MINUTES OF THE
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY

Seventy-ninth Session
February 22, 2017

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Kelvin Atkinson at 8:07 a.m. on Wednesday, February 22, 2017, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E 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 Kelvin Atkinson, Chair
Senator Pat Spearman, Vice Chair
Senator Nicole J. Cannizzaro
Senator Yvanna D. Cancela
Senator Joseph P. Hardy
Senator James A. Settelmeyer
Senator Heidi S. Gansert

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Bryan Fernley, Counsel
Christine Miner, Committee Secretary

OTHERS PRESENT:

Dan Schwartz, State Treasurer
Grant Hewitt, Chief of Staff, Office of the State Treasurer
Sheila Salehian, Deputy Treasurer, Office of the State Treasurer
Justin S. Gardner, Ph.D., Innovative Research and Analysis; Applied Research and Policy Institute
Barry Gold, AARP Nevada
Tennille Pereira, Legal Aid Center of Southern Nevada, Inc.
Thomas Adam
Maria Merrick
Zygmont A. Makarski

William Horne, Advance America
Carol Stewart, Advance America
Keith Lee, Community Loans of America
Alisa Nave-Worth, MultiState Associates, Inc.
Sean Higgins, Dollar Loan Center
Marcus Conklin, Security Finance Company
Paul Caudill, President and Chief Executive Officer, NV Energy
Carolyn Barbash, Vice President, Energy Market Policy, NV Energy
Renee L. Olson, Division Administrator, Employment Security Division, Department of Employment, Training and Rehabilitation
James Smack, Chief Deputy Controller, Office of the State Controller

CHAIR ATKINSON:
I will open the hearing on Senate Bill (S.B.) 17.

SENATE BILL 17: Revises provisions governing payday lending. (BDR 52-409)

DAN SCHWARTZ (State Treasurer):
Senate Bill 17 regards payday lending. The Office of the State Treasurer hosts a number of financial literacy conferences each year connected to our college savings program. The topic of payday lending comes up in each and every conference. Many vulnerable Nevadans have fallen into a cycle of high-interest, high-fee debt. The Treasurer's Office convened three meetings this past summer—one with community groups representing those affected by payday loans, a second with lenders and a hearing with the public.

The victims of payday loans include military personnel, veterans, minorities, single parents and solid middle-class Nevadans. Individuals find themselves in a cash bind and utilize payday loans as a last resort. They often secure multiple loans carrying interest rates topping 500 percent. The conferences made it clear a new type of lending product is needed. Borrowing individuals often do not understand the dangers of this type of lending. The intent of S.B. 17 is to create a trigger that allows protections for the Nevada consumer. It is not intended to end payday lending. This is not a partisan issue. It is about helping those in need who cannot help themselves. We want to put an end to the most egregious practices of payday lending. This bill will provide hardworking Nevadans with a safety valve to quietly handle life's unexpected emergencies that require a little cash and a couple of weeks to resolve.

GRANT HEWITT (Chief of Staff, Office of the State Treasurer):
The goal of S.B. 17, as shown in our written presentation (Exhibit C), limits the number of payday loans an individual is allowed at one time. The bill will allow for the creation of a Statewide database to track loans, enforce current rules and provide a cooling-off period in the one-loan-at-a-time provision.

Section 3, subsection 1, paragraph (a) of the bill, allows a consumer only one payday loan at a time. Subsection 1, paragraph (b) establishes a 45-day cooling-off period before another loan can be granted. We will present a change to paragraph (b) after the hearing. The 45-day cooling-off period is intended to protect the loan holder unable to meet the terms of the original loan.

Section 4 will provide for the development of a Statewide payday loan database to monitor and enforce proposed and current protections. Many states in the Country have this provision. We have modeled the language in this bill after legislation from Washington state. It gives the Department of Business and Industry the ability to find a vendor to develop this database through the request for proposal (RFP) process. The cost of the database is a pass-through cost. There is no fiscal impact.

Veritec Solutions hosts many of the databases in other states, including Washington. Veritec has submitted a presentation outlining the system (Exhibit D) and written testimony by Mike Hanna of Veritec Solutions (Exhibit E).

SENATOR HARDY:
Who pays for the cost of the database?

MR. HEWITT:
The payday loan borrower pays the cost with a fee. The costs were outlined in a presentation to the Department of Business and Industry by Veritec Solutions. The fee is $2.50.

SENATOR SETTELMEYER:
Is there or will there be interaction between the states that have these databases?

MR. HEWITT:
A database is solely within a state. I will research this for clarification.

CHAIR ATKINSON:
Explain more about this registry and how it works. How do the various models around the Country work? Who attended the workshops, and how did the Treasurer's Office come up with the consensus that lead to this bill?

MR. HEWITT:
I do not have an outline on how the databases work for each particular model. I will provide follow-up to the Committee.

CHAIR ATKINSON:
What model are you proposing to use?

MR. HEWITT:
We are looking at the Washington state model. Our bill language was drafted from it as it is more open to enabling the RFP process in the best vendor search. Veritec Solutions is the largest group in the marketplace and provides databases for 14 states.

CHAIR ATKINSON:
What model are you using, and what does it do?

MR. HEWITT:
The proposed model is a real-time database that tracks each individual loan, the lender, the terms of the loan and the borrower information. When a loan is issued, the information is input into the system whereby another loan provider can access the information. It is a checks-and-balances system to ensure compliance under the law.

CHAIR ATKINSON:
Is the database system checking the loan amount? If an individual requested a $300 loan of an allowable $500 from payday lender A, and shortly after wanted an additional $200 from payday lender B, would this person be prohibited from borrowing the additional amount under this provision?

MR. HEWITT:
Yes. An individual is allowed only one payday loan at a time.

CHAIR ATKINSON:
Who are the groups you met with?

MR. HEWITT:
We have an attendance roster that we can provide the Committee after this meeting.

