

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

**Eightieth Session  
February 22, 2019**

The Committee on Commerce and Labor was called to order by Chair Ellen B. Spiegel at 1:31 p.m. on Friday, February 22, 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](http://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:**

Assemblywoman Lesley E. Cohen, Assembly District No. 29  
Assemblywoman Shannon Bilbray-Axelrod, Assembly District No. 34

**STAFF MEMBERS PRESENT:**

Patrick Ashton, Committee Policy Analyst  
Wil Keane, Committee Counsel

Minutes ID: 300



Karen Easton, Committee Secretary  
Olivia Lloyd, Committee Assistant

**OTHERS PRESENT:**

Glen Fewkes, Senior Legislative Representative, State Advocacy and Strategy Integration, AARP, Washington, D.C.  
Barry Gold, Director, Government Relations, AARP Nevada  
Barbara Paulson, representing Nevadans for the Common Good  
James P. Kemp, representing Nevada Justice Association  
Donna Clontz, Private Citizen, Reno, Nevada  
Mary Liveratti, Private Citizen, Carson City, Nevada  
Michael Hackett, representing Nevada Public Health Association  
Connie McMullen, Private Citizen, Reno, Nevada  
Bryan Watcher, Senior Vice President, Retail Association of Nevada  
Fred Ranney, Private Citizen, Reno, Nevada  
William Ledford, representing Lutheran Engagement Advocacy in Nevada  
Lawrence J. Weiss, President, Center for Healthy Aging  
Elisa Cafferata, representing Planned Parenthood Votes Nevada  
Mendy Elliott, representing Reno Sparks Chamber of Commerce  
Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce  
Katie Roe Ryan, Director, Public Policy, Dignity Health-St. Rose Dominican  
David Boire, representing Children's Advocacy Alliance

**Chair Spiegel:**

[Roll was taken. Committee rules and protocol were explained.] We will open the hearing on Assembly Bill 90.

**Assembly Bill 90: Provides certain employees with the right to use sick leave to assist certain family members with medical needs. (BDR 53-169)**

**Assemblywoman Lesley E. Cohen, Assembly District No. 29:**

The Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs comprises six legislators; three members from the Senate and three from the Assembly. The Chair and Vice Chair are selected by the Legislative Commission. I was honored to be the Chair in the last interim. The Legislative Committee, in compliance with *Nevada Revised Statutes* (NRS) 218E.745 through NRS 218E.760, is authorized to review, study, and comment on issues including, but not limited to, abuse, exploitation, isolation, and neglect, and initiatives to ensure financial and physical wellness. This also includes public outreach and advocacy programs to ensure services are provided in the most appropriate setting, and programs that provide services and care in the home; the availability of useful information and data as needed for the state to make effective decisions, plan budgets, and monitor costs and outcomes of services. The Legislative Committee also reviewed laws relating to the appointment of a guardian, including the improvement of investigations relating to

guardianships and systems for monitoring guardianships, and the improvement of facilities for long-term care in Nevada.

In addition to its general powers, Assembly Bill 299 of the 79th Session required the Legislative Committee to conduct a study during the 2017-2018 Interim concerning standards of training for unlicensed persons who provide care at certain facilities or homes through certain agencies. Further, the bill requires the Legislative Committee to study the creation of a competency evaluation for a person who receives such training concerning the provision of care.

The Legislative Committee held four meetings during the 2017-2018 Interim and voted to forward all ten of its allocated bill draft requests to the 80th Session that addressed the following topics:

1. State employment, higher education, and dental programs for veterans;
2. Sick leave flexibility;
3. Provisions relating to out-of-home placements for adults with special needs;
4. The study required by A.B. 299 of the 79th Session relating to the training of unlicensed employees and contractors who provide care at certain facilities or homes; and
5. The guardianship program.

In addition, the Legislative Committee voted to send several letters expressing support for a specific issue or encouraging certain actions.

