

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

**Eightieth Session
May 10, 2019**

The Committee on Commerce and Labor was called to order by Chair Ellen B. Spiegel at 1:11 p.m. on Friday, May 10, 2019, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/80th2019.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Ellen B. Spiegel, Chair
Assemblyman Jason Frierson, Vice Chair
Assemblywoman Maggie Carlton
Assemblyman Skip Daly
Assemblyman Chris Edwards
Assemblywoman Melissa Hardy
Assemblywoman Sandra Jauregui
Assemblyman Al Kramer
Assemblywoman Susie Martinez
Assemblyman William McCurdy II
Assemblywoman Dina Neal
Assemblywoman Jill Tolles
Assemblyman Steve Yeager

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Moises (Mo) Denis, Senate District No. 2
Senator Yvanna D. Cancela, Senate District No. 10
Senator David R. Parks, Senate District No. 7



STAFF MEMBERS PRESENT:

Kelly Richard, Committee Policy Analyst
Wil Keane, Committee Counsel
Katelyn Malone, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Gary K. Landry, Executive Director, State Board of Cosmetology
Dan Musgrove, representing Chiropractic Physicians' Board of Nevada
Bailey Bortolin, representing Legal Aid Center of Southern Nevada; Washoe Legal Services; Volunteer Attorneys for Rural Nevadans; and Southern Nevada Senior Law Program
Barry Gold, Director of Government Relations, AARP Nevada
Tony Yarbrough, representing Department of Nevada, Veterans of Foreign Wars; and United Veterans Legislative Council
Mitchell "Mitch" Roach, representing Department of Nevada, American Legion
Andy LePeilbet, Member, Department of Nevada, The Military Order of the Purple Heart
Darrol L. Brown, representing Welcome All Veterans Everywhere; and United Veterans Legislative Council
Serena Evans, Policy Specialist, Nevada Coalition to End Domestic and Sexual Violence
Marlene Lockard, representing Nevada Women's Lobby
J.R. Stafford, President, Sierra Nevada Chapter 989, Vietnam Veterans of America
Mike Dyer, Director, Nevada Catholic Conference
Shane Piccinini, representing Food Bank of Northern Nevada; and Human Services Network
Elisa Cafferata, representing Planned Parenthood Votes Nevada
Lynne E. Keller, Executive Director, Opportunity Alliance Nevada
Megan Ortiz, representing American Civil Liberties Union of Nevada
Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada
Robin Collins, representing Nevadans for the Common Good
Jami Johnson, Private Citizen, Las Vegas, Nevada
Beverly Darrow, Private Citizen, Las Vegas, Nevada
Patti McGuire, Outreach Coordinator, Saint Elizabeth Ann Seton Catholic Church, Las Vegas, Nevada
Margaret Kolar, Private Citizen, Las Vegas, Nevada
Jim Sullivan, representing Culinary Workers Union Local 226
Edward O. Campbell, Private Citizen, Las Vegas, Nevada
Jodi Stephens, representing Multistate Associates, Inc.
William C. Horne, representing Advance America, Cash Advance Centers, Inc.; and Enova International, Inc.

Julie Townsend, Government Affairs Director, Advance America, Cash Advance Centers, Inc.
Marcus Conklin, representing Nevada Traditional Installment Lenders' Association
Tracy Sandin, Senior Vice President of Government and Public Relations, Security Finance
Sean T. Higgins, representing Dollar Loan Center
Rickisha L. Hightower, Interim Commissioner, Division of Financial Institutions, Department of Business and Industry
Michael Brown, Director, Department of Business and Industry
Maggie Tracey, President, State Board of Oriental Medicine
Susan L. Fisher, representing State Board of Oriental Medicine
Bobbette Bond, Senior Director of Health Policy, Culinary Health Fund Las Vegas, Unite Here Health
Randy Soltero, representing United Food and Commercial Workers International Union
Lisa Grant, Secretary/Treasurer, State Board of Oriental Medicine
Christina Tabor, Treasurer, Nevada Coalition for Acupuncture
Laura Fink-Soto, Private Citizen, Las Vegas, Nevada
Zachary Burton, Private Citizen, Las Vegas, Nevada
Fran Almaraz, representing Teamsters Local 631; and Teamsters Local 986
Stacy J. Fisher, representing Nevada Physical Therapy Association
Sherise R. Smith, Chair, Nevada Physical Therapy Board
Brian Evans, representing Nevada Physical Therapy Association
RJ Williams, President, Nevada Physical Therapy Association
Terry Murphy, Private Citizen, Las Vegas, Nevada
Kim Andrews, Private Citizen, Las Vegas, Nevada

Chair Spiegel:

[Roll was taken. Committee rules and protocol were explained.] We will open the work session with Senate Bill 39 (1st Reprint).

Senate Bill 39 (1st Reprint): Revises provisions governing appraisers and appraisal management companies. (BDR 54-224)

Kelly Richard, Committee Policy Analyst:

[Read from ([Exhibit C](#)).] Senate Bill 39 (1st Reprint) is sponsored by the Senate Committee on Commerce and Labor on behalf of the Real Estate Division of the Department of Business and Industry. The bill was heard on April 24, 2019.

Senate Bill 39 (1st Reprint) adopts several provisions of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act regarding the registration and supervision of appraisers. The bill requires the Real Estate Division of the Department of Business and Industry to establish, by regulation, certain fees that relate to registering and licensing an appraisal management company (AMC). The Division must forward such fees and submit

certain reports related to AMCs to the Appraisal Subcommittee or the Federal Financial Institutions Examination Council. The bill also authorizes a person who has had a license suspended, revoked, or voluntarily surrendered in lieu of suspension or revocation to qualify to obtain a registration as an appraisal management company if the suspended, revoked, or surrendered license was subsequently reinstated. Finally, this bill makes several conforming changes as required by federal law.

There are no amendments to the bill.

Chair Spiegel:

Is there any discussion on the bill? Seeing none, I will entertain a motion to do pass.

ASSEMBLYWOMAN TOLLES MOVED TO DO PASS SENATE BILL 39
(1ST REPRINT).

ASSEMBLYMAN YEAGER SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMEN CARLTON AND
JAUREGUI WERE ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Jauregui. We will move to the next bill in work session.

Senate Bill 40 (1st Reprint): Revises provisions governing penalties for violating occupational safety laws. (BDR 53-222)

Kelly Richard, Committee Policy Analyst:

[Read from ([Exhibit D](#)).] Senate Bill 40 (1st Reprint) is sponsored by the Senate Committee on Commerce and Labor on behalf of the Division of Industrial Relations of the Department of Business and Industry. The bill was heard on April 26, 2019.

Senate Bill 40 (1st Reprint) removes from statute specific dollar amounts of various administrative fines that may be assessed by the Division of Industrial Relations against an employer who violates provisions of this state's occupational safety and health administration laws. Instead, this bill provides that the monetary amounts of those fines may not be greater than the amounts set forth for those violations in the federal Occupational Safety and Health Act, including any adjustments to the amounts in that Act that are made pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. Additionally, the bill increases from 15 working days to 30 calendar days the time for an employer to file a notice of contest for a citation or proposed penalty.

There are no amendments to the bill.

Chair Spiegel:

Is there any discussion on the bill?

Assemblyman Daly:

I received confirmation from the Department of Business and Industry that the minimum penalty of \$5,000 is in place in accordance with federal law. The maximum penalty is higher than what is mandated by federal law.

Chair Spiegel:

I will entertain a motion to do pass.

ASSEMBLYMAN DALY MOVED TO DO PASS SENATE BILL 40
(1ST REPRINT).

ASSEMBLYMAN YEAGER SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMEN CARLTON AND
JAUREGUI WERE ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblyman Daly. We will move to the next bill in work session.

Senate Bill 119 (1st Reprint): Requires certain health and safety training for workers and supervisors performing certain work at sites where exhibitions, conventions or trade shows occur. (BDR 53-570)

Kelly Richard, Committee Policy Analyst:

[Read from ([Exhibit E](#)).] Senate Bill 119 (1st Reprint) is sponsored by Senators Cancela, Parks, Cannizzaro, and Spearman, and Assemblywoman Martinez. The bill was heard on April 26, 2019.

Senate Bill 119 (1st Reprint) expands certain statutory requirements related to the completion of safety and health hazard recognition and prevention training to workers and supervisors at locations where trade shows, conventions, or related activities are hosted. Not later than 15 days after an individual is hired, a worker or supervisory employee is required to obtain a card stating that he or she has completed an approved training course and the completion card must be presented to the employer. If a worker or supervisory employee fails to do so, the employer must suspend or terminate the employment of the individual. The bill provides that an employer who fails to suspend or terminate an employee as required is subject to an administrative fine. The measure also provides that, for the first year after the effective date of the bill, an employee may satisfy the safety training requirements by completing an alternative course provided by an employer, and it requires such an employer to maintain certain records until a date to be established by the Division of Industrial Relations of the Department of Business and Industry by regulation.

There are no amendments to the bill.

Chair Spiegel:

Is there any discussion on the bill? Seeing none, I will entertain a motion to do pass.

ASSEMBLYWOMAN MARTINEZ MADE A MOTION TO DO PASS
SENATE BILL 119 (1ST REPRINT).

ASSEMBLYMAN McCURDY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMEN CARLTON AND
JAUREGUI WERE ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Martinez. We will move to the next bill in work session.

Senate Bill 323 (1st Reprint): Revises provisions governing the attorney's fees and costs which may be recovered by certain regulatory bodies which administer occupational licensing. (BDR 54-905)

Kelly Richard, Committee Policy Analyst:

[Read from ([Exhibit F](#)).] Senate Bill 323 (1st Reprint) is sponsored by Senator Denis and was heard on May 3, 2019.

Senate Bill 323 (1st Reprint) prohibits a regulatory body from recovering attorney's fees and other expenses as a result of an administrative or disciplinary proceeding until the regulatory body provides the person subject to the proceeding with an itemized breakdown of the costs he or she is being required to reimburse.

There are no amendments to the bill.

Chair Spiegel:

Is there any discussion on the bill? Seeing none, I will entertain a motion to do pass.

ASSEMBLYWOMAN NEAL MOVED TO DO PASS SENATE BILL 323 (1ST REPRINT).

ASSEMBLYWOMAN TOLLES SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN JAUREGUI WAS
ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Neal. We will move to the next bill in work session.

Senate Bill 407: Revises provisions relating to professional engineers and professional land surveyors. (BDR 54-609)

Kelly Richard, Committee Policy Analyst:

[Read from ([Exhibit G](#)).] Senate Bill 407 is sponsored by Senators Brooks and Ratti. The bill was heard on April 26, 2019.

Senate Bill 407 eliminates provisions requiring an applicant for certification as a land surveyor intern or engineering intern to obtain four years of work experience and repeals provisions authorizing the State Board of Professional Engineers and Land Surveyors to waive certain education requirements to issue a license. Additionally, the bill eliminates provisions requiring a full-time professional engineer or land surveyor to be employed at each location and supervise all of the work performed at each place of business that engages in engineering or land surveying. The bill authorizes the Board to issue an order to cease and desist against a corporation, firm, licensee, partnership, or other person for violating a provision governing the practices of professional engineering and land surveying. The bill provides that any record of an investigation by the Board is confidential and privileged. Also, the bill makes it a gross misdemeanor for a person not licensed or exempted by the Board to use the term "engineer," "engineering," or "engineered" only in connection with a discipline licensed by the Board. Finally, the bill expands the state's policy declaration to protect and perpetuate public land survey corners and places certain restrictions on the use of a record of such corners.

There is an amendment attached to the Work Session Document ([Exhibit G](#)) for consideration, which was submitted by the Board. The amendment proposes to delete section 5 of the bill, thereby retaining the original provisions of *Nevada Revised Statutes* 625.425. Section 5 would have allowed certain information to be privileged, in addition to confidential.