CHAIR ATKINSON:
I am a bit alarmed there has been no communication from the Treasurer's Office to this Committee prior to today's scheduled hearing. It is better for the Committee to have prior information and communication on the bill to avoid the many questions and issues that can arise. I intend to allow you a fair hearing.

SENATOR CANNIZZARO:
Would the database be used to ensure payday companies are complying with the law?

TREASURER. SCHWARTZ:
The database will be created as a protection to prevent the lenders from certain practices. It is for the new law.

SENATOR CANNIZZARO:
Is there some indication that payday loan companies are not currently complying with law? Are they being monitored? Why is this registry necessary?

MR. HEWITT:
The registry is needed because there is no nexus between the State agency and payday loan providers. The payday companies do not have information about loans from other payday companies. Current legislation cannot be enforced without tools to know how many loans an individual has at one time.

SENATOR CANNIZZARO:
You want to ensure that companies are complying with the law. Is there information indicating this is not the case? What is the problem you are trying to solve with respect to current law?

TREASURER SCHWARTZ:
We are trying to prevent what we call the pancaking of loans. If an individual secures a payday loan and does not pay it off, this person can get another loan to pay the previous loan and is now liable for the second loan. Each time this happens, fees and interest rates are added to the loan on weekly and biweekly

payments. As this continues, the borrower could reach the 500 percent range in fees.

SENATOR CANNIZZARO:
Do you have information that it is an issue that needs to be solved?

MR. HEWITT:
This is one of the consensus items that came from the meetings we held with our groups. There is no tracking of payday loans. This subject matter will be presented by an expert on best practices in the industry. The presentation will outline what prompted this bill.

TREASURER SCHWARTZ:
During one of our hearings, we heard a statistic that 92 percent of those who take out payday loans do not pay them off. This is a problem.

CHAIR ATKINSON:
Who is this a problem for?

TREASURER SCHWARTZ:
This is not a problem for the $50 billion payday industry. It is a problem for our fellow Nevadans. We will provide the dates and attendee information of our workshops.

CHAIR ATKINSON:
If you do not have this information today, please provide it to the Committee.

SHEILA SALEHIAN (Deputy Treasurer, Office of the State Treasurer):
Three workshops were held in July and August 2016. I do not have the information today but will provide the Committee with the dates and the lists of attendees.

JUSTIN S. GARDNER, PH.D. (Innovative Research and Analysis; Applied Research and Policy Institute):
I will present a policy perspective in a presentation (Exhibit F) that includes national data on payday lending and will explain the Nevada policy. I will review the industry profile, look at borrower profiles from research, and discuss problem and secondary data collected in Clark County by zip code. I will also include state and national data comparisons and primary data collected in

Nevada on veteran surveys done in partnership with the University of Nevada, Las Vegas (UNLV), School of Public Policy and Leadership. I will finish with a discussion on policy implications and opportunities of S.B. 17 and how the State database will function and what functions as best practice.

The second slide summarizes the national perspective on payday loan regulation and usage rates. Nevada is a permissive payday State allowing for interest rates that can exceed 391 percent. Adapting the Washington state model would switch the focus of Nevada to a hybrid state, with lower interest rates, limits on annual loan usage and long repayment periods.

The third slide reviews current regulations in Nevada. There are no regulations on finance charges, which is why interest rates are being reported as high as 500 percent.

The next slide reviews the industry profile, the emergence of payday lending in the marketplace and industry business practices. The payday lenders establish storefronts where their core customers reside. I have data from Clark County showcasing this.

The next slide highlights the borrower profile data from research findings in the Pew Research Center study, data from the Consumer Financial Protection Bureau (CFPB) and other resources. The data shows borrowing from payday lenders is not necessarily an emergent situation that arises for these borrowers. These are individuals who have financial insecurity and instability who need these loans in order to subsist long term. The ability to link borrowers more efficiently to some of the programs being offered in Nevada by nonprofit organizations and by the Office of the Treasurer could lead to reductions in need for the recurrent borrowers.

The next slide outlines the financial landscape in Nevada, identifying the need for payday lending legislation. A comparative analysis was conducted within Clark County based on its zip codes. This was determined by the number of existing payday loan storefronts, the size of the population of the largest county in Nevada, the median household income and banking locations.

The top ten payday loan storefront zip codes are shown in the next slide. These zip codes account for 59.8 percent of all storefronts in the 44 zip codes used in this analysis. The population is about 464,000 and the average median income is $37,000, well within the range of the literature. Twenty-one percent of the banks exist in the same area.

The next slide is a map showcasing this data. The map illustrates the distribution of payday storefronts existing in this isolated area of 23 zip codes. Eighty-three percent of the payday lending storefronts are centralized in this area.

The next slide maps median income by zip code in Clark County. As shown, this lends itself to the literature findings demonstrating the issue in Clark County and potentially other locations in the State.

Banking locations are well distributed throughout the zip codes as shown on the next slide. The maximum number of bank locations was 19 versus 44 payday centers in one zip code. There appears to be fewer bank locations than payday storefronts in the highlighted area, most specifically the northern portion. This paints the picture of where the issues are and how the literature speaks to what we are seeing in Clark County.

The next slide shows the mapping side by side. The 23 zip codes highlighted in the center area show the disparity in terms of where there are potential customers who have incomes below $50,000 annually, the typical borrowers, and where the majority of the payday lending storefronts exist.

Revisiting the payday and banking maps in the next slide, there are some known issues identified in the northern part of the map where there are higher numbers of payday storefronts and lower numbers of banks. Nellis Air Force Base is near the 89115 zip code. A higher concentration of payday storefronts reside near military and veteran communities.

The next slide shows Nevada dynamics and borrower profile. It indicates annual income in Nevada and borrower profile at-risk indicators compared to the national average. The statistics are indicative of a potential problem and the need for regulation and legislation.

The Nevada veteran data summary is on the next slide. Here are the results of survey data from studies collected at the UNLV School of Public Policy and Leadership in 2014 and 2015. The biggest finding to showcase is the 19.4 percent of reported payday usage in the 2014 survey. The borrowers were mostly student veterans with the GI Bill, who often had student loans yet still utilized payday loans. This increased their debt. Additional data in Exhibit F supplies employment data and the purpose of the loans. In both surveys, 50 percent of the loans were for recurrent expenses. This indicates a problem.