**Assemblywoman Shannon Bilbray-Axelrod, Assembly District No. 34:**

During the interim I was a member of the Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs. I am here to present Assembly Bill 90, which would require private employers that provide employees with sick leave to allow an employee to use that sick leave to help a family member with certain medical needs.

Assembly Bill 90 would allow persons who need to take time off to care for their loved ones to use sick leave they have already accumulated. The use of sick leave for this purpose would be to assist an immediate family member who has an illness, injury, medical appointment, or other authorized medical need. The same conditions that apply to that employee when taking sick leave would also apply to the family members.

This measure authorizes the employer to limit the amount of sick leave that may be utilized. For this purpose, an amount that is equal to, but not less than, the amount of sick leave that an employee accrues in a six-month period. Immediate family members include a child, spouse, domestic partner, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent of an employee. In the last two years, I have been a caregiver to my daughter and my husband, as well as my father. Moreover, my husband, who is now well thank goodness, has been a caregiver for my father.

To ensure employee awareness in regard to A.B. 90, we require the Labor Commissioner to prepare and post a bulletin that explains the provisions of the program. The bulletin must be posted online and in the workplace of every employer that provides employees with sick leave. The measure also requires the Labor Commissioner to enforce the program. Any person who violates a provision of the program is guilty of a misdemeanor, and the Commissioner may impose an additional monetary penalty of not more than \$5,000 for each violation.

The differences between this program and leave authorized by the Family and Medical Leave Act of 1993 (FMLA), are as follows:

- The FMLA is utilized for serious or long-term leave needs. For example, the birth of a newborn child; adoption or foster care; and to care for immediate family members with a serious health condition.
- The A.B. 90 program helps caregivers with short-term health care needs. For example, to provide care to an immediate family member for a brief illness, to transport a person to a medical appointment, or rush the person to a hospital or urgent care facility.
- The FMLA provides eligible employees up to 12 weeks of unpaid, job-protected leave per year.
- The A.B. 90 program would provide access to paid leave, per the sick leave rules of the entity.
- The FMLA applies to public agencies and companies with 50 or more employees.
- The A.B. 90 program would apply to all employers, regardless of the size.

According to AARP (formerly the American Association of Retired Persons):

- There are over 350,000 unpaid caregivers in Nevada;
- One out of every four workers who are aged 25 or older provide unpaid caregiving;
- Sixty percent of family caregivers are employed full- or part-time; and
- Seven out of ten family caregivers report having to make work accommodations. These include arriving late, leaving early, taking unpaid time off, reducing hours worked, or having to quit their job.

Another important impact of this measure is for our senior population. According to AARP and the National Conference of State Legislatures, there are 10,000 baby boomers that turn 65 every day and each person has about a 70 percent chance of needing some type of support or long-term care service in their remaining years. The bulk of the care is provided by an unpaid family caregiver. It has been found that family caregivers help seniors to remain independent.

I urge you to support this legislation which provides sick leave flexibility. I will now have Glen Fewkes speak to you via the telephone.

**Glen Fewkes, Senior Legislative Representative, State Advocacy and Strategy Integration, AARP, Washington, D.C.:**

I am a senior legislative representative with AARP's Government Affairs Department in Washington, D.C. I focus on family caregiving issues. Thank you to Assemblywoman Bilbray-Axelrod for inviting me to join you by phone to discuss A.B. 90. Bills like A.B. 90 are part of the larger trend of states recognizing the tremendous work of family caregivers and better supporting them. Since 2014, over 300 family caregiver-focused laws have been enacted in all 50 states. Nevada, for example, unanimously enacted the Caregiver Advise, Record, Enable (CARE) Act [Senate Bill 177 of the 78th Session] to help better prepare family caregivers as their loved ones transition home from the hospital. The state has also made numerous improvements to guardianship law since then to help family caregivers. With respect to the type of bill the Committee is considering today, nearly a dozen other states already have similar laws on the books. Assemblywoman Bilbray-Axelrod has asked that I go through the provisions of A.B. 90, give a summary of the bill, and a little more detail than she has already given.