Chair Spiegel:

Is there any discussion on the bill? Seeing none, I will entertain a motion to amend and do pass.

ASSEMBLYMAN DALY MOVED TO AMEND AND DO PASS
SENATE BILL 407.

ASSEMBLYWOMAN NEAL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN JAUREGUI WAS
ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblyman McCurdy. We will move to the last bill in work session.

Senate Bill 479: Repeals provisions relating to certain mortgage loan originators. (BDR 55-148)

Kelly Richard, Committee Policy Analyst:

[Read from ([Exhibit H](#)).] Senate Bill 479 is sponsored by the Senate Committee on Commerce and Labor and was heard on April 23, 2019.

Senate Bill 479 eliminates the requirement that a residential mortgage loan originator acting on behalf of privately insured institutions be licensed as a mortgage agent by the Division of Financial Institutions of the Department of Business and Industry. This requirement is eliminated when the Division enters into a Memorandum of Understanding with the National Credit Union Administration for the registration of mortgage loan originators under the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, commonly known as the SAFE Act.

There are no amendments to the bill.

Chair Spiegel:

Is there any discussion on the bill? Seeing none, I will entertain a motion to do pass.

ASSEMBLYWOMAN TOLLES MOVED TO DO PASS SENATE BILL 479.

ASSEMBLYMAN EDWARDS SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN JAUREGUI WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Hardy. We will open the hearing on Senate Bill 208.

Senate Bill 208: Revises provisions governing cosmetology. (BDR 54-565)

Senator Moises (Mo) Denis, Senate District No. 2:

Senate Bill 208 makes several changes relating to cosmetology. In Nevada, there are currently over 31,000 licensed and registered cosmetologists. I have had the privilege of touring the State Board of Cosmetology facilities and was surprised by the amount of technology at the Board's office. The Board operates openly and transparently. During the interim, the Board held subcommittee meetings to discuss the changes in S.B. 208. After the subcommittee meetings, a board meeting was held. The items in the bill were discussed at a public meeting and the Board voted to move forward with the subcommittee's recommendations. No objections were voiced on the items contained in this bill.

Assemblywoman Jill Tolles, Assembly District No. 25:

Senator Denis and I, along with several other legislators, serve on a three-year consortium. The Occupational Licensing Policy Learning Consortium was put together by the Council of State Governments, the National Conference of State Legislatures, and the National Governors Association Center for Best Practices. With the support of the United States Department of Labor, Nevada has joined ten other participating states to improve our understanding of occupational licensing issues and best practices. Senate Bill 208 is one of a number of bills that has come out of the collaboration with these agencies and their bipartisan support. We attended a conference in November 2018, and there was a lot of discussion surrounding occupational licensing, particularly in regard to cosmetology boards. We are so proud of Nevada's State Board of Cosmetology, because it is truly the gold standard of practice in many ways.

Gary K. Landry, Executive Director, State Board of Cosmetology:

Section 1 of the bill revises the definition of "cosmetologist" by removing the word "electrolysis" from the definition of their practice. Cosmetologists are not taught the practice of electrolysis. In section 2, the definition of "esthetics" is revised to add the practices of "eyelash extensions" and "eyelash perming," so the definition is clear. Section 3 reduces hair designers' training hours from 1,200 hours to 1,000 hours and reduces hair designers' apprentices' training hours from 2,400 hours to 2,000 hours to match national standards. Similarly, in section 4, estheticians' training hours are reduced from 900 hours to 600 hours and estheticians' apprentices' training hours are reduced from 1,800 hours to 1,200 hours to match national standards. Lastly, section 5 of the bill revises the process of how the Board licenses cosmetology salons to reflect our practices. We conduct an inspection before issuing the license, as opposed to after issuing the license. There is a lot of language removed in section 5 to provide a more simplified approach to the process.

Chair Spiegel:

Are there any questions from the Committee? [There were none.] We will hear testimony from those in support. [There was none.] Does anyone wish to testify in opposition? [There was no one.] Does anyone wish to provide neutral testimony? [There was no one.]

We will close the hearing on S.B. 208 and open the hearing on Senate Bill 436 (1st Reprint).

**Senate Bill 436 (1st Reprint): Revises provisions relating to professional entities.
(BDR 7-1147)**

Dan Musgrove, representing Chiropractic Physicians' Board of Nevada:

Senate Bill 436 (1st Reprint) makes revisions to the statute that outlines the requirements for co-owning a professional practice. Last session, psychologists were added to the list of professionals that can co-own a practice with a medical doctor or a doctor of osteopathic medicine. This bill adds chiropractic physicians as well, so that a chiropractor and a doctor can co-own a practice. Last session, we also added requirements to ensure that each

practitioner stayed in his or her lane. Senate Bill 436 (1st Reprint) puts in place more stringent conditions to ensure that each physician has his or her own practice and does not control how the co-owner operates. In an age where holistic approaches to medicine are more common, it is a great practice for a medical doctor and a chiropractor to work together.

Chair Spiegel:

Are there any questions from the Committee? [There were none.] Does anyone wish to testify in support? [There was no one.] Does anyone wish to testify in opposition? [There was no one.] Does anyone wish to provide neutral testimony? [There was no one.]

We will close the hearing on S.B. 436 (R1) and open the hearing on Senate Bill 201 (2nd Reprint).

Senate Bill 201 (2nd Reprint): Revises provisions governing loans. (BDR 52-568)

Senator Yvanna D. Cancela, Senate District No. 10:

In February 2019, Mick Mulvaney, former Congressman and former head of the Consumer Financial Protection Bureau (CFPB), held a meeting for stakeholders in consumer protection in the financial industry. He told the group, "You have a place to go to address payday loans, and it is not me." This quote is representative of the attitude that the CFPB has today. The agency has been rolling back regulations for the consumer's ability to repay loans and has been gradually, but quickly, changing the way in which the federal government enforces payday lending consumer protections. This deference of the issue to the states indicates that Nevada needs to enforce all the protections in *Nevada Revised Statutes* (NRS) to the best of its abilities. That is what Senate Bill 201 (2nd Reprint) allows the state to do.

Senate Bill 201 (2nd Reprint) addresses short-term, high-interest loans, commonly referred to as payday loans. There are four different types of loans outlined in NRS Chapter 604A. Deferred deposit loans are traditional payday loans in which a borrower receives an advance on their paycheck for a short period of time, usually 14 days. High-interest loans are any loans with longer loan terms than traditional payday loans with interest rates of 40 percent or higher. These loans typically do not require access to a borrower's bank account and are loaned for 90 days. High-interest installment loans charge an interest rate between 40 percent and 199 percent and are longer-term loans, typically 150 days. A lender can check a borrower's credit and make a report to credit bureaus in order to give this loan. Lastly, title loans are a secured loan with a term of 30 days to 210 days that require the borrower to surrender their car title until the loan is paid in full.

This bill does not change how lenders currently operate, but ensures that regulators have the tools necessary to enforce current laws. However, it would be disingenuous not to acknowledge that high-interest, short-term loans carry significant risk for borrowers. The Pew Research Center found that payday loans and similar products, like auto title loans, hurt millions of borrowers annually. They found that a typical payday loan is borrowed for

\$375 and is due in full in about two weeks. Once fees and lump-sum payments are added, the loans comprise about 36 percent of a typical borrower's paycheck. Most payday loans are taken out to cover shortfalls from repaying a previous payday loan. The average borrower ends up in debt for nearly six months and pays more than \$520 in fees for a \$375 loan.

There are three major pieces of the bill—the codification of the Military Lending Act in state law, the adaptation of a regulatory database, and the enabling of distribution of state materials related to debt management and other programs. The Military Lending Act (MLA) was enacted in 2006 and expanded upon in 2015. The CFPB has indicated that it will no longer enforce compliance with the Military Lending Act. The law came about after Congress requested a report from the United States Department of Defense to understand how financial instability and insecurity was hurting service members. The U.S. Department of Defense conducted a study and found that predatory lending undermines military readiness, harms the morale of troops and their families, and adds to the cost of fielding an all-volunteer fighting force. As a result, the law created safeguards to ensure that service members and their families were not harmed by predatory lending practices. When a service member clears a certain rank in the military, their finances must be in order to continue to a higher ranking. The U.S. Department of Defense found that many members had their security clearance denied because of their financial instability as a result of payday loans.

Even though NRS references the Military Lending Act, the bill codifies its full provisions in statute, since the law is being rolled back at the federal level. Section 3 defines a "covered service member" and section 4 defines a service member's "dependent." Sections 5 through 7 and section 15 address deferred deposit loans, high-interest loans, title loans, and installment loans. Sections 17 through 21 address installment loans. The sections adopt the language in the MLA, including the provisions of federal law which are currently complied with. The provisions prohibit a lender from charging an annual percentage rate greater than 36 percent to a service member or his or her dependent, require a lender to make certain disclosures before extending certain consumer credit to a covered service member or dependent, prohibit additional loan terms in a transaction with a covered service member or dependent, and require the Commissioner of Financial Institutions to adopt regulations to administer, carry out, and enforce the provisions. The bill was modified on the Senate floor to match the regulation language in section 15.

Section 8 requires a payday loan database to be established. Sometimes, in order to bypass the limits on a loan amount, a consumer may take out loans from multiple businesses. Habitual borrowing from multiple lenders is one of the key signs that a loan will default and forces people into the "debt cycle." In 2018, the Audit Division of the Legislative Counsel Bureau (LCB) performed an audit and found that:

A centralized tracking system for payday loans can be of significant value to the Division [of Financial Institutions], its licensees, and Legislators. A database would assist licensees with managing loans and determining loan eligibility. It would also help licensees comply with state payday lending

laws and help consumers avoid becoming overloaded with debt. Additionally, it would help the Division identify irregular lender activity and serve as an information system for staff preparing for an examination. A centralized tracking system would provide regulatory oversight and collect statistical information on licensees providing loan services.

Section 8 also requires the Commissioner of Financial Institutions to develop, implement, and maintain a database to which a licensee must report each deferred deposit loan, title loan, and high-interest loan. Section 8 requires the Commissioner to contract with a vendor or service provider to implement the database and requires lenders, at the time of the loan, to input information about the borrower. This section requires that the vendor of the database collect fees from the payday or title loan lenders for the operation and administration of the database, requires information in the database to be confidential, and requires the Commissioner to adopt regulations concerning the database specifications.

Section 9 allows for a lender to work with the Department of Health and Human Services to distribute information concerning public assistance and services provided by public agencies. It is enabling language that encourages lenders to distribute information to people who may need more help than a payday loan can offer, such as help receiving welfare assistance or food stamps.

Sections 12 and 13 have been referred to as "safe harbor" language. The sections were removed in the original bill but reinstated on the Senate floor to reflect that a database would be in existence. Section 9.5 includes language that allows for the Division of Financial Institutions to work with the Attorney General to distribute information about illegal loans and how they can affect consumers. There are 35 states that allow for payday loans to operate. Of those states, 12 states have a database like the one being proposed in S.B. 201 (R2) that allows for regulatory enforcement and data collection. The document ([Exhibit I](#)) on the Nevada Electronic Legislative Information System (NELIS) shows which states those are, what fees are associated with the database, and what the primary function of the database is.

Bailey Bortolin, representing Legal Aid Center of Southern Nevada; Washoe Legal Services; Volunteer Attorneys for Rural Nevadans; and Southern Nevada Senior Law Program:

I want to address some of the concerns that have been voiced about S.B. 201 (R2). It has been expressed that the language codifying the Military Lending Act is unclear. Legislative Counsel Bureau staff was charged with codifying the statutes into NRS, which they have done, and they have confirmed that there is no differing legal effect, as long as the Commissioner of Financial Institutions continues to enforce the law in the way it is currently being enforced. The Commissioner will continue to adopt underlying federal regulations to enforce statute in the same way it is currently enforced.