The policy implications and changes S.B. 17 addresses are the subjects of the next slide. A problem in analyzing the situation on payday lending is the lack of current data. The Pew Center uses data that is between two and four years old. Much of the literature on payday lending usage in the academic literature is from the more recent studies of 2008 and 2010. Having a State database with specific requirements will aid Nevada in identifying additional issues and whether additional changes need to be made in the legislative process. This does not remove the payday lending industry from the equation; it enforces the regulations and provides limits and consumer protections in a holistic manner across the State. In the restricting of loans to the recurrent borrower who gets trapped in the debt cycle, it begins to move Nevada from being a permissive state to becoming a hybrid state, matching the legislation in Washington and Colorado. Payday loans are still being utilized in these states, but in a more regulated and consumer-friendly market.

Colorado state's payday loan reform restricted interest rates and capped the number of loans available. This resulted in a reduction of the number of payday lending storefronts without dismantling the industry. The next slide outlines potential outcomes and opportunities by implementing this legislation.

CHAIR ATKINSON:
This presentation is quite focused on consumer protections. How did the payday issue come to the attention of the Office of the State Treasurer? Were there many complaints from consumers indicating this is an issue in Nevada?

TREASURER SCHWARTZ:
This issue came to our attention from our financial literacy conferences. The purpose of these conferences is to help low-income women manage their finances. At each conference, there were complaints and concerns about payday loans from the attendees.

CHAIR ATKINSON:
Are these attendees Nevadans?

TREASURER SCHWARTZ:
The attendees were all Nevadans, single mothers, two income families, and veterans. They alerted us to a potential problem.

SENATOR CANNIZZARO:
You mentioned 92 percent of people had expressed an issue with the pancaking of loans, but the presentation did not mention that. I looked up a couple of the resource sites from the slides, and they seem to be about the best payday loan fit for the borrower. Where is the pancaking issue coming from?

TREASURER SCHWARTZ:
The overriding statistic is 92 percent of payday loan borrowers do not pay off loans.

SENATOR CANNIZZARO:
Is a database going to correct the problem of pancaking payday loans? I have looked through the resources provided in the presentation. Where is the data about pancaking of loans becoming such a problem or the inability to enforce current statute? Are we going to ask borrowers to assume additional costs to operate a database in addition to the interest they now pay?

MR. HEWITT:
The Legal Aid Center of Southern Nevada is here to speak about their clients affected by the pancaking issue. We continuously hear about the pancaking issue related to payday loans in our conferences. Senate Bill 17 does two things; it creates the database and the one-loan-at-a-time provision.

SENATOR CANNIZZARO:
You have been talking about the enforceability of statute, which this database is supposed to help with, and also about this piece of legislation that prevents the pancaking of loans. Where is there some indication for the need of this bill?

TREASURER SCHWARTZ:
There will be testimony later in the meeting that will answer your question.

MR. HEWITT:
Some supporters of the bill will speak to this.

SENATOR CANCELA:
What has happened in states that have enacted regulations? What has happened with the people who rely on these loans in those states? Has there been a change in the poverty levels or have other forms of accessing money arisen?

MR. GARDNER:
When payday lending restrictive legislation was introduced in other states, there was a reduction in the utilization rates of these loans. The interest rates are lower. According to the literature from the Pew Center and CFPB, borrowers of payday loans carry an average of eight loans at a time. If each loan is $375, the interest fees can be over 500 percent. Continually needing a payday loan to pay off another payday loan inhibits a person from getting out of debt. Anecdotal data and survey findings from 2014 show 38 percent of veterans had an active debt to a payday lender. Once there is a reliance on this type of loan as the main funding source, borrowing continues. The inability to pay back the loan enables the inescapable debt trap.

The source of this data is a payday-friendly industry Website that promotes payday loans. The research gathered is a collection of primary data our organization has collected, academic literature we have reviewed in different publications, survey research and from the payday lending industry. The zip code information illustrates there is a problem.

A database would provide lender location information, the number of lenders and the number of people who access payday lenders. The information about the population dynamics of Nevada lends itself to the need of a database. It will allow a response to the needs of Nevadans. It will preclude the need to react and enact legislation to simply cap interest rates and remove the industry entirely. Where will the borrower go if the industry is removed completely? Perhaps 10 percent of Nevada's population rely on these lenders. There is a need for short-term small-dollar lending not available from the bank.

Providing a consumer-protected lending option with nonballooning interest rates and a one-loan-at-a-time provision can allow capped access to financial security and stability. Offering regulations that allow the industry to exist and loans to be in the marketplace under a regulated industry will help consumers. The database provides the opportunity to assist the borrower with additional financial resources like workshops. The two important issues being addressed with this legislation are consumer protection and the ability to access loans. The Pew Center data shows that in Washington state, 11 percent of the population still use payday loans. Their borrowers' payback amount is less. Colorado reduced the number of individuals relying on payday lending. This reduced the number of storefronts and saved Coloradans $40 million annually in interest charges. This is substantial savings for people in this typically under $50,000 per year income category. It allows for more financial independence and stability. This legislation could provide a positive outcome for Nevada.

TREASURER SCHWARTZ:
Payday loans are a symptom, not a cause. The cause is access to credit. The payday loan industry concentrates its focus on borrowers from the military, the low-income sector and people without bank accounts. That is what keeps the industry going at its current rate.

CHAIR ATKINSON:
Even if the borrower cannot access a loan through a payday lender because of restrictions, this person can go online or go offshore or somewhere else other than Nevada.

TREASURER SCHWARTZ:
That is true. However, 75 percent of the payday loans are made through storefronts.

CHAIR ATKINSON:
If the access is not available through storefronts, that number will change. That 75 percent could be done online. I do not know if this would fix the problem.

