93, there will finally be such school professionals. The bill is not ideal—my clients would also like to see teachers involved—but it is a good starting point.

Dana Galvin (President, Washoe Education Association):

The Washoe Education Association is an affiliate of the Nevada State Education Association. We support A.B. 93.

Darrol Brown (Vietnam Veterans of America Chapter 388):

In Douglas County, Welcome All Veterans Everywhere (WAVE) was created by community members concerned about veterans. Recently, WAVE created a Suicide Prevention Task Force. On May 21, 2015, there will be a health and wellness symposium led by suicide prevention coordinator Debbie Posnien of Douglas County Social Services. We do not have enough behavioral health professionals in Nevada, so citizens are trying to help veterans and civilian community members who sense they need to do something drastic with their lives.

Lisa Cooper (Executive Director, State Board of Massage Therapists):

Eleven years ago, I had post-partum depression, which my obstetrics-gynecology doctor missed. It took me about 3 difficult years to get over it. Having more professionals encompassed in A.B. 93's requirements would benefit a wider range of people.

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

The Board of Examiners for Social Workers is neutral on A.B. 93. I have concerns about inconsistencies in the plan to enforce compliance with the bill's provisions. Some boards say they would have licensees sign an affidavit upon renewal that they have attended the suicide-prevention CEU courses. One behavioral health board said it always audits every licensee; however, that board has fewer members than the Board of Examiners for Social Workers, so it is not an undue burden to audit one more CEU certificate.

The Board of Examiners for Social Workers processes about 200 licensees per month. We are concerned about the impact on the workforce the bill could create. Social workers are human beings, and licensees do not always follow the directives of our requirements. You have my friendly amendment ([Exhibit F](#)) to A.B. 93 that suggests a way to increase compliance through NRS. We would like a signed certificate of affidavit attached to licensees' renewal applications.

Chair Settlemeyer:

I am a bit concerned about taking the enforcement out of the *Nevada Administrative Code* and moving it to NRS. However, if that will ensure

consistency, I will go along with it. We will close the hearing on A.B. 93 and open the hearing on A.B. 126.

ASSEMBLY BILL 126 (1st Reprint): Revises provisions governing massage therapy. (BDR 54-207)

Ms. Cooper:

You have my written testimony on A.B. 126 ([Exhibit G](#)). The bill changes NRS 640C to exempt nail technologists from the requirement of being licensed as massage therapists. This corrects an oversight in the original bill that exempted out all other modalities licensed by cosmetology. The bill also revises testing requirements for massage therapist licensees because the national agency originally listed in NRS 640C no longer offers that exam.

Section 3 of A.B. 126 lists periods in which inactive or expired licenses may be restored or renewed within 2 years. Currently, there is no limit on when this can happen. People automatically renew their licenses after as long as 5 years without having their fingerprints taken, which could pose a problem. Section 5 deletes certain grounds for refusal to issue a license or initiate disciplinary actions against licensees.

In section 5, subsection 3 of the bill, we are requesting that “... a crime involving moral turpitude within the immediately preceding 10 years” be removed. The Board was created in 2005. Within that 10-year limit, one person received a license because he had committed a murder 21 years before. He was out of prison on lifetime parole, and we had no recourse in preventing him from getting a license. He then allegedly assaulted two women during a massage, and we revoked his license. Another man was a sex offender who had been arrested 12 years before he applied for his massage license. Within 7 years, he was arrested again for failing to register as a sex offender. We did not issue the license, but he could have appealed and sued us because of the 10-year limit.

The Board has a policy concerning licensing people who have committed certain misdemeanor offenses. I can approve a license within 10 years if the offense happened within 3 to 5 years. After certain crimes, massage therapists should never be allowed alone in a room with clients.

Chair Settlemeyer:

We will close the hearing on A.B. 126 and open the hearing on A.B. 129.

ASSEMBLY BILL 129 (1st Reprint): Revises provisions concerning annuity benefits. (BDR 57-541)

Samuel P. McMullen (Nevada Bankers Association):

Assembly Bill 129 is borrower-friendly legislation. Before the 76th Legislative Session, there was an exemption for certain amounts of annuity payments not subject to execution or utilization to secure debt. The bill from that session protected annuities from any kind of execution. Borrower relations were changed as to what could be used as collateral. The types of loans affected were personal or small-business loans without tangible security. When banks looked at loans and collateral structure, certain assets were available for security that had been otherwise excluded by the 2011 bill. Complications arose concerning what could and could not be utilized. This directly impacts the pricing and collateralization of loans.

A 2013 bill on the issue passed both houses of the Legislature but was vetoed by the Governor because of garnishments. The Nevada Bankers Association has reintroduced it as A.B. 129 without them. The bill is not an assault on all annuities; it targets only those assets or annuities listed on loan applications. Many other things can be worked out between borrowers and banks in terms of specific documentation. The bill specifies that if something is stated and utilized as an asset—either the funds that come into an annuity or the annuity itself—on an application, there is a basis for later utilizing it if there are no other assets to collect upon. This is clear in the bill's section 1, subsection 1, lines 8 and 9, plus the provision in lines 12 and 13 about written notice within 1 year of the annuitant's first payment.

Lenders are trying to find a way to utilize all the assets on applications, if need be. Often, these involve relationships with long-term customers with known repayment histories. The problem was that we had to structure different sets of other assets and collateral. Banks' actions are subject to collection, execution or judicial action. Access is not allowed to these assets simply through NRS.

Senator Farley:

Do annuities hold cash, not assets?