The Military Lending Act has been in place since 2006 and the problem has not been alleviated. I was most surprised to find out that some U.S. Army generals have made it a disciplinary offense for a soldier to take out a loan while on base, because they no longer want to rely on the failure of civilian enforcement. Our service members should not be punished for a lender's violation of the law, and I believe that codifying the MLA in statute will fix this problem.

The purpose of the database is to ensure compliance, through regulation, with the provisions of this chapter. It does not emphasize the compliance of certain protections over others. The database will also allow the information to be streamlined for statistical analysis so the Division of Financial Institutions (FID) has more efficient access to it. Currently, FID can collect and is entitled to this information. The bill does not authorize FID to have access to any new information, but streamlines its access to it. The LCB performance audit found that the database will increase the state's efficiency and reduce overhead costs.

It has been expressed that the database should collect information but should not be used as an enforcement tool, since there have been few complaints filed with the Division of Financial Institutions. This is unsurprising, since it is unlikely that desperate borrowers would complain about a loan they cannot afford. A lack of complaints does not equate to a lack of violations. For example, in a case recently heard in the Nevada Supreme Court, a routine examination by the FID found that a lender was violating the time frames for a loan, as set forth in NRS Chapter 604A, in such a savvy way that a borrower would not easily identify the legal violation. Over 15,000 Nevadans were charged in excess of \$8 million in impermissible additional interest. None of the 15,000 borrowers had identified a statutory violation or filed a complaint. Complaints filed with the FID are scarce, but they are the number one issue that causes people to seek legal aid. Typically, legal aid can identify violations in a contract, send a demand letter to the lender, and the lender agrees to forgive the loan. The borrower is happy with the resolution and does not want to submit a complaint.

As further evidence, the LCB's 2018 performance audit noted that one of three lenders received a less-than-satisfactory rating from state regulators over the last five years. These are the findings from five years of Division of Financial Institutions examinations. The Division performed 1,447 examinations during this time and found 2,156 violations of state law and regulations. One of the recommendations was to create a database that enforces the law and collects statistical information. The audit found that this would benefit all parties involved. A database would benefit the state by improving oversight efficiency and lowering overhead costs. It would benefit the lender by assisting licensees with managing loans and determining loan eligibility and legal compliance. It would benefit the borrower by adding protection from becoming overloaded with debt. If a lender is complying with the law, there should be no problem. A law-abiding business should benefit from a reduced pool of competitors, have more loans successfully paid back, and have a better understanding of the market.

A concern for the security of the database has been expressed. State law currently addresses these concerns in NRS Chapter 603A. Additionally, the Division of Financial Institutions will consider data security as a factor when selecting a vendor for the database. There has never been a data security breach in the states that have enacted similar provisions. There have also been concerns expressed about privacy and confidentiality. This concern has been addressed in the bill and applicable state laws. Section 8, subsection 4 explicitly states that the database is confidential and not a public record. Section 8, subsection 5 allows the Commissioner of Financial Institutions to adopt additional regulations regarding the storage of information. The Division of Financial Institutions currently complies with the laws that protect the privacy and confidentiality of all parties, and that will not change. There is a concern that the bill fails to require a competitive bid. The Division of Financial Institutions is subject to the state purchasing laws and the bill includes no exemption to the state's procurement process or relevant laws. We have confirmed this with the FID and the LCB Legal Division.

It has been expressed that the safe harbor language in sections 12 and 13 makes a substantive change that is unworkable. This is not true. The safe harbor language exists as a workaround to a consumer protection that the loans must not exceed 25 percent of a consumer's gross monthly income. It has also been expressed that there needs to be more notice of the pending changes. On July 1, 2019, the Division of Financial Institutions will have the effective ability to begin the regulatory process, and on July 1, 2020, the database would be in effect. There have been concerns expressed that the fee needs to be set in statute to prevent it from being unreasonable. The fee is required to be reasonable, per the language drafted. Section 8, subsection 3 states, "The money collected pursuant to this subsection must be used to pay for the operation and administration of the database." If the fee is too low, it could cause the database to not be fully operational, but if the fee is too high, it could create a windfall. We made the choice to not charge additional fees to raise revenue for the state. The document provided ([Exhibit I](#)) shows that there are a few states that charge a set fee and give the additional money to the State General Fund. That will not happen in this situation, as the fee is restricted to the actual cost of the database, which requires the fee to fluctuate in regulation as needed.

This will not be the first statute authorizing the state to contract for a database. It is a common practice that relies on the regulations to support it. For example, NRS 481.051, subsection 5 authorizes the director of the Department of Motor Vehicles to enter into a contract for terminals and kiosks, and to collect a fee. *Nevada Revised Statutes* (NRS) 179.1152 is similar in that it allows the Attorney General to enter into a contract with any person to ensure peace officers may use an electronic device for stolen credit cards and gift cards. This statute exempts the Attorney General from the competitive bid and employee liability. It is important to note that this bill does not include those exemptions, so the state laws would still apply. Assembly Bill 532, on behalf of the Office of the Governor, contains two new sentences authorizing the Governor and the Director of the Department of Motor Vehicles to enter into a contract for the issuance and tracking of temporary placards.

Such a contract may authorize the vendor to charge and collect a fee for each temporary placard issued. This is a standard practice that the state has used many times, and will allow for greater regulatory oversight where it is needed.

Senate Bill 201 (2nd Reprint) will not affect a business currently complying with state laws and regulations. There is no evidence that better enforcement tools cause lost jobs for employees or companies to go out of business. This bill is a middle ground. If Nevada is going to allow this industry to operate, we should require it to operate within the confines of the laws, to the best of our abilities. Those who oppose the bill will argue that it is a high-risk industry for lenders as well. High-risk industries should be balanced by better regulations. This measure proposes to protect all who are involved.

Assemblyman Edwards:

Being a veteran, I am sensitive to ensuring that military personnel will be protected. However, I know that there are about 200,000 people in the state of Nevada who utilize payday loans each year, seemingly successfully. For example, there does not seem to be an uptick of people losing their homes or larger assets due to payday loans. How did the bill come about? In regard to the database, I am skeptical that your timeline for implementation will be realistic, as Nevada does not have the best reputation for establishing databases.

Senator Cancela:

The origin of the bill is threefold. First, the rollback of the laws at the federal level is concerning. It is concerning that the federal government, by way of the Consumer Financial Protection Bureau, will no longer enforce laws that have been put in place as consumer protections. States that allow this industry to operate need to ensure that the laws are enforced at the state level. I believe that the database will do this. Second, the state conducted an audit in 2018 which recommended the creation of a database of this nature. The audit's findings were striking in that, over the course of five years, one of three lenders was receiving dissatisfactory remarks. Third, this industry has been proven to lead to awful financial situations for borrowers when loans are misused. It is not our intent to eliminate the industry or restrict anyone's access to these loans, but rather to ensure that those who have been or have the potential to be harmed by the industry are not subjected to illegal lenders. The bill is meant to better enforce our current laws.

Assemblyman Edwards:

I want to feel confident that we know what the database will be in its execution, what efforts it will require to get it up and running, and that we will not be harming individuals or businesses by creating something that stifles them or does not provide them with data they can actually use. I want to ensure that this measure protects the 200,000 Nevadans who use these services each year, so that they do not lose access to a service they need because of a database.

Senator Cancela:

We have revised the database's effective date to be bifurcated, to allow the proper time for regulations to be adopted and the database to be fully implemented. I feel confident that we can get the database up and running by July 1, 2020. There are currently 13 states with a database in place, and 12 of those states have databases that are both regulatory and statistical, similar to the database being proposed in S.B. 201 (R2). The industry has continued to operate in all 12 of the states with databases. In Florida, where a database has been in place for almost 20 years, the industry has seen growth. There is no evidence that having a database in place and requiring lenders to comply with the laws forces good actors out of practice. Lenders that sustain their practice by offering illegal loans would have to change their business practices in order to follow the law, but this should happen regardless of a database. The intention of the database is to ensure real-time enforcement of the laws. We currently are only able to enforce violations of the law in hindsight, when the state conducts audits or examines a lender's records. We need to ensure that lenders and borrowers are protected from illegal practices.

Assemblyman Kramer:

Section 2 defines "consumer credit" and it seems to me that the definition includes credit cards. Considering that, it is surprising that section 7, subsection 1 states that a licensee shall not make a loan that "repays" or "refinances." If a borrower finds a lender who would demonstratively charge them less interest or fees, would they not be allowed to refinance the loan? This seems counterintuitive to me.

Bailey Bortolin:

The language that you are referring to is part of the Military Lending Act that currently exists in federal law. As applied in NRS Chapter 604A, the MLA will only apply to high-interest loan products. One of the biggest problems in this industry is "rollover" loans. A borrower can accumulate a lot of debt if a lender gives them a loan that they cannot afford to pay by the end of the loan term. A lender can then offer another loan to pay off the first loan so that the interest compounds. There are many protections against rollover loans in these laws.

Assemblyman Kramer:

To me, refinancing a loan will keep the same loan term at less cost to the borrower. It surprises me to see refinancing included with the other forbidden actions in section 7, subsection 1.

Wil Keane, Committee Counsel:

Section 7, subsection 1 specifically refers to a refinance from the same licensee. This particular subsection would not apply if the borrower received an offer to refinance with another lender. However, I suppose you are correct that if a licensee with whom the borrower already has a loan wanted to offer a lower interest rate, it would run afoul of this provision.

Assemblyman Kramer:

You are correct, as it is probably very rare that the same lender would offer the borrower a less expensive way out of their loan.

Assemblyman Edwards:

Have you considered any other alternatives to achieve the same ends?

Senator Cancela:

We have had a number of amendments brought forward that interact within the same chapter, but none that are dramatically different proposals. I am unsure whether the amendments necessarily seek to achieve the same ends, but there have been amendments brought forward.

Assemblyman Edwards:

What were the problems with the amendments?

Senator Cancela:

The proposed amendments seem to overprescribe in statute what should be considered when creating the database. As Ms. Bortolin mentioned, statutes that have enabled agencies to create a database usually include a few sentences that allow for the creation of the database. There have been a number of amendments brought forward to include various pieces of information in the database. I have rejected the amendments because their provisions are either covered in statute, or overprescribed, thus tying the regulator's hands. There have been a number of discussions regarding whether there should be a fee prescribed in the bill or a fee determined by regulation. In order to ensure that the fee covers only the cost of the database and there is no additional money for the General Fund, I have decided to have the fee prescribed in regulation. There have been discussions about language changes as well, which I have done my best to address with the Senate floor amendment. There were questions regarding the safe harbor provisions as well, which was language that I originally removed and then reinstated to create language that assumes a database is in place.

Assemblyman Yeager:

In the creation of the database in section 8, it indicates that the licensees must input information into the database related to deferred deposit loans, title loans, and high-interest loans. Section 12, subsection 1 states that "any other outstanding loan of the customer" must not exceed 25 percent of the consumer's gross monthly income, but does this language only refer to loans of these three types? Other loans would not be in the database, and therefore the safe harbor language would not apply in reference to them.

Bailey Bortolin:

As defined in NRS Chapter 604A, "loan" is explicitly defined as the four loan products in the chapter. We initially had the same concerns in that the language may be confusing, but "loan," as defined in this chapter, only refers to a loan made pursuant to this chapter.

Assemblyman Yeager:

To clarify, you are not intending that a licensee is required to do anything other than review the information in the database in order to determine whether the loan would exceed 25 percent of the consumer's gross monthly income. Is that correct?

Senator Cancela:

Yes, that is the intent of the language. However, the bill does not limit a lender from reviewing other information.

Chair Spiegel:

Before we hear testimony, can all those in support of the bill, in both Carson City and Las Vegas, please stand? [Most people in attendance stood in support.] Thank you. We will hear testimony from those in support.