Assembly Bill 90 is pretty straightforward. Section 1 has seven subsections. Subsection 1 requires that if an employer provides employees with either paid or unpaid sick leave benefits, the employees are to be allowed to use that sick leave to care for the illness or medical need of an immediate family member in addition to the employee's own illness. This is not requiring employers to provide extra time or extra benefits; it is simply expanding the acceptable usage for sick leave benefits that already exist. I will point out that this bill only applies to private employers in the state; as public employees already have similar flexibility for sick time usage provided in the *Nevada Administrative Code*. An employee's use of sick time to assist a family member would be subject to the same conditions as when the employee takes sick time for their own illness—meaning things like how notice is given, whether a doctor's note is required, et cetera.

Subsection 2 allows an employer to limit the amount of an employee's sick leave that can be taken to assist a family member, but provides that the employee should be allowed to use at least one-half of their yearly sick leave amount for family medical purposes.

Subsection 3 requires the Labor Commissioner to prepare a bulletin about the requirements, and post the bulletin on the Internet and in a conspicuous location in each workplace. My understanding is that this requirement is comparable to, or the same as, the requirements for posting information about other wage and hour laws in Nevada.

Subsection 4 provides that employees will still have access to other benefits, rights, or remedies as may be provided by their employer or by law. Essentially, this bill is meant to be a floor and not a ceiling on employee sick leave rights. Specifically, this subsection mentions that this bill will not extend leave available under the federal FMLA—how employers provide and treat FMLA leave is not touched by this bill.

Subsection 5 prohibits an employer from retaliating against an employee for using existing leave as allowed by this bill. The logic here is that if an employee has certain employment

rights, he or she should be able to use them without fear. This is similar to another section of Nevada law that makes it unlawful to terminate an employee for using leave to attend a child's school-related activity.

Subsection 6 states that this bill does not apply to the extent that it is prohibited by federal law. For example, federal law exempts certain railway employees from certain state employment laws. Those employees would fall under the prohibition here. Similar language was included in bills in other states that have passed in recent years.

Subsection 7 defines the "immediate family" for whom an employee's sick leave may be taken; namely a child, spouse, domestic partner, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent of an employee.

Finally, sections 2 and 3 of the bill outline the enforcement mechanisms for this bill, including setting forth penalties for the violations. It is my understanding that these sections simply put the bill on equal footing with other wage and employment laws in the NRS when it comes to enforcement.

Lastly, I would like to thank the Committee for considering this bill and reiterate what a help it would be for the working family caregivers in Nevada. I would like to turn it over to my colleague, Barry Gold, the Associate State Director for Advocacy for AARP Nevada who will discuss what A.B. 90 would mean for working caregivers in the state.

**Barry Gold, Director, Government Relations, AARP Nevada:**

You have heard that every day more than 350,000 Nevada residents care for parents, spouses, or other loved ones, helping them live independently at home and in their communities—where they want to be. Being able to remain at home is often made possible by a family caregiver, thereby preventing premature institutionalization at a much higher cost for everyone.

These family caregivers take on huge responsibilities that can be overwhelming and challenging. The majority also juggle full- or part-time jobs. Older workers, and especially older women who are the most likely to have caregiving responsibilities, are a growing part of the workforce. Women now account for a much more significant portion of their family's income, so their jobs and the stability of that income are even more important than ever before. On average, lost income and benefits for family caregivers over the age of 50 due to providing this essential care to their loved ones is \$303,880 over a caregiver's lifetime. This is a terrible consequence for taking care of your family members.