MR. GARDNER:
In a survey by the Pew Center, 80 percent of borrowers who were asked what they would do if payday lending ceased indicated they would change their expenditures.

CHAIR ATKINSON:
I disagree with that.

MR. GARDNER:
There is data from the Pew Center online highlighting who takes out these loans and why.

CHAIR ATKINSON:
I have issue with this data. It does not seem believable that people would just change their habits.

SENATOR SPEARMAN:
Is the problem access to credit?

TREASURER SCHWARTZ:
Yes.

SENATOR SPEARMAN:
The information I am hearing today gives more reason to why Senator Ford introduced S.B. 106 this Session. The statistics from Exhibit F, in terms of the poverty rate, indicates people access payday lending for recurring events like utilities, car payments, rents and emergencies. This legislation offers a Kleenex instead of curing a cold. I do not know what the fix is because I do not know what the problem is. The information provided today suggests that income equality is the problem. Good hard-working people do not have the income to survive.

SENATE BILL 106: Requires certain increases in the minimum wage paid to employees in private employment in this State. (BDR 53-865)

BARRY GOLD (AARP Nevada):
I have submitted written testimony (Exhibit G). For many years AARP has engaged in payday lending bill legislation. It is important to put safeguards on the industry and protect the borrower. There will always be a need for people with less than stellar credit to get loans. That is what the payday lending industry provides. It is important to find a way for the borrower to access lending without resulting in the debt spiral. Consumers who are payday loan borrowers have informed me they could not pay back their loans so took out other loans. We at AARP do not give legal advice. I asked how did this additional borrowing work for them? They indicated they could not pay the second loans back, either. I refer them to one of the free legal aid organizations for help. Senate Bill 17 will help eliminate the debt spiral. On behalf of our over 330,000 members in Nevada, AARP supports this bill.

TENNILLE PEREIRA (Legal Aid Center of Southern Nevada, Inc.):
I am a staff attorney at the Legal Aid Center of Southern Nevada. I have many clients needing legal defense because of payday loans. I have submitted written testimony (Exhibit H).

I will discuss current statute, how it is working for Nevada and its history. In 2005, *Nevada Revised Statutes* (NRS) 604A was enacted to protect consumers and regulate the payday loan industry. The intention of the statute was to prevent consumers from the debt treadmill. This was prompted because of repeated litigation, judgments and garnishment of wages. There is a provision in statute called a 25 percent income gap. This means a borrower can only secure a payday loan amount with a payment of 25 percent of their monthly income. There is no way to ensure this protection. A borrower can get multiple loans with the 25 percent requirement from multiple lenders. The repayments exceed 25 percent of their income. The borrowers typically have very low incomes, and 25 percent on one loan and an additional 25 percent on a second loan begins the debt cycle. There is a default provision in statute. If the loan goes into default, it triggers a reduction in the interest rate. This means the interest rate must go down to the prime rate plus 10 percent. This is essentially a 15 percent interest rate. This allows the borrower a lower percentage rate to facilitate a loan payoff.

Payday lenders are circumventing this by rewriting new loans. When a borrower cannot afford to make the loan payment, the lender often writes a new loan to pay off the first loan instead of allowing the default provision to kick in to reduce the interest rate.

There is a roll-over provision in statute. Lenders are finding a way around it by writing new loans. I have some clients with 20 or more loans. The paperwork shows each is written as a new loan. Lenders have found ways around the protections. The one-loan-at-time provision in S.B. 17 and the database for enforcing this would prevent the debt cycle. The new legislation will stop the lenders from circumventing the law.

I rarely see the use of online loans. Most of my clients do not have an email address. These are not sophisticated borrowers researching loans. They access the local payday lenders within walking distance of their residences or workplaces.

There are arbitration clauses and bans on class action lawsuits in all of the contracts being written by payday lenders which prevents us from getting good precedents in court. I have borrowers whose cases should be about roll-over loans. Multiple loans are being written on the same day to the same borrower by a lender as the other loan is being paid off. We are not able to present these cases in court because of the arbitration clauses in the loan contracts.

CHAIR ATKINSON:
I want to clarify the online issue. If loans are not available on every corner or down the street, people will find a way to get a loan online.

THOMAS ADAM:
I have been using payday lending since 2012. In 2014, I was $3,500 in debt to Rapid Cash. One was an auto title loan and the others were stacked loans with the same lender. I paid everything off with the help of a family member. While paying the personal loan off, I was in need of additional funds and borrowed $1,500 from a payday lender. I was unable to pay off these loans. I was sued by the lender. I have over $3,000 in legal fees for a $1,500 loan. They wanted to settle one of the collection of loans for $2,000.

MARIA MERRICK:
I had a very bad experience with payday lending as described in my written testimony (Exhibit I). The lender was rude and stated I had a contract and it was my obligation to pay back the loan back plus the fees. I could lose my car. It has given me nightmares. They are taking advantage of people like me.

ZYGMONT A. MAKARSKI:
I had loans with Rapid Cash. This company continued to extend credit to me. I am on disability and social security. I am a stage four cancer survivor. My income is limited. It is difficult to get a job. I eventually owed the lender thousands of dollars. The lender was told the dates to withdraw the repayment funds from my bank account so the funds would be available for the loan. Since Rapid Cash did not honor this, I was being charged fees by my bank. In one day the lender did this ten times, which amounted to $340 in bank fees. I have three loans out with the payday lender. After three to four months of this, the bank said it would not keep charging and paying my loans. I had $700 in payments and $500 in overdraft fees. The lender drained my whole account because the bank fees were depleting my funds. I am now represented by the

Legal Aid Center of Southern Nevada, Inc. I cannot take this anymore. These payday companies charge too much.

CHAIR ATKINSON:
There is additional written testimony in favor of S.B. 17 submitted by Michael Shipp (Exhibit J).