Barry Gold, Director of Government Relations, AARP Nevada:

We are not here to discuss the need for people to borrow subprime loans or to discuss people who are unable or unwilling to borrow a loan from a bank. We are here to discuss people who apply for predatory loans. The consumer protections in this bill do not eliminate the ability for individuals to receive the loans or for the industry to provide the loans. The bill simply prevents people from falling into a predatory cycle and a debt spiral. The bill also protects the industry from becoming predatory. If lenders follow the law, they will not be considered predatory lenders. On behalf of AARP's 348,000 Nevada members and their families, we strongly encourage the Committee and the Legislature to pass this bill to protect individuals who have to rely on these types of loans and to prevent the loans from becoming predatory.

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

The United Veterans Legislative Council is an organization of veterans across Nevada and includes all veterans, active-duty military, National Guard, families, and advocates. Many of you may have veterans in your family and may have direct experience with active-duty military service. As you move forward, please remember them, their families' sacrifices, their commitment to serve our country, and how proudly you support them. We want the best for them. We support this bill. I, for one, fell victim to a predatory loan in my youth and know how difficult it can be. Fortunately, I was able to break free from my loan with the help of a United States Army Judge Advocate General's Corps officer. Today, there are still youth who will make the same mistakes as I did. We know for a fact that there will be times when a person is desperate for money and will do anything to get it. Without these protections in place, their decisions could become lifelong failures. I urge you to support this bill.

Mitchell "Mitch" Roach, representing Department of Nevada, American Legion:

I am 100 percent in support of this bill.

Andy LePeilbet, Member, Department of Nevada, The Military Order of the Purple Heart:

We need to protect our young veterans when they return from combat. Sometimes they take out loans because they need the money so badly, as Mr. Yarbrough stated. We support the bill.

Darrol L. Brown, representing Welcome All Veterans Everywhere; and United Veterans Legislative Council:

As Mr. Yarbrough mentioned, we are strongly in support of this bill. On a personal note, I worked for several years in the late 1970s and early 1980s for a small loan company that, at the time, was considered a predatory lender with an interest rate of 20 to 25 percent. I had the opportunity to refinance many of my competitors' loans at what was considered to be the lower rate. The predatory lending cycle has existed for a long time, and I think this bill will go a long way to help our members, our veterans, and our Nevada citizens who have potentially fallen into this trap. I hope the Committee will give favorable consideration to this bill.

Serena Evans, Policy Specialist, Nevada Coalition to End Domestic and Sexual Violence:

Financial abuse occurs in 99 percent of domestic violence cases, and these survivors are often faced with the need for rapid and short-term loans. Once the immediate crisis has been addressed, these individuals are often dug further into a debt cycle. There are multiple community organizations that provide financial help for survivors of domestic and sexual violence that empower them to create a stable financial base without digging themselves into debt. We understand that these programs cannot cover all of the financial needs of survivors of domestic violence, and that is why we support S.B. 201 (R2). Senate Bill 201 (2nd Reprint) puts in place commonsense provisions to help inform applicants and monitor lenders, so we do not prey on the vulnerability of victims.

Marlene Lockard, representing Nevada Women's Lobby:

As Chair of the Domestic Violence Resource Center in Northern Nevada, I have seen what happens to women of all ages who fall into the trap of payday loans and the debt spiral they cause. We have implemented a financial training program at our facility, and one of our biggest successes has been getting these women out of this trap and on the road to restoring their credit, so they can sustain their own individual living arrangements.

J.R. Stafford, President, Sierra Nevada Chapter 989, Vietnam Veterans of America:

Our chapter, and the veterans we represent, sincerely appreciate and approve of Mr. Yarbrough's testimony.

Mike Dyer, Director, Nevada Catholic Conference:

We strongly support this legislation.

Shane Piccinini, representing Food Bank of Northern Nevada; and Human Services Network:

We strongly support this legislation.

Elisa Cafferata, representing Planned Parenthood Votes Nevada:

We support this legislation.

Lynne E. Keller, Executive Director, Opportunity Alliance Nevada:

We are in support of this legislation.

Megan Ortiz, representing American Civil Liberties Union of Nevada:

We oppose predatory lending practices that have a harmful impact on marginalized communities, and we support this legislation.

Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada:

First, we want to thank Senator Cancela for bringing this important piece of legislation. We know that payday loans can be among the most predatory forms of credit on the market. Though they are marketed as having reasonable fees, most charges are from borrowers who take out ten or more loans per year. Four out of five loans are rolled over within 14 days. Siphoning money out of low-income communities takes a toll on our economy. Money that could be spent building local businesses or investing in our communities is instead spent on never-ending fees. Senate Bill 201 (2nd Reprint) would increase the enforcement of consumer protections to help prevent low-income Nevadans from becoming overloaded with debt. We ask that you vote in favor.

Robin Collins, representing Nevadans for the Common Good:

[Spoke from prepared text ([Exhibit J](#)).]

We strongly support S.B. 201 (R2) and the consumer protection it provides. One of the most important tenets of Nevadans for the Common Good is that we listen. We listen to what people are saying, what they are worried about, and what keeps them up at night. The payday lending debt cycle is a recurring theme. We heard from one person who was in debt for more than 20 years. She started with one loan, was given another loan, and was given yet another loan to pay off the first loans. The cycle continued. This is not a unique story; we have heard countless stories of people losing their cars, going bankrupt, losing their homes, and being unable to break the debt cycle. If existing state laws were enforced, consumers would be protected and their livelihoods would not be at stake.

We should not be taking advantage of people experiencing financial crises, especially illegally. The citizens of Nevada need the protections that this database will provide. It is the tool needed to enforce the laws that currently exist. The database will allow payday lenders to comply with the law and allow consumers to be protected from predatory financial

practices. This is not a political issue, but it is an issue that requires a legislative solution. There is strong community support for protecting consumers and enforcing the law. Nevadans for the Common Good strongly urges you to support S.B. 201 (R2).

Jami Johnson, Private Citizen, Las Vegas, Nevada:

[Spoke from prepared text ([Exhibit K](#)).]

I am speaking on behalf of Derrick Felder of Lutheran Social Services of Nevada, who could not be here today.

Lutheran Social Services of Nevada (LSSN) serves over 10,000 low-income residents in the Las Vegas Valley each year and works to empower their clients to become self-sufficient. This goal is much more difficult to achieve when our fellow citizens get caught in the trap of payday loans. A short-term loan becomes a long-term, expensive problem for the people who can least afford it.

One of my clients is a fully disabled mom of two boys who is about to become homeless. She has been caught in the debt cycle for four years and owes much more money than she borrowed. Another client has said of his experience: "You cannot break the debt cycle unless you make more money. Otherwise, you borrow and then pay and pay and pay."

The trap becomes even more dire for senior citizens living on fixed incomes with very little hope of increasing their income. Some senior citizens must resort to borrowing from payday lenders to pay for their medicine and utility bills. Another senior client was having trouble paying his rent and utility bills, so in desperation he went to a short-term, high-interest lender. He ended up with seven loans and was no closer to paying them back, so he defaulted. The lenders took all the money from his meager bank account and continued to take it as his pension was deposited. He closed his bank account, but he was still broke. Unfortunately, by the time he came to LSSN for help paying his rent, he no longer qualified for their rent assistance program.

I have a friend who had a gambling problem, as many do in Nevada, and because the money was so easy to get and did not require his wife's signature, he was able to get loan after loan without his wife knowing. Five years later, he had a dozen loans and owed about \$50,000.

This bill would not prohibit the industry from doing business, but create some assurances that the industry follows the current laws and provides some protection for our fellow citizens. I urge you to follow the lead of the Senate and pass S.B. 201 (R2).

Beverly Darrow, Private Citizen, Las Vegas, Nevada:

I am a member of Desert Spring United Methodist Church in Summerlin, Nevada. I will be sharing the story of another member of our church who could not attend today.

My stepdaughter, who I consider a daughter, got herself into some trouble with video poker. She kept it from me until she had taken out two payday loans for a total of \$10,000. She was so far over her head that all she could do was make interest payments. The loans were not huge, but the interest payments were. Her income was \$35,000 and she also had credit card debt.

She came to me in tears, like she always did when she needed money. We were very close at the time. I did the only sensible thing, the only thing a mother would do. I withdrew money from my savings account and paid off her loans in full. This hit my savings hard, as I had just paid a large tax penalty on her behalf as well. Payday loans do not only impact the individuals who borrow them. They hurt families and the community too. We need S.B. 201 (R2), to enforce state laws so that consumers cannot take out more money than they can afford.

Patti McGuire, Outreach Coordinator, Saint Elizabeth Ann Seton Catholic Church, Las Vegas, Nevada:

[Spoke from prepared text ([Exhibit L](#)).]

The food pantry at Saint Elizabeth Ann Seton Catholic Church serves over 120 families per week. Some of them are senior citizens on fixed incomes, veterans, single moms and dads, and people recently diagnosed with illnesses or injured in accidents. We serve people who are recently released from jail, living in halfway houses, or fighting addictions. Some families are working full time but have a hard time making ends meet.

We asked clients and volunteers of the food pantry if they had experience with short-term, high-interest loans, and half the people either knew someone or had personally taken out this type of loan. Once the embarrassment and shame of needing a short-term, high-interest loan had passed, clients and volunteers began to share their stories.

The proposed database would assist the short-term, high-interest loan industry by ensuring that existing laws are followed. No jobs in the industry would be lost. More protections for the consumers in Nevada would be gained.

We need to assist people in financial emergencies, not assist them in spiraling backwards further away from financial stability. We need to stop the debt cycle, which leads some of the most vulnerable members of our community deeper and deeper into debt. Some people may never crawl out. I support Senate Bill 201 (2nd Reprint).

Margaret Kolar, Private Citizen, Las Vegas, Nevada:

A couple of years ago, I toured a telemarketing operation of a high-interest lender. I found a room full of people wearing headphones, using autodialers to phone people in financial difficulties from a list they had received. The room was frenzied with loud music. There were periodic announcements, and when someone closed a deal, all the employees would clap and cheer. They were provided with scripts that they had found produced what they considered to be good results. In other words, they knew what to say to entice financially

struggling people to borrow money. I was then shown another room where the collections took place. They had a group of people calling to collect payments from those who had been loaned money. I have been haunted by this ever since, and when I saw that this bill was being considered, I had to share my story. I certainly support S.B. 201 (R2).

Jim Sullivan, representing Culinary Workers Union Local 226:

The Culinary Workers Union represents 60,000 working men and women in Nevada, and we are opposed to predatory lending practices. Payday lenders make billions of dollars in fees by trapping hardworking Americans in a cycle of debt. This is unacceptable. This bill will give the state the regulatory tools it needs to better enforce our existing consumer protections. We fully support S.B. 201 (R2). We would also like to thank Senator Cancela and the Legal Aid Center of Southern Nevada for bringing forth this important piece of legislation.

Edward O. Campbell, Private Citizen, Las Vegas, Nevada:

I support S.B. 201 (R2) because we need to protect our armed forces members from predatory loans. The men and women who serve in the armed forces are protecting our freedom and often putting their lives in jeopardy when they are overseas. Therefore, their protection is a very important aspect of what this bill does. At the hearing in the Senate, we heard from a number of people at predatory loan companies who indicated that they were afraid to lose their jobs. If their companies were adhering to the law and not providing predatory loans, why would they be afraid to lose their jobs? We do not want to eliminate anyone's job, but these employees should not be employed by predatory lenders. This bill is common sense, and I cannot understand why anyone in the State Legislature would oppose it.

Chair Spiegel:

We will hear testimony from those in opposition.