Mr. McMullen:

Yes.

Senator Farley:

When a bank makes a loan, it liens assets at about 70 percent of their value, so the collateral is about 130 percent of the loan value. Do banks actually go out and physically assert liens onto those assets? I think A.B. 129 is seeking to allow banks to reach into business owners' personal assets to provide greater repayment abilities. As a business owner, I take a lot of risks, as does the bank in loaning money to me. It also gets interest to compensate for that risk. Is not the bill an overreach into business owners' personal security?

Mr. McMullen:

The Nevada Bankers Association does not believe it is an overreach. However, if those assets are listed on the loan application by the would-be borrower, they are available to the bank.

Senator Farley:

When you list something as collateral, you normally sign over that account to the lender as part of your personal guarantee. Let us say I have an annuity and am using it to put money away for my family, personal security or retirement. If, as a business owner, I sign a personal guarantee—which is essentially a blanket statement of access, unless it is a tax-protected asset like a 401(k) account—I am then being asked to jeopardize my retirement savings. Assembly Bill 129 seems to be a broadening of the personal guarantee policy that would allow lenders to take more personal assets if a business defaults. Banks' compensation would be increased.

Mr. McMullen:

We are trying to make it clear that borrowers will have to list their personal assets on loan applications. The bank can require all sorts of other documents for loans. A personal guarantee does reach into personal assets or anything else that is necessary to secure a loan. Assembly Bill 129 says that unless an item was part of the original asset structure listed on the application, the lender cannot access it.

Senator Farley:

Assets like 401(k)s and homestead declarations are protected. When a business owner seeks a loan, yes, the bank is taking a risk, but it is rewarded if that risk

proves good. By disallowing me to protect my personal assets, if something uncontrollable goes wrong with my business, the bill gives banks more reach. As a small-business owner who has to sign personal guarantees to employ workers, if something goes wrong, at what point do I stop taking that risk?

Mr. McMullen:

When you ask for a loan, you tell the bank you will secure its risk. Unfortunately, that is an agreement between two parties, so the bank may ask for more assets to secure the loan. Generally with small businesses or startups that lack other personal security, the bill would be more applicable, but only if the other assets were unavailable.

Senator Farley:

Would A.B. 129's provisions be applicable to businesses of all sizes? The reality is, whether the bill widens the definition of "personal guarantee" to the point where my family is unprotected? That would adversely affect people who take the risk and collateralize loans with assets that might go bad. Business owners would then be left holding more of the risk.

Chair Settlemeyer:

The bill affects "... the amounts listed as an asset on an application for a loan or pledged as payment for a loan." If you do not want an asset attached, do not list it.

Senator Harris:

My concern is with the language mentioned by the Chair. I would like to see these loan applications. In my law practice, I see a variety of them. Many unsophisticated borrowers, who might be small-business owners, applying for loans will list all of their assets on applications, not realizing they are agreeing to allow the lender to attach them. Do loan applications include consumer-protection disclosure statements? Are borrowers required to list all of their assets as a condition of receiving loans?

Mr. McMullen:

That would be an important disclosure and clarification. People need to understand that if they list assets on loan applications, the bank can attach them as part of one's personal financial status. The theory is, if an asset is listed on the application, it is at risk. An appropriate amendment would clarify that fact.

Senator Harris:

Perhaps that would help relieve some of Senator Farley's concerns. She seemed to imply that assets would be listed without an awareness of the risk factor or the ability to call them back. If listing an asset is unnecessary, loan applicants can maintain personal financial protections while banks can still assess borrowers' creditworthiness. My concern is that no one applies for a loan unaware and puts their retirement account at risk.

Mr. McMullen:

Applying for a loan should be a collaborative exercise, certainly not "loan by ambush." We have no problem clarifying that with an amendment.

Jesse Wadhams (Nevada Association of Insurance and Financial Advisors):

Assembly Bill 129 is a policy shift. In the 76th Legislative Session, I testified before this Committee when the policy was decided that annuities, in conjunction with life insurance, are areas through which people can build wealth and retirement savings. The bill constitutes a shift in that policy, and the Nevada Association of Insurance and Financial Advisers wonders why this particular asset class is targeted. Borrowers list all manner of assets on loan applications, and I would guess that at the bottom of that document are the words, "I certify this to be a true and complete document, and these are what I have as assets." This bill appears to shift the ability for banks to collect upon those assets. We would like to achieve a middle ground on the issue.

Mr. McMullen:

The policy developed in 2011 was contrary to another years'-long policy. We want to see A.B. 129 allow lenders to rely on certain assets if they are meant to be relied upon.

Senate Committee on Commerce, Labor and Energy
April 22, 2015
Page 17

Chair Settlemeyer:

We will close the hearing on A.B. 129. Seeing no more business before the Senate Committee on Commerce, Labor and Energy, we are adjourned at 9:45 a.m.

RESPECTFULLY SUBMITTED:

Patricia Devereux,
Committee Secretary

APPROVED BY:

Senator James A. Settlemeyer, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	5		Attendance Roster
A.B. 93	C	4	Assemblywoman Teresa Benitez-Thompson	Suicide in Nevada fact sheet
A.B. 93	D	9	Assemblywoman Teresa Benitez-Thompson	Office of Suicide Prevention document
A.B. 93	E	1	Assemblywoman Teresa Benitez-Thompson	Proposed amendment
A.B. 93	F	1	Kim Frakes/Board of Examiners for Social Workers	Proposed amendment
A.B. 126	G	2	Lisa Cooper/State Board of Massage Therapists	Written testimony