This bill does not require, create, or add any additional time off than what employers currently offer. This bill will also require workers who are family caregivers to use any earned and accrued sick leave for caregiving purposes within company policy. The language clearly states, ". . . the employer must allow an employee to use any accrued sick leave to assist a member of the immediate family of the employee who has an illness, injury, medical appointment or other authorized medical need to the same extent and under the same

conditions that apply to the employee when taking such leave." That is clear and concise. If you work for an employer that does not currently have sick leave and you do not earn sick leave, this bill does not apply to you.

The opposition may say that employees will abuse this. Well, there will always be some employees that abuse sick leave. However, we are talking about family caregivers who have spent countless hours providing necessary and critical care to their loved ones. These are good people who just may need help to keep their jobs and provide care. This bill really enables family caregivers to be open and honest and tell the truth. You will hear from caregivers who have had this flexibility and what a tremendous difference it makes to them; both in providing care and how it allowed them to be a better and more productive employee. As an employee, they will tell you how they did not abuse it—as a supervisor, they will say their employees did not abuse this flexibility.

The opposition may also say the definition of who these family caregivers can use this sick leave flexibility for is far too broad. The language clearly limits this to parents, including mother-in-law, father-in-law, stepparents, children, grandparents, grandchildren, and domestic partners. This is the new reality of who immediate family is.

Rosalyn Carter, who founded a nationwide caregiving institute has a very famous quote: "There are only four kinds of people in this world—those who have been caregivers, those who are caregivers, those who will be caregivers, and those who will need caregivers." Caregiving is what defines humanity. It is who we are—we care for each other and our families.

Nevada's family caregivers deserve this flexibility to care for their loved ones without sacrificing the financial security of their families. You should not worry about losing your job because you have to take your mom to the doctor or hospital.

On behalf of the 348,000 AARP members across the great state of Nevada, I strongly urge you to support this bill and help family caregivers and those they care for.

**Chair Spiegel:**

Thank you, Assemblywoman Bilbray-Axelrod, Mr. Fewkes, and Mr. Gold; that was a great presentation. First I have a question, then I will open it up to the other Committee members. Looking at section 1, subsection 7, does this bill contemplate that there are people who have foster children or others for whom they are legal guardians? Would this bill apply to those who would otherwise fit within the confines of this definition?

**Assemblywoman Bilbray-Axelrod:**

That was an incredible oversight by us; thank you so much for bringing that up. We would absolutely be amenable to adding in an amendment for that.

**Assemblyman Yeager:**

This may be a question for legal. In looking at section 3, regarding the criminal penalties and an additional civil penalty of \$5,000, the way it is written says "person." Are we talking about the corporate person or is this something that would capture individuals who are employed in making the determination? I know this is in NRS Chapter 608, but I am not as familiar with that chapter in terms of who would actually be the one guilty of a misdemeanor or paying a \$5,000 fine.

**Glen Fewkes:**

We would have to go back to see how that is defined in Nevada's wage and hour laws. This bill would go under NRS Chapter 608, which already contains many of Nevada's wage and hour laws. The penalty provision here would simply put this bill on the same footing, as far as enforcement goes, with the rest of those wage and hour laws, so it would be treated exactly the same. I think it would be out of the ordinary to add a requirement to NRS Chapter 608 here and have it not be subject to the same level of enforcement. As to the personhood, I would assume obviously that includes corporate employers—and to the extent an individual was acting as an employer, I would imagine it would include that as well. That would be a question for legal.

**Wil Keane, Committee Counsel:**

The term "person" is not defined in NRS Chapter 608, so we would have to look to the Preliminary Chapter, NRS Chapter 0. In NRS 0.039, a person is defined as a natural person or any sort of corporate entity, except for a governmental entity. Governmental entities are specifically excluded. All other entities, corporations, firms, natural persons, and the way this provision is written, it would apply to the person who caused the violation. That could be a natural person or the company.