Jodi Stephens, representing Multistate Associates, Inc.:

Our companies are concerned with any legislation that seeks to limit access to credit that is crucial for so many, particularly in highly regulated markets such as Nevada. First, S.B. 201 (R2) fails to address the relatively few concerns outlined in the Division of Financial Institutions' audit. Our companies dispute the methodologies and findings of the FID audit, as outlined in our research memorandum ([Exhibit M](#)). More importantly, our companies believe that if the database proposed in S.B. 201 (R2) would have been in place at the time of the audit, only 5 percent of the violations over the last five years would have been prevented. The remaining 95 percent of the violations would not have been prevented by the database, nor would the implementation of the database address the majority of complaints that the FID claims are plaguing the industry.

Second, the database proposed in S.B. 201 (R2) does not enforce existing Nevada law. If enacted, S.B. 201 (R2) will, at a minimum, collect information that will lead to the restriction in the amount of time and number of loans that consumers can obtain. None of

these restrictions on the availability of credit exist in current Nevada law. None of the 13 other states that have a Veritec database enforce a consumer's ability to repay, which is part of Nevada's current law. The states simply enforce the cooling-off periods and other restrictions.

Third, leaving the per-fee transaction to regulatory oversight could potentially restrict access to capital. Our companies oppose leaving the fee associated with the implementation of the database to be set at FID's discretion. We would like the fee to be written in statute.

William C. Horne, representing Advance America, Cash Advance Centers, Inc.; and Enova International, Inc.:

Since last session, we have put in place policies for a consumer's ability to repay, repayment plans, loan extensions, distinguished grace periods, and the reinitiation of electronic debit transactions. Many of the concerns expressed in proponents' testimony have been addressed. However, these implementations have not been successful. We have offered to work with the proponents of the bill to make the proposed database a "sunshine database" to find out what, if any, abuses of the law are occurring in the industry. The average loan at Advance America, Cash Advance Centers is issued for two to three weeks, for \$350, with an \$18.50 fee per \$100 loan. We believe that our proposed amendment ([Exhibit N](#)) for a sunshine database is a better method for determining whether or not there are abuses occurring in our state and how best to address the bad actors in the industry.

Julie Townsend, Government Affairs Director, Advance America, Cash Advance Centers, Inc.:

[Spoke from prepared text ([Exhibit O](#)).]

Advance America is a leading consumer lender with experience across many states, including those with databases. Each loan we issue complies with applicable state and federal laws. We operate 11 licensed consumer lending centers across Nevada, offering safe and reliable credit to many hardworking Nevadans who occasionally experience financial difficulties. The Federal Reserve System estimates that 40 percent of Americans could not cover an unexpected \$400 expense without selling a possession or borrowing money. Our customers understand the terms of our loans, compare the cost against alternatives, and appreciate our services.

We offer three types of consumer credit under Nevada law. We offer a traditional payday loan, or deferred deposit loan, which may be up to \$1,000 and is repaid on the borrower's next payday, typically in two weeks to one month. We offer a high-interest loan, which is a longer-term loan of typically 90 days to six months, that is usually a larger dollar amount than a traditional payday loan, up to \$2,500. These loans are unsecured, fully amortizing, and payable in substantially equal installments. We also offer a title loan, which is much like the installment loan, but secured by the borrower's vehicle title.

With regard to S.B. 201 (R2), we have identified three particular areas of concern. The military lending sections are inconsistent with the federal Military Lending Act, and definitions within the bill are inconsistent. In order to ensure licensed operators are able to comply with the federal and state law, we request that the Committee consider copying definitions directly from federal law or referencing the relevant federal statutes. Senate Bill 201 (2nd Reprint) also establishes a statewide database to track regulated short-term loans, but does not outline a procedure for the Commissioner of Financial Institutions to contract for the implementation of the database or to provide notices to licensees and set implementation dates accordingly. The bill also fails to protect against potential data breaches or prohibit record requests for sensitive borrower information that will be held in the database.

Marcus Conklin, representing Nevada Traditional Installment Lenders' Association:

Installment lenders in NRS Chapter 604A operate under section 5057 which recognizes their unique place among lending options. Lenders operating under this section offer safe, short-term loans that amortize over a period of time longer than five months. They are fully underwritten, similar to long-term installment lending or retail installment lending such as a car loan or a home loan, and most importantly are already reporting to a database—the national consumer credit reporting agencies. Consumers using traditional installment loans receive the benefits of a loan that is affordable, based on credit checks and other traditional underwriting standards, and are able to build positive credit with each timely payment, as traditional installment lenders report each payment to credit reporting agencies for other potential creditors to see. It is for these reasons and more that we request the Committee to exempt installment lenders operating under NRS 604A.5057 from the provisions of this bill. A conceptual amendment ([Exhibit P](#)) to this effect, with supporting statutory information, has been provided to the Committee.

Tracy Sandin, Senior Vice President of Government and Public Relations, Security Finance:

[Spoke from prepared text ([Exhibit Q](#)).]

In addition to what Mr. Conklin stated, I will note that installment lenders may not pursue legal recourse with the customer should they stop paying, but must work with the customer directly. This requirement makes installment lenders different than other lenders, which is why they are addressed in NRS 604A.5057. Senate Bill 201 (2nd Reprint) is problematic for traditional installment lenders in Nevada and your constituents. It will force the creation of a time-consuming and costly reporting mechanism, which is not an easy task. Our information technology teams must create a new program for reporting to the database, even though we are currently reporting to the Commissioner and to credit reporting agencies. There will be an additional cost to pay the vendor for the privilege of reporting our data, only to be told something we already know—that each and every loan we make complies with Nevada law.

Increasing the cost of doing business will invariably affect the availability of credit. As costs rise, we will begin to reassess our ability to grant smaller loans, which will create a customer who cannot borrow funds to meet their medical deductible, buy their kids new school clothes, fix a car that the family possesses, or bury a family member. Our customers' needs are as different as they are. These are the realities of living paycheck to paycheck, or not having adequate savings and resources to pay for small emergencies. You can legislate away a product, but you cannot legislate away the need for a product. While Legal Aid Center of Southern Nevada plays an important role in helping wronged consumers, I would argue that the bill is the equivalent of using a sledgehammer to kill a gnat. We have no problem with the proposed amendments to NRS Chapter 604A, but for these reasons, we are opposed to the bill unless we are exempted from the bill, as we have been in the past.

Sean T. Higgins, representing Dollar Loan Center:

We oppose the bill as written. The first of the two proposed amendments changes the nature of the database from, what the sponsor calls, an enforcement database to an informational database, which can then be used by the FID to regulate and punish licensees via fine, suspension, or revocation of license, and can be used to provide the Legislature with information next session. We think that the informational database is appropriate, so as not to accuse lenders of being guilty of breaking the law without evidence.

I also support Mr. Conklin's amendment to exempt the lenders covered under NRS 604A.5057. I want to review the specifics of section 5057 ([Exhibit R](#)), as it includes certain limitations that only apply to installment lenders. Installment lenders lend at less than 200 percent interest. The borrower must make a payment once every 30 days, and interest does not accrue on the loan after the date of maturity. Installment lenders must perform a credit check and are currently performing a credit check on each potential customer. Installment lenders must report the relating loan experience to a major consumer credit reporting agency, participate in good faith credit counseling, and may not file a civil action or dispute resolution on a defaulted loan. This is the only contractual relationship, in the state of Nevada or elsewhere, that has any such restriction. At Dollar Loan Center, we are already underwriting loans, and for these reasons, we are supportive of an exclusion from the bill.

Assemblyman Edwards:

It seems as though those of you who are opposed to the bill are opposed to the database, and no one seems to have a problem with the military lending protections. Would you agree?

Sean Higgins:

I would agree with that. The issue with the military lending provisions was whether it corresponded with federal law. Dollar Loan Center does not lend to members of the armed forces because we comply with the federal law. The proposed amendment ([Exhibit N](#)) cleans up the military lending provisions, but does not request for them to be removed.

Assemblywoman Hardy:

It seems as though most of you are in favor of a sunshine database, as opposed to an enforcement database. Can you explain the difference between the two and why you feel a sunshine database would be better?

Sean Higgins:

An informational database, or sunshine data base, requires lenders to provide information to the Division of Financial Institutions in real time. The Division can then use the information to determine if the regulated industry is following the law and loaning in correspondence with the law. An enforcement database, as proposed in the current version of S.B. 201 (R2), makes the decision as to whether or not a lender can loan to a consumer. Installment lenders, like Dollar Loan Center, already perform credit checks before lending, which is why we would like the database to be informational. If the proponents of the bill are correct in that the entire industry is loaning well outside of its parameters, then we will surely need to dismantle the industry next session. We are requesting to establish an informational database to collect information before it is used as an enforcement tool, when the industry has not proven that an enforcement tool is necessary.

Assemblyman Yeager:

Where in the bill is it stated that the database will be used as an enforcement tool? Are you referring to sections 12 and 13?

Sean Higgins:

The database will determine, based on the information in it, whether or not a lender can loan to a potential customer.

Assemblyman Yeager:

I do not necessarily read the language that way. Sections 12 and 13 seem to amplify the lending restrictions, since the lending restrictions will be set at no more than 25 percent of a consumer's gross monthly income, inclusive of all other loans in NRS Chapter 604A. We may have to confirm with the sponsor the intent of the database. How often does something like this happen, that someone has taken out a loan in an amount close to 25 percent of their gross monthly income and then additionally a second loan? The language indicates "gross monthly income" as opposed to "net monthly income," so from an economic standpoint it seems unlikely that a lender would want to make a second loan. If this does not happen often, why does the language cause so much heartache?

William Horne:

I do not know how often this happens, but we believe a reoccurring problem is that lenders give a loan within the parameters of a borrower's 25 percent gross monthly income, and a second lender gives a loan a while later, but the reported gross monthly income could be different between the times of the two loans. The second lender does not have the information of the previous loan, which makes it problematic to encompass all of a borrower's loans within the parameters of their gross monthly income. This is a policy change in that currently a lender confirms that the loan will not exceed 25 percent of the

borrower's gross monthly income, but would now need to confirm that all of the borrower's loans do not exceed 25 percent of their gross monthly income. Today, we do not believe that is a problem, but we believe that a sunshine database is an appropriate way to garner this information. A determination based on the information can be made later, as opposed to assuming that the industry is behaving badly and placing a burden on it.

Assemblyman Yeager:

If a borrower has a loan outstanding, you would find out by checking the database, and if the other licensee did not input the loan in the database, you would not be responsible because the safe harbor language exists. The safe harbor language states that the loan should not exceed 25 percent of the customer's expected gross monthly income at the time the deferred deposit or other loan is made. Would you not have visibility to the customer's gross monthly income when you check the database and know if the loan would exceed 25 percent? I am unclear as to how the safe harbor language does not alleviate your concerns about violating the law.

William Horne:

I do not know the answer to your question, but we believe that the database and the burden it places on the lender is problematic. I do not know if the safe harbor provisions necessarily protect the lender in this scenario, but we will review the language again.

Assemblywoman Carlton:

I understand the proposal for the sunshine database. However, there comes a time when we need to begin enforcing the laws. We can keep evaluating and discussing the laws that we have already passed, but unfortunately people are not abiding by them and we need to take action. If we establish a sunshine database, we will collect more information, but will need to wait another two years to begin protecting people. It is time for us to do our job on behalf of our constituents. Your clients may not be breaking the law, and they probably are not, but we should take the opportunity to enforce the law. The excuse that we should further study this particular issue will not work, as we have been discussing the issue for more than 20 years already. It has taken us too long to get where we are to postpone any longer.

Assemblywoman Tolles:

In the case of an informative database, would a lender simply inform a customer that they have other outstanding loans? Versus the case of an enforcement database, a lender would inform a customer that they cannot issue any additional loans. Is that correct?