WILLIAM HORNE (Advance America):
Advance America opposes S.B. 17. The short-term loan industry provides much needed access to funds for a segment of the population without access to credit. Unexpected emergencies arise and uncontrollable situations occur by no fault of their own. The need arises with a spouse, a car breaks down or another emergency arises. Under the provisions of this bill, these informed adults would not be permitted to enter into other loan agreements if they currently have payday loans. These individuals have jobs. The purpose of the short-term lender is to offer their services to those who find themselves in these situations.

When reforms in statute were made in 2005 and 2007, the vast majority of the short-term lenders in this industry were good community servants. They follow the rules, have repeat customers and help customers get past difficult times. They have been cooperative when issues were found in the short-term lending industry. Existing statute is designed to correct what S.B. 17 states it is trying to correct. The data-collecting registry is proposed to help enforce existing laws. Why not test the registry before trying to make the changes and collect the data? The data presented by researchers is not what Advance America is experiencing in its Nevada storefronts. The testimony from the legal aid people illustrates the problems with poorly monitored and unethical companies. It is an enforcement problem with those particular businesses. An overhaul of the industry is unnecessary.

SENATOR CANCELA:
The data shows 69 percent of first-time borrowers are securing short-term loans for recurring expenses; only 16 percent for emergency expenses. This appears to be the trend industrywide. The business model encourages people to secure multiple loans, and the debt cycles are what testifiers are complaining about. What forms of preventative measures are in place so people do not get trapped in these debt cycles?

MR. HORNE:
Some of the underlying problems are not with the industry but in the economy. There is a lack of access to credit. Traditional financial institutions do not provide a small loan product of this nature. Many of the problems are outside the control of the lending industry. The industry is providing a product for the segment of the community who have the need today. Borrowers could be one paycheck away from being evicted, or their hours are cut at work because of the recession, but their expenses remain the same. This segment of the population will always exist. Our issue is, do we want a well-regulated industry that can address these concerns, instead of stifling it to the extent that the consumer will seek offshore sites to cover these types of expenses? This information was missing in the data as presented by the research. In the jurisdictions where reform measures were enacted, there was no data suggesting an increase in individuals seeking alternative unregulated lending. We may be sending the people we are seeking to protect to products we are unable to protect them from.

SENATOR CANCELA:
Why do you think the cooling-off period is a threat to the business model rather than the ability to have repeat customers?

MR. HORNE:
Informed adults enter into agreements with banking institutions or short-term lenders. These adults should be allowed to make decisions for themselves and their families from clear and transparent lending terms. The borrower is walked through the terms of the loan, and it is that person's choice to make. The role of the State is to ensure the environment is fair and provide rules and regulations for the industry to operate by. Term and balloon payments are not allowed in current law. It is up to consumers to make the decisions that are best for them.

CAROL STEWART (Advance America):
Advance America is a multistate company. We make consumer credit available in the form of short-term small-dollar loans in 28 states. We have 11 storefronts in Nevada. Our business model is to meet the needs of the customers, not to put them in a debt cycle. We work with our consumers to assess people's needs. The need may be emergencies, smoothing their incomes over a period of time because they are not able to make ends meet, or for one-time loans.

Our customer demographic averages 41 years old with an average income of $49,000 per year. Seventy-three percent of our customers own their own homes. Ninety-three percent have some post-secondary education or college experience.

Our borrowers provide three things: proof of income, bank statements and identification. We look at their situations, their needs, and lend a percentage of their income. The law caps that at 25 percent until they are able to pay us back on their next payday. The Nevada law strictly limits how we lend to consumers. We are prohibited from criminal prosecution and must provide the customer a right of rescission. The amount a person can borrow is limited based on an income test. There is no interest that compounds with our loans. One of the key elements of Nevada law, which works well for our company in Nevada, is the off-ramp for consumers who are unable to repay the loan. This is in the form of an extended payment plan giving the borrower four pay periods to repay the loan at no additional cost. This is one way we work with consumers who are unable to pay back loans. Our business model is not to get people into the dire straits as today's testifiers have experienced. Our model is to meet the needs of the borrower and get repayment. We support the restrictions that give consumers access to credit when needed but give them a way out when they are in over their heads.

Advance America does not support S.B. 17. There are unintended consequences to arbitrarily limiting the amount someone can borrow. The cooling-off period and the other restrictions in the bill drive people to seek other lending experiences like Internet lending, off-shore lending or any unregulated environment where the current restrictions cannot be enforced. I invite any Committee member to visit our stores, speak with our managers, experience how we disclose our terms and speak with our customers on how our terms are being met.

KEITH LEE (Community Loans of America):
Community Loans of America does business in Nevada as Nevada Title and Payday Loans, Inc. The payday loan and the title loan are two different types of loans. Only one title loan can be secured at one time. Statutorily, the borrower must provide to the lender clear title of the automobile. This allows only one loan. The sole recourse in the event of default is repossession of the vehicle. Only five percent of defaulted loans result in the repossession of the automobile. Community Loans of America does not support S.B. 17.

ALISA NAVE-WORTH (MultiState Associates, Inc.):
MultiState Associates represents several licensed Nevada lenders—Money Tree, Check City, QC Financial Services, Inc. and Check Into Cash. These lenders are members of the Consumer Financial Services Association of America, which is the national trade association representing short-term credit lenders. The industry has concern regarding additional limitations S.B. 17 would place on the already well-regulated short-term credit market. Recognizing these consequences of overregulating the market, we second the concerns outlined by Mr. Horne and Ms. Stewart of Advance America.

SEAN HIGGINS (Dollar Loan Center):
Dollar Loan Center does not support S.B. 17. Dollar Loan Center loans good-faith or signature loans under NRS 604A.480. They are not payday loans and are fully amortized principal-plus-interest loans. Dollar Loan Center is a Nevada-based company with 42 locations here, employs 280 people and had a payroll in excess of $12 million in 2016. Our loans do not have a prepayment penalty. Principal and interest is charged on every payment. We do not charge loan application fees, return payment fees, penalty fees or any other miscellaneous fees. We do not sell any add-on products nor do we overlend. There are requirements in statute about the customer's ability to repay the loan. We require monthly income information, length of time on the job, length of time at the residence, outstanding financial obligations including any other high-interest loans and a credit check. We participate in good faith with an accredited counseling agency. These are the protections in current statute. The good lenders adhere to these provisions.