**Assemblywoman Tolles:**

Thank you for bringing this bill forward. It has been a personal privilege, and I particularly appreciate the intention of this bill. This summer during an interim committee meeting I had to rush out of my official legislative business to attend to my father-in-law who was rushed to the emergency room. If I may, I would like to thank the Chair of this Committee for saying very specifically "family first," and releasing me to leave so I could care for my father-in-law. I really appreciate the intent of this bill. I cannot imagine there would be any objection, because I do believe you have written it with businesses in mind. Are there any kinds of protections, for example, if you were an employer and you had an employee who said they were leaving to go take care of a family member, but later saw posts on social media that they were doing anything but that, and trying to use this provision fraudulently?

**Assemblywoman Bilbray-Axelrod:**

We actually were very careful to write that whatever the current policy is for employee sick leave would remain the same. Whether that requires a doctor's note, or sick leave is taken and it is found out to be lie—that would be within their realm as well.



**Chair Spiegel:**

Are there any additional questions from any Committee members? [There were none.] Is there anyone in support of A.B. 90? We will go to Las Vegas first.

**Barbara Paulson, representing Nevadans for the Common Good:**

Since the onset of our organization, we have supported issues that support those who are ill, disabled, or are seniors, in any issue that can help them stay in their home and remain as independent as possible. We supported passage of the CARE Act in 2015, and we are very much in support of A.B. 90. I submitted longer testimony ([Exhibit C](#)), but I just want to go over a few things.

We know that many caregivers are under a lot of stress, and one of those stresses is financial. By giving them the flexibility, it may help them from having to make very difficult changes that would jeopardize their income or the amount of financial security their family has—at a time when they may be carrying a heavier financial burden. I personally helped with caregiving for my father for a number of years. I was working and was very fortunate to be in a situation where I could take time off to take him to the hospital, or if I was called home suddenly to help with something. I cannot tell you how much of a difference it made in my life to be able to continue to work on my career, but provide that kind of care for my father. Caregivers who are employed need this flexibility. It really reduces their financial insecurity and some of the stress they carry during this time of being a caregiver.

**James P. Kemp, representing Nevada Justice Association:**

We are in full support of A.B. 90. The Nevada Justice Association members represent Nevada employees in employment matters. They know how important it is to the economic security and peace of mind for employees who need to be able to have time off to take care of immediate family members who are ill or elderly, or very often both. Assembly Bill 90 is an excellent provision to help Nevada's employees in that respect—to allow employees to use their accrued sick leave and take time off work to do so. As a small business owner myself, I am also in full support of A.B. 90. I have two employees who have both been with me for about a decade and earn 15 sick days per year. Under A.B. 90, they would be able to use about half of that per year to care for immediate family members. I think this is an excellent provision.

**Assemblyman Edwards:**

Based on the current proposal, does this add any new fines to the employers?

**James Kemp:**

Enforcement is provided through NRS 608.005 to 608.195, as you can see in section 2 of the bill. That provision provides for the fines and remedies that are available, and it is enforced by the Labor Commissioner. The Labor Commissioner would go in and determine what remedies were available and what fines might need to be imposed. With regard to fraud by an employee, this would not affect company employment policies on dishonesty. If an employee came in and was fraudulent and abused the provisions of this section, I think they would be well within their rights to impose a discipline on them. I do not think the Labor

Commissioner would want to impose any kind of penalties or remedies against an employer who was protecting itself against a dishonest employee.

**Donna Clontz, Private Citizen, Reno, Nevada:**

I am an active senior advocate and volunteer here in northern Nevada for several senior groups and programs. I am representing myself today, based on my own training and experience with caregiving. I support A.B. 90 and encourage the Committee to pass it. It is a very important bill for thousands of Nevadans who are caregivers for their family members.

I was a caregiver for my mother while I was working. I was fortunate that my employer's annual leave program allowed me to take time off to help my mother with medical appointments and other needs. She needed 24/7 care at the end of her life. We had paid caregivers helping her, yet I was able to use some leave at that time.