Sean Higgins:

No, that would not be the case. The enforcement database would make the loan determination as to whether a customer could borrow money from the lender. An informative database would be used only by the FID. There has been no proof that many lenders in Nevada are lending outside of their parameters. In fact, the largest number of loans made in the state are from online lenders that are not regulated by *Nevada Revised Statutes* (NRS), and will continue to be so after this legislation is passed. Before we claim that we need to enforce this industry because lenders are not following the law, we should

gather the information to find out if that is the case. The database could inform the state whether lenders are following the law. If they are not following the law, we will need more than a database to enforce the industry.

Chair Spiegel:

We will now hear neutral testimony.

Rickisha L. Hightower, Interim Commissioner, Division of Financial Institutions, Department of Business and Industry:

There are approximately 116 main payday lending locations in the state of Nevada, and 366 branches for these locations, for a total of 482 licensed locations in our state. Each year, these lenders issue hundreds of thousands of loans for millions of dollars. The Financial Institutions Division currently regulates these lenders by way of annual examinations and investigations of complaints. However, we only have about 14 examiners who each are performing about 1.6 exams per week. Our regulations are reactive, in that we learn about violations after a loan has been issued or paid in full, as opposed to proactive, in that we could find violations before they occur. Due to our limited resources, we are only able to review a small percentage of the loans made at each location. We truly believe that the database tool for NRS Chapter 604A would allow FID to regulate more proactively and help ensure that potential compliance violations are identified before a loan is made, as opposed to after a loan is made.

Assemblywoman Carlton:

We have heard that the database will help enforce the current laws, and that the database will do nothing to enforce the current laws. You stated that FID is reactive to violations, rather than proactive and able to prevent violations. You believe that the database, as it is proposed in S.B. 201 (R2), will allow FID to be more proactive and provide more protections to the citizens of Nevada. Is that correct?

Rickisha Hightower:

In a sense, yes. As information is being entered in real time, the database would allow us to see if a lender is making loans that exceed 25 percent of a customer's gross monthly income, or if a lender is allowing a rollover or refinance that is illegal for certain loans under the statute. The bill does not provide us with any abilities that we do not currently have, nor would it provide us any additional powers, but we would have an additional tool to help us perform examinations. The database would be a place to start and provide us another resource as we perform examinations and investigations. Currently, we review less than 5 percent of the loans made across the state. We do not have much visibility, unless we find something that is happening across the board at a particular licensee's operation.

Assemblywoman Neal:

It is my understanding that the Commissioner of Financial Institutions will be responsible for carrying out the provisions in section 9. I have concerns with the assumption that a person receiving high-interest loans needs assistance from a public program, because that may not

be the case, but I understand why the programs are targeted. The section assumes that a borrower needs public assistance, but it is more than likely they need financial planning assistance. How will this section be carried out, and will it meet the needs it is meant to?

Rickisha Hightower:

That is not something that FID will regulate, so I would defer your question to the sponsor.

Assemblywoman Neal:

The Commissioner of Financial Institutions will not regulate these provisions, so the responsibility is unassigned. Second, installment loans will also be included in the database. Last time this bill was brought forward, they were excluded because they did not necessarily fall into the same category. Do you have any thoughts on traditional installment loans being included in the database?

Rickisha Hightower:

It is our understanding that the database will include all lenders under NRS Chapter 604A. The database can be tailored for each loan product in NRS Chapter 604A to gather appropriate information for each to confirm compliance. We believe that installment lenders should be included in the database, but the information should be tailored specifically to the loan product. We know that installment loans do not have to comply with many of the requirements of a title loan or high-interest loan, and we would tailor the database to the loan product.

Assemblywoman Neal:

What information will you collect for traditional installment loans?

Rickisha Hightower:

Installment lenders must lend at less than 200 percent interest, for example, so we would ensure that they are not lending at higher interest rates. We would ensure that they are not exceeding the specified time frame for a loan, and other data of that nature.

Michael Brown, Director, Department of Business and Industry:

After reviewing and understanding the legislative history on this issue, I knew there would be a great interest in data security. Since the Department of Business and Industry has to comply with many federal information technology standards, I had the Department evaluate our data security regime. I also reached out to the state of Virginia to have a conversation with my counterparts about their experiences with the database. It passed with flying colors. Most importantly, the database is designed to allow the state to add any data security feature that we feel is important. We will also have the option to work with other states that are using this database, and I will certainly reach out to those states, to ensure that Nevada has the gold standard of compliance. We will need a standard that meets the state standards, and other states have had great success. In fact, Virginia informed me that they recently renewed the program.

Senator Cancela:

I made the decision to not allow any exceptions to the provisions in NRS Chapter 604A, to ensure consistency across the industry. I think it is important to give the Division of Financial Institutions the tools needed to regulate NRS Chapter 604A in its entirety and to have the discretion to decide how to regulate different types of loans. I would note that Security Finance operates a database in Illinois, so it is not impossible to ensure compliance across product types. It is a matter of trusting our regulators to ensure that the different product types are regulated appropriately.

The policy decision that is before us is transparency versus enforcement. We have heard testimony that there is not a problem with the industry. The underlying argument is that the state does not need a database because the lenders follow the law. It cannot both be true that the current law is followed and that enforcing the law in real time would be a disaster for the industry; the two statements cannot coexist. We have heard testimony from individuals who have been harmed by the industry and ended up in a debt cycle. Legal Aid Center of Southern Nevada has an entire division dedicated to helping clients who have been harmed by this industry.

We did not hear testimony in response to the systematic dismantling of consumer protections at the federal level, even though we know that the Consumer Financial Protection Bureau is requiring states to enforce the laws and is continuously reversing federal protections that were put in place over the last decade. It is important that Nevada takes it upon itself to enforce the laws that we have passed and ensure that the laws are used to protect consumers, lenders, and provide us the ability to determine whether our laws need to be addressed.

We have data on this subject. The Legislative Counsel Bureau conducted an audit in 2018. It is easy to contest the findings and nitpick whether the audit was conducted in a way that it should have been. The legislative body relies on our auditors to provide us with information across industries. It is important to note that the audit was conducted over the course of five years. Opponents make the argument that consumers do not complain, but I will remind you of the Nevada Supreme Court case in which 15,000 Nevadans were charged over \$8 million in illegal fees. There was not one consumer complaint in the case. When an individual is in these situations, they will not report the situation to state government. They want to have the problem resolved, and some may be unaware that the FID exists to complain to.

Regarding the issues with section 9 that Assemblywoman Neal brought up, it is true that the state should be holistically investing in financial literacy. The provisions in section 9 aim to provide people with the knowledge that there are state resources for negotiating a hospital bill, alternative methods for debt relief, and others. The Department of Health and Human Services produces a lot of information, and we want to ensure that the information is available, should a lender decide to work with the Department to distribute information.

I believe that Senate Bill 201 (2nd Reprint) is a mild proposal. It does not change operating practices within the industry, nor does it change consumer protections. The bill requires that laws regarding lenders be enforced in real time and provides the 21st century technology to do so, to ensure that Nevadans are protected and the laws are enforced.

Chair Spiegel:

[([Exhibit S](#)), ([Exhibit T](#)), ([Exhibit U](#)), ([Exhibit V](#)), and ([Exhibit W](#)) were submitted, but not discussed, and will become part of the record.]

We will close the hearing on S.B. 201 (R2) and open the hearing on Senate Bill 355 (2nd Reprint).

Senate Bill 355 (2nd Reprint): Revises provisions relating to certain regulatory bodies which administer occupational licensing. (BDR 54-856)

Senator David R. Parks, Senate District No. 7:

Senate Bill 355 (2nd Reprint) relates to regulations governing the duties of the State Board of Oriental Medicine and revises the provisions governing the licensing of doctors of Oriental medicine. When originally drafted, S.B. 355 (R2) was intended to clean up *Nevada Revised Statutes* (NRS) Chapter 634A.

Maggie Tracey, President, State Board of Oriental Medicine:

Senate Bill 355 (2nd Reprint) revises and updates provisions governing the State Board of Oriental Medicine and continues to ensure public safety and practitioner competence. The bill updates the definition of Oriental medicine and updates the licensing examination process to align with national standards. Parts of the bill have been in process through regulation changes and public hearings over the course of the last two years. Dr. Lisa Grant and Dr. Michael Ferris spearheaded the review of our regulations and statutes, and many members of the Oriental medicine community provided input.

Section 2 is the regulation and established standards for acupuncture point injection therapy, which is currently permitted in statute. This section ensures practitioner competence, mandates specific insurance coverage, and ensures public safety. Section 2, subsection 3 was removed by an amendment, in compliance with the American Osteopathic Association. We have removed "procaine" and "lidocaine" from subsection 3. Section 3 updates the definition of Oriental medicine to reflect current practices and the science of acupuncture in Oriental medicine. Section 3, subsection 4 defines acupuncture "dry needling" according to definitions in traditional Oriental medicine and Western medical text, including Simons and Travell, the medical doctors who coined the term for Western medicine. In our practice, acupuncture is known as "ashi point needling," and this subsection updates the terminology. Section 3, subsection 6 clarifies the definition of "herbs" to conform to national standards. Section 3, subsection 7 will be amended to be the original text and we will be removing "cupping" from the subsection.

Chair Spiegel:

To clarify, you are referencing the bill as introduced.

Maggie Tracey:

That is correct. Section 4, subsection 4 eliminates language that is no longer relevant because of the change to the national standards. Section 5 eliminates a salary for the Secretary Treasurer of the State Board of Oriental Medicine, as we were not paying him or her a salary. Section 6 eliminates language that is no longer relevant because of the change to the national standards. Section 7 eliminates the Board's responsibility to review the content and approve the curriculum for Oriental medicine universities in Nevada. This responsibility falls within the purview of the Commission on Postsecondary Education and the Accreditation Commission for Acupuncture and Oriental Medicine, which are the national bodies responsible for accrediting Oriental medicine schools. Section 8 changes the required examination from a state exam to the national exam, which is now recognized by 48 states, including California. The applicant must pass all aspects of the national examination, in addition to the Nevada state exam related to laws, regulations, and ethics. Section 9 clarifies requirements for application for licensure and licensure by endorsement. Sections 10 and 11 are cleanup sections. Sections 12 and 13 will be removed by an amendment.

Assemblywoman Carlton:

We had received communication from Senator Parks regarding how he would like this bill to be interpreted. I believe there are several sections that he would like to delete from the current version, and I would like him to have the opportunity to explain.

Senator Parks:

To clarify, the current version of the bill that you are referring to is the initial version of the bill, as presented on March 18, 2019.

Susan L. Fisher, representing State Board of Oriental Medicine:

We are proposing to remove the language in the current version of the bill and replace it with the language presented today, which is essentially the original language with a few amendments, as mentioned by Dr. Tracey.

Assemblywoman Tolles:

I understand that the \$1,000 annual fee for a license in section 11, subsection 1, paragraph (b) is the maximum fee to be charged, but could you provide some context for the fee? What is the current annual fee to renew a license?

Maggie Tracey:

We placed a cap on the annual fee for a license prescribed by the Board, specifically to not exceed \$1,000. We are a small group of licensees, and at various times throughout the history of our regulatory licensing, the fees have been much higher than that. Currently, the fee to renew a license is \$700, and the initial licensing fee is \$1,000.

Assemblywoman Tolles:

Is that a typical fee in comparison to other Oriental medicine boards across the United States? It seems substantially higher than most licensing fees we come across.

Maggie Tracey:

It is a higher fee than in most other states. Most states charge between \$250 and \$500 to renew a license. Because Nevada currently has 71 licensees, and given the expenses related to the Board, we have a higher renewal fee. Nevada was the first state to legalize acupuncture. The fees were set fairly high at that time to ensure licensees had the proper education. The fees carried over throughout the history of the Board, and we are hoping to reduce the fees with this bill.