SENATOR HARDY:
Do any of you do business in Washington and are required to work with Veritec Data Solutions?

MR. HIGGINS:
Dollar Loan Center does not do business in Washington.

MS. NAVE-WORTH:
Money Tree does business in Washington state. I do not know of the company's experience with Veritec but will get the information to you.

MR. LEE:
I will inquire to Nevada Title and Payday and provide that information to the Committee.

MARCUS CONKLIN (Security Finance Company):
Security Finance Company does not support S.B. 17.

CHAIR ATKINSON:
I will close the hearing on S.B. 17. We will now begin the presentation by NV Energy.

PAUL CAUDILL (President and Chief Executive Officer, NV Energy):
Berkshire Hathaway Energy acquired NV Energy in December 2013, at a purchase price of $5.59 billion and assumed debt of $4.84 billion. Our three major shareholders did not ask the State of Nevada for anything other than the opportunity to improve the company's performance for the benefit of our customers. With the acquisition, we made the commitment to stabilize prices our customers pay and invest significantly in renewable energy. My colleagues and I have met those commitments as we will discuss in the presentation.

The first slide of this presentation (Exhibit K) highlights NV Energy today. We operate in alignment with six core principles. None is more important than keeping my colleagues safe at work and our customers and community safe. The Occupational Safety and Health Administration uses an incident rate to monitor an employer's safety record. At the time of the acquisition in December 2013, the NV Energy team had reduced injuries to 37 from a total of 81 in 2010. We have cut that number to 17 in 2015, and in 2016, our rate of injuries is among the best in the industry. The only goal that is acceptable to our coworkers, families and friends is zero. We are doing everything we can to achieve that goal.

The next two slides explain our employee commitment, which is one of our core principles. We are a proud union employer represented by two International Brotherhood of Electrical Workers bargaining units.

The next slide represents another core principle, environmental respect. It explains how the State of Nevada is well-positioned for the future.

The next slide shows that our customers benefit from around 485 megawatts of geothermal generation, largely here in northern Nevada. Our customers also benefit from 541 megawatts of installed grid-tied or universal scale solar, with more on the way. Nevada Solar One is a 69-megawatt project that went into commercial operation in 2007. In 2016, the rate for that project is about $194 per megawatt hour, or $.19 per kilowatt hour.

The next slide features the solar resources we have in development. It supports companies like Apple in their growth here in northern Nevada. I would highlight that our most recent request to the Public Utilities Commission, a 200-megawatt plant to be constructed, tested and operated to support Apple, is at a starting rate of $31.15 per megawatt hour or just a little over $.03 per kilowatt hour. In comparing today's prices to 2007, solar has become an incredible economic development tool for the State. These solar prices are cheaper than building new natural gas-fired power plants.

The next slide compares 2017 prices to 2007 prices. The move to cheaper, cleaner power and our focus on cost management has reduced the prices our customers pay. Our prices today are less than they were in 2007. We see stable prices for years to come.

At the core of discussion on energy choice, our restructuring of the Nevada market is our power plant fleet, our power purchase contracts and my colleagues who make it all work. Our operational excellence is outlined on the next slide.

The regulatory compact, the contract the State has through statute with the power company, is illustrated on the next slide. We are obligated to serve every customer regardless of location, from Las Vegas in a heavily dense load pocket to the end of a 60-mile line in Independence Valley north of Elko. The role in our operation of the Public Utilities Commission of Nevada is shown on this slide. NV Energy has executed only plans that have been approved through the legal and statutory process.

The impact of our financial operations on Nevada is significant and illustrated on the next slide.

Our community commitment through charitable giving and volunteerism is highlighted on the next slide. In 2013, Berkshire Hathaway Energy, our parent company, provided $16 million to the NV Energy Foundation. This has allowed our two employee committees and the Foundation Board to authorize over $5 million in annual giving since 2014. Last year, our employees volunteered over 37,000 hours to community efforts throughout Nevada.

CAROLYN BARBASH (Vice President of Energy Market Policy, NV Energy):
I have spent 28 years in the electric industry, mostly in Nevada. I have served in a variety of positions, some in field operations, construction and maintenance for electric delivery and natural gas delivery. Most of my career has been spent in grid operations and coordination with our neighbors on regional issues, regional transmission projects and regional policy issues. I spent a year at our sister company, PacifiCorp, helping lead efforts to determine the viability of potentially creating a regional wholesale market with six different states in the western interconnection. I have most recently returned to NV Energy to help on the transition related to the ballot measure, the Energy Choice Initiative, for our company and Nevada.

I am here on behalf of NV Energy. I am a native and lifetime resident of Nevada, born in Boulder City and raised in southern Nevada. I moved to northern Nevada to get my engineering and business degrees, and I reside here with my family. As we embark on the changes with the new ballot measure, I am especially interested in assuring the decisions we make for this new market are in the best interest of Nevada.

Continuing with the NV Energy presentation, Exhibit K, this next slide illustrates a simple framework to a complex transition from our existing electric market to a competitive retail electric market. NV Energy respects public policy. We are neutral on the Energy Choice Initiative and respect that our customers want and value choice. We will continue to work with our stakeholders in an open and transparent fashion. We like to inform and educate and discuss solutions to achieve objectives of the Initiative. In August, we issued a set of key principles to facilitate discussion and help guide decisions for the new market. They are summarized on the slide. On the right of the slide, there is additional information on complexity risks and costs. These are categories of decision that will have to be made in order to create laws around a new regulated energy market. There is more information on this in the appendix, Exhibit K, under "Energy Choice Initiative market design considerations." They are separated in these categories to simplify the decision-making process. It is a complex issue simplified in this slide. All of these categories will need to be coordinated. The decisions made on the wholesale market structure will affect the retail market structure, which will affect our energy policies and programs and what kind of regulatory agencies we need to oversee them. It needs to be done thoughtfully and in a comprehensive fashion.

MR. CAUDILL:
If the State wants NV Energy to transition or morph into a wires company, a transmission distribution company, we will do that. This decision is bigger than NV Energy, and we have put ourselves in a position to help facilitate some of the decision-making and discussion.

There are some assumptions we are making as we go forward based on the ballot measure language as shared on the last slide, Exhibit K. That concludes our formal presentation.

SENATOR HARDY:
Who will be the power of last resort or the safety net?

MR. CAUDILL:
That is a decision the State will have to make.

SENATOR HARDY:
Is there a company in the wings?

MS. BARBASH:
To ensure all customers continue to have electric service, regardless of how their choices are made, will be at the State's discretion. Some states assign customers to the various retail providers. Some states procure energy for those customers through an auction. Some states leave that service with the regulated utility. There are a variety of methods for the provider of Standard Offer Service or the Provider of Last Resort.

SENATOR HARDY:
Is NV Energy going to bid for that position?

MR. CAUDILL:
NV Energy sees it as a risky business model. That is not something we would be interested in providing.

SENATOR SPEARMAN:
Does NV Energy own any power plants?

MR. CAUDILL:
We own 75 generating power plants and manage 61 power purchase agreements with companies that develop facilities. We bid for that power. The geothermal facilities are an example of that.

SENATOR SPEARMAN:
Some say the voters voted in the Energy Choice Initiative, but what they thought they were voting for was not represented well. How do we successfully transition into an environment that includes the possibility of new interests? This is not to remove any current assets we enjoy with NV Energy. How do we create an environment where both incumbents and new interests can coexist peacefully?

MR. CAUDILL:
That is the transition information Ms. Barbash spoke of in the framework slide. We will facilitate and help in any way we can and put NV Energy in a position to help inform on the decisions. We have to be sure what we do is right.

CHAIR ATKINSON:
We will now open the hearing on S.B. 52.

SENATE BILL 52: Revises provisions relating to unemployment compensation. (BDR 53-226)

RENEE L. OLSON (Division Administrator, Employment Security Division, Department of Employment, Training and Rehabilitation):
I will introduce S.B. 52 and the proposed amendments (Exhibit L) on behalf of the Employment Security Division, Department of Employment, Training and Rehabilitation.

The purpose of the Unemployment Compensation Program (UI) is to provide temporary wage replacement for workers who become unemployed through no fault of their own. The program is operated as an insurance system where employers make contributions to the State's federal trust fund based on an experience rating they earn over the course of time. The rating is based on the ratio of contributions paid into the trust fund to the claims paid out of the trust fund for workers filing claims. The rating system is designed with the idea that those employers who lay off more employees and have the highest number of claims pulling funds out of the trust fund pay the highest tax rates to fund the system, thereby tying tax rates to the risk or burden placed on the system. Policies enacted through laws and regulations must weigh the impacts to the health of the system overall and the participants of the system. Insured workers, employers and the economy are impacted by the policies of this program. Sometimes those policies are driven by economic conditions and are occasionally changed according to the seriousness of recessions.

When we experience recession, the trust fund is depleted as the number of claims increase and the duration of unemployment and reliance on unemployment insurance increases.

During periods of economic growth, the Division works to restore the health of our trust fund reserves and prepares the fund for the next recession to ensure payment of benefits to eligible claimants.

Section 1 of S.B. 52 deals with the alternate base period that is part of current statute. During the worst of the Great Recession, the number of unemployed peaked at 14.5 percent. The length of time people were unemployed was long. We triggered into federal extended benefits for those needing more than 26 weeks of benefits, and the federal government approved several iterations and tiers of federally funded benefits increasing eligibility to a maximum of 99 weeks. The federal government also provided other forms of support and economic stimulus specifically for Nevada, and similar support for other states. It offered Nevada a one-time $77 million allotment for Nevada's trust fund, enacting what our statutes refer to as the alternate base period. The federal government also provided additional administrative funding for the processing of claims.

The base period refers to the period wages were earned and used to establish monetary eligibility for a claim. Nevada added the alternate base period because we needed the $77 million for the trust fund. Due to the economy and length of unemployment, people did not show wages in the standard base period and needed the benefit support. These are people who might have returned to some type of work, have fallen back out of employment and cannot qualify for unemployment because their employment was a short period of time and did not fall within the regular base period.

The economy has recovered today to a great extent. Sporadic unemployment still occurs, but to a much lesser extent and at a declining rate. We estimate there will be approximately 2,700 workers filing alternate base period claims for fiscal years 2016-2017. These are people who do not have a strong attachment to the labor force and move in and out of employment. During the recession, due to the economy, this was happening to people who had not previously experienced this type of unsteady employment. The alternate base period was enacted to address that unemployment condition in the economy.

The significant level of temporary and unsteady employment and the severe economic conditions that prompted this policy change no longer exists. The federal government has informed state agencies that we now have the option to remove the alternate base period from statute without penalty and without requiring states to return any stimulus or administrative funding.

Section 1 of S.B. 52 eliminates the alternate base period. The economic conditions that prompted the enactment of the alternate base period no longer exist. Current federal administrative funding does not fully support the processing of these claims. These claims require a labor-intensive process rather than an automated check-of-wages; the alternate base period process is not supported by our system. Staff must send a request to the employer manually to gather wage data. The bill will ease some of the administrative burden for employers who end up reporting the wages twice for the alternative base period claims.

Eliminating the alternate base period will preserve $4.5 million per year to help restore and protect the health of the trust fund. It will temporarily impact 2,700 claimants per year who do not have wages earned and reported in the standard base period. This does not eliminate eligibility for benefits, but it would delay the start of eligibility. The claimant will have to wait until the change of the quarter.

There are no proposed amendments to section 1.