Assemblywoman Tolles:

In section 1, which is being removed, I noticed there was a reference to dry needling in NRS 634A.020, but there is also a dry needling definition in section 3, subsection 4. Is the definition in section 3 a standard definition, a new definition, or a definition that is used nationally? Is the definition consistent across other practices?

Maggie Tracey:

The dry needling definition in section 3, subsection 4 is the traditional definition across the nation. This definition has been standard for a long time, but has never been called dry needling, but ashi point needling. The definition is clarifying because there has been much controversy around dry needling among various professions throughout the United States, and we want to define it specifically in regard to acupuncture and Oriental medicine.

Assemblyman Edwards:

Where in the bill does it state the required number of training hours for licensure?

Susan Fisher:

The required number of hours of training typically is established in regulation. Some boards include the required training in statute, but traditionally they are in regulation.

Assemblyman McCurdy:

As I understand it, there were some issues with the physical therapists regarding the definition of dry needling. Is that correct?

Susan Fisher:

Yes, there has been some dispute.

Assemblyman McCurdy:

Was the issue regarding the definition specifically with the term "single-use, single-insertion, sterile needle"?

Susan Fisher:

I think it is best to ask the physical therapists about their specific issues with the definition. We were insistent to include that language in the definition for purposes of public protection, and they objected to that.

Maggie Tracey:

Specifically, acupuncture is considered to be such when a needle is retained in the body. Nationwide, there has been a lot of discussion in regard to the definition of dry needling. It is generally agreed upon by the American Medical Association, World Health Organization, Medicare, Medicaid, National Institutes of Health, and acupuncturist associations that when a needle is retained in the body, it is considered to be acupuncture. We also discussed this issue.

Senator Parks:

I would like to reiterate that the bill seeks to specifically revise NRS Chapter 634A, which deals solely with the practice of Oriental medicine, and no other medical practices.

Chair Spiegel:

We will hear testimony from those in support.

Bobbette Bond, Senior Director of Health Policy, Culinary Health Fund Las Vegas, Unite Here Health:

I want to thank Senator Parks for this version of the bill and for returning the bill to its original intent, which is to clean up and provide needed clarifications to the State Board of Oriental Medicine language. We are involved with this bill because we just began our acupuncture benefit this year and are in the beginning phases of monitoring the impact of the law. We reached out to the State Board of Oriental Medicine to establish the criteria for licensing our acupuncturists and to establish their scope of practice, and are comfortable with the established criteria. We are supportive of the bill, unless there becomes more reason to discuss the dry needling issues.

Randy Soltero, representing United Food and Commercial Workers International Union:

We support the bill and are grateful for Senator Parks returning the bill to its original version. We fully support S.B. 355 (R2).

Lisa Grant, Secretary/Treasurer, State Board of Oriental Medicine:

[Read from prepared text ([Exhibit X](#)).]

I have been licensed as a doctor of Oriental medicine in Nevada for almost a decade. I was a member of the State Board of Oriental Medicine legislative committee, which was responsible for updating the administrative code and suggesting statute changes. I support Senate Bill 355 (2nd Reprint) as originally written, without any amendments. The main function of the Board is to protect public safety through the regulation of the profession. The purpose of these statute changes is to align Nevada laws with national standards of

examination for competency and to streamline the Board's responsibilities regarding educational institutions. The result will be an increased number of qualified applicants for licensure and an increased number of quality licensees, which will ensure public safety through the maintenance of high standards for licensure.

We feel these changes are critical to improve Oriental medicine in Nevada. In 2016 the Legislative Commission's Sunset Subcommittee charged the State Board of Oriental Medicine with the duty to increase the number of licensees in the state, and this bill will ensure that. The Board agrees with the Sunset Subcommittee; we need more Oriental medicine doctors in Nevada. To answer Assemblyman Edwards' question, we require 3,500 hours of training for all licensees. The current licensing process is not in alignment with the national standards of either the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) or the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM), the two accrediting bodies of schools and certifications for Oriental medicine. Quite frankly, the licensing requirements have been a deterrent to qualified doctors. By requiring doctors to have NCCAOM certification, all new licensees will hold the highest level of certification, and because NCCAOM certification is based on current educational curriculum and standards, more doctors will have the necessary qualifications to apply for licensure in Nevada.

I want to emphasize that we are aligning our standards of licensure with current accepted national standards of licensure. I believe this will best benefit the citizens of the state of Nevada.

Christina Tabor, Treasurer, Nevada Coalition for Acupuncture:

[Spoke from prepared text ([Exhibit Y](#)).]

I want to share my story today in hopes that this bill will pass in its original form and will allow more practitioners to come to the state of Nevada. I am a cancer survivor, and during my cancer journey I had 20 rounds of chemotherapy and 16 surgeries in less than three years. I was able to have all 16 surgeries without pain medications, due to acupuncture and Oriental medicine. I believed in its power so much that I pursued it as a career. There are barriers in the regulations that are currently preventing practitioners from entering the state. There is a dire need for practitioners in the state of Nevada. Please support this bill.

Laura Fink-Soto, Private Citizen, Las Vegas, Nevada:

I am a registered dietician of 40 years and a fifth-year student at Womg University of Oriental Medicine in Las Vegas, Nevada. I am asking you to pass this bill in its original form, because we need more support and better opportunities for patients to seek alternative forms of medicine. Oriental medicine is a system of care that is an alternative medicine and complementary to traditional methods as well. Please support this bill.

Zachary Burton, Private Citizen, Las Vegas, Nevada:

The master's program at Woung University of Oriental Medicine requires four years of post-bachelor education, and includes 2,500 hours of didactic training, 840 hours of which specifically pertain to Western medicine. The additional hours are clinic training hours. We go through extensive schooling to complete the journey of obtaining a master's degree. To obtain a doctorate, I would need to complete an additional two years of school. With my master's degree, I can practice as a licensed acupuncturist.

I am here today to help pass the bill in its original form. The bill is crucial for Nevada's health care growth. Preventative treatments can save millions of dollars. The practice of Oriental medicine can be implemented into the practice of Western medicine as well, and we can work together to help patients with their recovery post-stroke, for example. There are very few remedies in Western medicine for patients suffering from hemiplegia, but there are Oriental medicine clinics in California and Cleveland, Ohio, that can help patients recover from these dire conditions. Acupuncturists study the needling of meridian systems, but there is a muscle meridian associated with every meridian system that follows the pathway of the meridian. We can needle multiple areas, not only the meridians, and as mentioned earlier, these are called ashi points.

Please pass the bill in its original form.

Fran Almaraz, representing Teamsters Local 631; and Teamsters Local 986:

We would like to thank Senator Parks for returning the bill to its original form, so that our health plans can use Oriental medicine.

Chair Spiegel:

We will hear testimony from those in opposition.

Stacy J. Fisher, representing Nevada Physical Therapy Association:

[Submitted supporting documentation ([Exhibit Z](#)).]

I am an associate professor at Touro University Nevada School of Physical Therapy in Henderson, Nevada, one of two physical therapy programs in Nevada. The education that physical therapists receive is substantial. I do not support the language in the original version of the bill, based upon the events that have happened since the bill has been introduced. I support the second reprint of the bill, which was passed with bipartisan support in the Senate.

Based on what has been stated today, the language will disallow physical therapists to participate in a portion of our practice, which we are highly qualified to participate in. In their first year of education, physical therapists take a course on cadaveric dissection, to understand the very specific and delicate structures under the skin. This training amounts to upwards of 400 hours. In combination with and in continuation of this learning, about one-third of our education, almost 3,300 hours, is dedicated to anatomy and the care of the body.

As the director of the integumentary and wound care course, I teach sterile techniques so that physical therapists may be invited into a physician's operating room. This relationship with a doctor is a well-trusted one, and physical therapists understand clean and sterile techniques. In addition to that, I teach sharp debridement and nonselective debridement, which can utilize a variety of instruments and tools to remove dead tissue from someone's wound that is a barrier for the wound to close and heal.

I hope this information conveys my concerns about not being able to practice these techniques. Our education programs teach safety, and physical therapists endure rigorous training to learn how to utilize all of their techniques, not just one. I hope that you do not support the bill in its current version.

Sherise R. Smith, Chair, Nevada Physical Therapy Board:

[Submitted supporting documentation that included prepared testimony ([Exhibit AA](#)).]

I am here to voice our opposition to the returning of S.B. 355 (R2) back to its original version. I am supportive of the way it was overwhelmingly passed in the Senate. Dry needling is a technique provided by physical therapists for over 20 years; 44 states currently allow physical therapists to perform dry needling. In 2012, the Nevada Physical Therapy Board issued an opinion, based on a review of statute by the Board's attorney, that dry needling is within the scope of practice of physical therapists. In 2018, due to the increased prevalence of dry needling, and under the guidance of the Board's senior deputy attorney general, the Nevada Physical Therapy Board created an advisory committee on dry needling to promulgate regulation and ensure that dry needling is being performed competently and safely in our state. The committee comprises seven members, with equal representation from the State Board of Oriental Medicine and the Nevada Physical Therapy Board, and one representative from the State Board of Nursing. Proposed regulations were adopted on behalf of this committee by a majority vote and sent to the Legislative Counsel Bureau in June 2018.

Public safety is the highest priority of the Nevada Physical Therapy Board. Nationally, over a five-year period, 0.2 percent of the disciplinary actions in the physical therapy disciplinary database pertained to dry needling. There was no patient harm in any of the reported cases. To date, the Nevada Physical Therapy Board has received zero substantiated complaints and zero disciplinary actions related to dry needling. It is the responsibility of the Board to regulate the practice of physical therapy in our state. It is understandable that the State Board of Oriental Medicine would want to add dry needling to the licensees' scope of practice, as it has been proven to be a highly effective technique for the treatment of pain. We have not objected to this, as it is in the State Board of Oriental Medicine's purview to regulate its licensees.

Since 2012, when the Nevada Physical Therapy Board issued an opinion allowing the practice of dry needling, it has been a great benefit to Nevadans, particularly in light of the opioid crisis. There are approximately 1,900 licensed physical therapists, compared

to 71 Oriental medicine practitioners, in the state. I hope you will support the continued, safe, and effective practice of dry needling by physical therapists in Nevada by passing the bill in its second revised form.

Assemblywoman Carlton:

It is my understanding that there existed a legal opinion which stated that dry needling was not within a physical therapist's scope of practice, and a current opinion from LCB that stated the same, which I believe was the impetus for the amendment from the Nevada Physical Therapy Board that inserted the group into the State Board of Oriental Medicine's bill. If physical therapists have an issue with their current scope of practice, they should address it separately, as opposed to inserting themselves into another bill. This was an opportune time for you to address the problem that arose.

Sherise Smith:

We did not insert ourselves into the bill. The State Board of Oriental Medicine included us in the bill. Because our statute was included in their bill, the discussions surrounding it led to the formation of the opinion from LCB regarding our scope of practice. We came to the conclusion that perhaps it would be best to include our statute in the bill, to clear up confusion.

Assemblywoman Carlton:

That was not what was relayed to me. I would suggest that the Nevada Physical Therapy Board address their scope of practice if they believe there is a problem.

Brian Evans, representing Nevada Physical Therapy Association:

The original bill, as introduced, placed a prohibition on *Nevada Revised Statutes* Chapter 640 regarding physical therapy, as well as on NRS Chapter 634 regarding chiropractors. If the bill is passed as it was introduced, it will place a prohibition on dry needling in the scope of the two licensed professions. We negotiated with the State Board of Oriental Medicine and ultimately decided to define dry needling in both acupuncture and physical therapy.

Assemblywoman Carlton:

I understand that the Chiropractic Physicians' Board of Nevada was able to negotiate an acceptable definition. Why would the Nevada Physical Therapy Board not adopt the same language, which I believe would address your issue?