Section 2 requests the authority for the Division to report debt to the Office of the State Controller in order to collect money owed to the UI. Debt is created in the UI system by claimants who were overpaid for benefits or by employers who failed to pay taxes. This section of the bill deals with claimant overpayments. Sections 6, 7 and 8 relate to collections with amended language as shown in Exhibit L.

Claim overpayments happen when an ineligible claimant receives benefits. We work to prevent this, though it does happen in any benefit payment system. Overpayments can be created by nonfraudulent means and occur because of lack of accurate or timely information or by error. Overpayments can also be created because the claimant has committed fraud. An example of this is returning to work but continuing to file for benefits each week.

The first part of section 2 is a request to report fraudulent overpayment debt to the Controller's Office for the purpose of offsetting payments due the claimant from other agencies and for the purpose of preventing the renewal of a professional license of the person liable for fraudulently obtained debt.

The Division wants to amend the original bill language " … beginning 2 years after notice of overpayment … " to the language appearing in the amendment. Two years was thought to be a reasonable time frame to ensure the claim was fully adjudicated and all the appeals rights were exhausted. The federal government stops tracking this debt after two years. The amendment came about through conversations with the Controller's Office and the Office of Finance in the Office of the Governor to assure the bill language was workable to them. It proved better to change the language because of the provision to not renew a professional license, which we take seriously. Occasionally, appeals come back later than expected. Appeal referees have the option to allow an appeal to occur for good cause, and they determine that cause. It can take longer in complicated cases with employers.

Our amended language provides the administrator the ability to ensure all adjudication and appeals have been exhausted. Records could then be created by the Division for the Controller's Office. The amendment also changes "may" to "shall" in the reporting.

In a final effort to collect the oldest debt on the program books, those at five or ten years, the Division determined the debt is probably uncollectible and should be written off. The cost would be unjustified. The amendment strikes that piece from this section.

Section 6 of the bill gives the Division the ability to do the same thing with employer tax debt as with fraudulent claimant debt—to offset and prevent professional license renewal. For consistency, the amendment adds the language that ensures the claim has been fully adjudicated and all appeal rights have been exhausted.

Section 7 addresses our confidentiality statute enabling the sharing of personal information with the Controller's Office. We need the authority to provide information that contains people's names and information.

Section 8 is a new section by amendment. It establishes the necessary authority for the Controller's Office to handle the offset and license renewal for the Division. We have added additional amendments in this section which have been reviewed by the Controller's Office and the Governor's Office of Finance. They agree with the proposed changes. We have offered the amendments to remove the reference to the assignment of old debt and to clarify the due process and appeal process of the Controller's Office. A new hearing by the Controller's Office cannot take place on the merits of the case that established the original debt. Only staff specifically trained in UI laws and regulations can make that determination.

Sections 3 and 4 were originally added to the bill in an effort to clarify the section of statute that governs how the Division considers the wages when adjudicating a claim with earnings during breaks or between school terms for individuals who work in educational institutions. Our amendment strikes this language from the bill because it contradicts U.S. Department of Labor's recently adopted regulations.

Section 5 adds reimbursable employers to NRS 612.551. This section of statute instructs when to charge employers' accounts for benefits and establishes the employers' rights to appeal. This section currently does not include any reference to reimbursable employers. Adding this language treats those employers in equal fashion with contributory employers. It requires the Division to notify reimbursable employers of charges to their accounts and it provides their right to appeal. It provides these employers exemption from charges when benefits are paid pursuant to NRS 612, allowing claimants to elect different base periods following a period of temporary disability or rehabilitation. It requires the administrator to order benefits not be charged to a reimbursable employer account if that employer provides certain evidence within ten working days proving a voluntary quit or spouse of a transferred active service member. It disallows relief of charges when the reimbursable employer fails to timely provide all known relevant facts which may affect the claimant's right to benefits.

In 2013, this concept of relief of charges tied to timely response was added to statute by NRS 612.550. It specifically referred to only the experience rated contributory employers and omitted reimbursable employers. Adding reimbursable employers creates appropriate equity of treatment for both categories of employers.

JAMES SMACK (Chief Deputy Controller, Office of the State Controller):
The Office of the State Controller supports S.B. 52 as amended. We worked in concert with Division staff members and appreciate them working with us on the bill. The Governor's Office of Finance also played a role in making this bill workable. We support the opportunity to collect some of the debt. I am concerned with how Assembly Bill (A.B.) 51 marries into S.B. 52. Assembly Bill 51 reassigns debt collection from the Office of the State Controller to the Governor's Office of Finance.

ASSEMBLY BILL 51: Revises provisions regarding the collection of debts owed to state agencies. (BDR 31-231)

Remainder of page intentionally left blank; signature page to follow.

CHAIR ATKINSON:
Hearing no further testimony, I adjourn this hearing at 10:41 a.m.

RESPECTFULLY SUBMITTED:

Christine Miner,
Committee Secretary

APPROVED BY:

Senator Kelvin Atkinson, Chair

DATE:

EXHIBIT SUMMARY				
Bill	**Exhibit / # of pages**		**Witness / Entity**	**Description**
	A	1		Agenda
	B	7		Attendance Roster
S.B. 17	C	4	Grant Hewitt / Office of the Treasurer	Treasurer's Office Presentation
S.B. 17	D	9	Grant Hewitt / Office of the Treasurer	Veritec Solutions Presentation
S.B. 17	E	1	Grant Hewitt / Office of the Treasurer	Written Testimony Mike Hanna
S.B. 17	F	38	Justin S. Gardner / Applied Research and Policy Institute	Presentation
S.B. 17	G	1	Barry Gold / AARP Nevada	Written Testimony
S.B. 17	H	3	Tennille Pereira / Legal Aid Center of Southern Nevada	Written Testimony
S.B. 17	I	2	Maria Merrick	Written Testimony
S.B. 18	J	2	Senator Kelvin Atkinson	Michael Shipp Written Testimony
	K	82	Paul Caudill / NV Energy	NV Energy Presentation
S.B. 52	L	10	Renee Olson / Department of Employment, Training and Rehabilitation	Proposed Amendments