Sherise Smith:

The definition that was agreed upon is the definition of acupuncture dry needling, which is not what physical therapists perform. The physical therapist definition of dry needling is found in the second revised version of the bill. The definition in section 11.5 is the standardized, accepted, nationwide definition of dry needling.

Assemblywoman Carlton:

I respect Senator Parks and the work that he has done on this bill. If he wishes to return to the original version, I respect that. We can address revisions to NRS Chapter 640 in another way, and I am more than happy to work on that, but I would like to support my colleague and what he is trying to accomplish.

Assemblywoman Tolles:

If I am understanding correctly, acupuncture is used specifically in Oriental medicine and dry needling is used by both acupuncturists and physical therapists for skeletal and muscular applications. The concern is that different definitions in each practice might create confusion if both boards are able to use the technique as appropriate. Is that correct?

Sherise Smith:

Yes, that is correct.

Assemblywoman Tolles:

I think a solution exists that can meet everyone's needs.

Sherise Smith:

I agree. That is what was passed in the Senate, the idea that the physical therapist statute can contain a physical therapy definition of dry needling, while the Oriental medicine statute can contain the definition for acupuncture dry needling, which is a different technique.

RJ Williams, President, Nevada Physical Therapy Association:

I want to address the questions that were posed, as I perform dry needling. As Dr. Tracey mentioned, the practice of acupuncture is defined by a needle being retained in the body, which in itself defines acupuncture as a subset of a dry needling technique. A dry needle is a monofilament needle with no liquid that is transferred into the body. This is a treatment, while acupuncture is a philosophy within that in which the use of a needle along meridian lines and energy points will create an end result. The patient may be experiencing shoulder pain or gut and digestion issues, but a needle will be inserted elsewhere in the body. In physical therapy, we practice dry needling by identifying trigger points and referral patterns, or tight muscles, and apply the needle at the sites to create local systemic change that allows us to further utilize other physical therapy exercises.

The two practices differ philosophically, in their treatment parameters, and in what they seek to accomplish, which is why we worked for a different version of the bill. We wanted a version that allowed us to use the terminology and language that supports physical therapists' practice and how it is executed, but is supportive of allowing acupuncturists to define their scope of practice as well, and allowed the two boards to regulate the practitioners within the disciplines. These are different treatments, which is why we are seeking to have different language for acupuncturists and physical therapists, unlike how it is defined in the original bill.

Terry Murphy, Private Citizen, Las Vegas, Nevada:

I have used the services of both physical therapists and acupuncturists for about 15 years, but use their services for very different reasons. The main difference is that neither of the health plans available to me as a small business owner cover the cost of acupuncture. Three physical therapy appointments per week cost \$75, whereas three visits to an acupuncturist cost \$225. Not only is physical therapy more financially accessible, but I can receive all the services I need in one place—soft tissue massage, exercise therapy, aquatic therapy, traction, and dry needling. I also receive the most comprehensive physical evaluation from my physical therapist. If I need physical therapy, but dry needling is also effective, and my highly-trained physical therapist can perform it, I would not want to schedule and pay for another appointment with an acupuncturist. That requires a lot of time and money, which most people in pain do not have. Lastly, the United States Department of Health and Human Services Pain Management Best Practices Inter-Agency Task Force recently issued their final report, which does two things: calls for a wider range of patient-centered care for pain, and identifies that 87 percent of pain patients cite lack of access to care as their biggest issue. In my opinion, with drastically reduced access to pain medication, this is not the time to remove an effective form of treatment for pain control.

Chair Spiegel:

There are a number of people in Las Vegas who are in opposition, if you could please stand. [Most people in attendance stood in opposition.] Thank you.

Kim Andrews, Private Citizen, Las Vegas, Nevada:

I am a patient at Suarez Physical Therapy in Las Vegas, Nevada. I have had three neck surgeries. Much of my neck is fused with hardware, and I have shoulder blade and upper back pain that is following the same pattern that eventually led to my neck surgeries. I have tried pain management injections and various medications, but nothing seemed to treat the muscle tightness and pain until my physical therapist recommended dry needling. After treating my pain with dry needling, the muscle tightness and pain that led to many sleepless nights has almost disappeared. I no longer have to take pain medication, I sleep better, and I am involving myself in the pleasurable things in life that I had avoided for years. I request that the language in S.B. 355 (R2) pertaining to physical therapy dry needling remain intact, so that patients can continue receiving this important physical therapy treatment and live their lives as they were intended.

Chair Spiegel:

Is there anyone who wishes to provide neutral testimony? [There was no one.]

Senator Parks:

Thank you for hearing Senate Bill 355 (2nd Reprint). We are proposing to return the bill to its original form. We have had numerous discussions about the bill that have been less than fruitful. We would propose that S.B. 355 (R2) revise only NRS Chapter 634A, in regard to

Oriental medicine, and allow the proponents of NRS Chapter 640 to revise the statute as they see fit. It is apparent that physical therapists have a different scope of practice, and while we have tried to be accommodating, it has not worked out to everyone's satisfaction. I would be happy to provide a mock-up of the bill, including the five revisions that we are requesting.

Chair Spiegel:

[([Exhibit BB](#)), ([Exhibit CC](#)), ([Exhibit DD](#)), and ([Exhibit EE](#)) were submitted, but not discussed, and will become part of the record.]

We will close the hearing on S.B. 355 (R2).

**Senate Bill 220 (1st Reprint): Revises provisions relating to Internet privacy.
(BDR 52-920)**

[Senate Bill 220 (1st Reprint) was agendized but not considered.]

Chair Spiegel:

Is there anyone who wishes to provide public comment? [There was no one.] The meeting is adjourned [at 4:06 p.m.].

RESPECTFULLY SUBMITTED:

Katelyn Malone
Committee Secretary

APPROVED BY:

Assemblywoman Ellen B. Spiegel, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is the Work Session Document for [Senate Bill 39 \(1st Reprint\)](#), presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is the Work Session Document for [Senate Bill 40 \(1st Reprint\)](#), presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is the Work Session Document for [Senate Bill 119 \(1st Reprint\)](#), presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit F](#) is the Work Session Document for [Senate Bill 323 \(1st Reprint\)](#), presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit G](#) is the Work Session Document for [Senate Bill 407](#), presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit H](#) is the Work Session Document for [Senate Bill 479](#), presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit I](#) is a document titled "States with Centralized Payday Loan Databases," presented by Senator Yvanna D. Cancela, Senate District No. 10, regarding [Senate Bill 201 \(2nd Reprint\)](#).

[Exhibit J](#) is written testimony presented by Robin Collins, representing Nevadans for the Common Good, in support of [Senate Bill 201 \(2nd Reprint\)](#).

[Exhibit K](#) is written testimony dated May 10, 2019, presented by Jami Johnson, Private Citizen, Las Vegas, Nevada, in support of [Senate Bill 201 \(2nd Reprint\)](#).

[Exhibit L](#) is written testimony presented by Patti McGuire, Outreach Coordinator, Saint Elizabeth Ann Seton Catholic Church, Las Vegas, Nevada, in support of [Senate Bill 201 \(2nd Reprint\)](#).

[Exhibit M](#) is a memorandum dated May 10, 2019, to Nevada Assembly Committee on Commerce and Labor, authored by Brownstein Hyatt Farber Schreck and presented by Jodi Stephens, representing Multistate Associates, Inc., in opposition to [Senate Bill 201 \(2nd Reprint\)](#).

[Exhibit N](#) is a proposed amendment to [Senate Bill 201 \(2nd Reprint\)](#), dated February 18, 2019, submitted by Multistate Associates, Inc., and presented by William C. Horne, representing Advance America, Cash Advance Centers, Inc.; and Enova International, Inc.

[Exhibit O](#) is written testimony presented by Julie Townsend, Government Affairs Director, Advance America, Cash Advance Centers, Inc., in opposition to [Senate Bill 201 \(2nd Reprint\)](#).

[Exhibit P](#) is a proposed amendment to [Senate Bill 201 \(2nd Reprint\)](#) presented by Marcus Conklin, representing Nevada Traditional Installment Lenders' Association.

[Exhibit Q](#) is written testimony dated May 10, 2019, presented by Tracy Sandin, Senior Vice President of Government and Public Relations, Security Finance, in opposition to [Senate Bill 201 \(2nd Reprint\)](#).

[Exhibit R](#) is a copy of a PowerPoint presentation titled "Presentation for the Assembly Commerce & Labor Committee," dated May 10, 2019, presented by Sean T. Higgins, representing Dollar Loan Center, in opposition to [Senate Bill 201 \(2nd Reprint\)](#).

[Exhibit S](#) is written testimony dated May 10, 2019, authored by Tennille K. Pereira, Staff Attorney, Consumer Rights Project, Legal Aid Center of Southern Nevada, in support of [Senate Bill 201 \(2nd Reprint\)](#).

[Exhibit T](#) is a letter dated May 9, 2019 to Chair Spiegel and members of the Assembly Committee on Commerce and Labor, authored by Benjamin P. Edwards, Associate Professor of Law, University of Nevada, Las Vegas William S. Boyd School of Law, in support of [Senate Bill 201 \(2nd Reprint\)](#).

[Exhibit U](#) is a letter to Chair Spiegel and members of the Assembly Committee on Commerce and Labor, authored by Alanna L. Fitzgerald, Private Citizen, Reno, Nevada, in support of [Senate Bill 201 \(2nd Reprint\)](#).

[Exhibit V](#) is a letter dated May 10, 2019, to Chair Spiegel, Vice Chair Frierson, and the Assembly Committee on Commerce and Labor, authored by Mary Jackson, President and Chief Executive Officer, Online Lenders Alliance, in opposition to [Senate Bill 201 \(2nd Reprint\)](#).

[Exhibit W](#) is a document titled "Short-Term, Small-Dollar Lending in Nevada," by Advance America, Cash Advance Centers, Inc., submitted by Julie Townsend, Government Affairs Director, Advance America, Cash Advance Centers, Inc.

[Exhibit X](#) is written testimony presented by Lisa Grant, Secretary/Treasurer, State Board of Oriental Medicine, in support of [Senate Bill 355 \(2nd Reprint\)](#).

[Exhibit Y](#) is written testimony presented by Christina Tabor, Treasurer, Nevada Coalition for Acupuncture, in support of [Senate Bill 355 \(2nd Reprint\)](#).

[Exhibit Z](#) is supporting documents submitted by Stacy J. Fisher, representing Nevada Physical Therapy Association, titled "Comparing some aspects of Physical Therapy (PT) education to Oriental Medicine education," published by Physical Therapist Centralized Application Service, in regarding to [Senate Bill 255 \(2nd Reprint\)](#).

[Exhibit AA](#) is a document titled "Dry Needling Information Packet S.B. 355," by Nevada Physical Therapy Board, presented by Sherise R. Smith, Chair, Nevada Physical Therapy Board, in regard to [Senate Bill 355 \(2nd Reprint\)](#).

[Exhibit BB](#) is a letter to the Senate Committee on Commerce and Labor, authored by Megan Clowers, Doctor of Oriental Medicine, Reno, Nevada, in support of [Senate Bill 355 \(2nd Reprint\)](#).

[Exhibit CC](#) is a letter authored by Tara L. Finley, Doctor of Oriental Medicine, The Finley Center for Acupuncture and Naturopathic Medicine, Reno, Nevada, in support of [Senate Bill 355 \(2nd Reprint\)](#).

[Exhibit DD](#) is a letter to Chair Spiegel, authored by Fiona Kelley, Doctor of Oriental Medicine, Wuxin Healing Arts, Henderson, Nevada, in support of [Senate Bill 355 \(2nd Reprint\)](#).

[Exhibit EE](#) is written testimony authored by Maureen McKenney, Doctor of Oriental Medicine, Owner, Path to Wellness, Reno, Nevada, in support of [Senate Bill 355 \(2nd Reprint\)](#).