The extra time a worker gets by using earned sick leave for family caregiving can make all the difference in critical times like these. Paid leave is an important benefit that many workers value; allowing them to use just a portion of it for family caregiving makes that benefit even more valuable to the workers and their families. It is a commonsense approach for our state and the growing number of seniors and other family members that are involved in caregiving today ([Exhibit D](#)).

**Mary Liveratti, Private Citizen, Carson City, Nevada:**

I learned the importance of caregivers when I was in my 20s. My mother had leukemia and died when she was 57 years old. My biggest lesson was that family caregivers need to advocate for their loved one through every step of our health care system. My father lived to be 95 years old—which meant that I had caregiving efforts that covered more than a decade. When my father was 86 years old, he had four surgeries during a six-month period. My stepmother, who was 81 years old at the time, was overwhelmed by his care. My parents lived in California, but I was able to take time off from work to stay with them and help with my dad's recovery and transition from the hospital. Fortunately, I worked for the state of Nevada, which had policies in place to enable me to use my earned sick leave to take that time to care for my father. I was able to travel to their home where I slept on a couch, next to my dad's hospital bed in their den—this allowed my stepmother to sleep through the night and get the rest she needed. As my father entered his 90s, his wish was repeated over and over again that he desired to stay in his own home until he died. It was not always easy, but fortunately for my family, with unpaid help and paid help, we were able to keep my dad at home where he died peacefully surrounded by his loved ones.

I was also a supervisor for the state of Nevada; I had many employees during my 30 years that needed to take sick leave to take care of a loved one. I just want to say that they complied with our personnel policies, they did not abuse this time, we were flexible, and they were able to do their work, as well as take the time to take care of a loved one. I urge you to pass A.B. 90 so that other family caregivers have that same opportunity.

**Michael Hackett, representing Nevada Public Health Association:**

We are here in support of this bill. On a personal note, many years ago I found myself in a situation which this bill addresses. I was fortunate that my employer was understanding and accommodating of my needs. On behalf of myself personally, and the Nevada Public Health Association, we urge your support of this bill.

**Connie McMullen, Private Citizen, Reno, Nevada:**

I am here representing myself today. I have been the owner of Senior Spectrum Newspapers, Inc. in northern Nevada for the past 25 years. My husband contracted pancreatic cancer two years ago, and I was lucky because I was self-employed and could set up shop right next to his bedroom where I was able to take care of him. About 30 years ago, I was a broadcaster in Reno and I had three children. I was not allowed to leave my job to take care of my daughter, who was in preschool. I was told either I decide to be a news director or a mother—I chose to be a mother. That was a choice I made, but I would really like to see other people not have to make that decision when they have to take time off.

**Brian Wachter, Senior Vice President, Retail Association of Nevada:**

The Retail Association of Nevada is in favor of A.B. 90, for a lot of the same reasons Mr. Gold brought up. First, it does not mandate a new program. The author was very careful and we appreciate the fact that it allows an employer to continue to use their own sick leave policy. For the vast majority of our members, it is an employee versus employer conversation and we think that is ultimately where most of these contract decisions need to be made. We do think allowing the use of already accrued sick leave for this purpose is an intent that we can get behind.

**Fred Ranney, Private Citizen, Reno, Nevada:**

I am one of the 350,000 family caregivers in Nevada. I am a retired educator and retired Army staff sergeant for the Nevada National Guard and Montana National Guard for 22 1/2 years. I am the family caregiver for my wife who has multiple sclerosis (MS). I am here to speak in favor of A.B. 90. I have three examples from my experience with facts considered in this bill.

First, I worked as a program director for a small company in Reno. My father had just passed away and I was the medical power of attorney for my mother. I had to take the time off to take her to medical appointments—I knew I was missing the time. As a result, I went to work one day and all of my stuff was on top of my desk, in a box. The owner of the business said "you need to take your stuff and go home." I asked her why? I never got a reason. To this day, I have a feeling it was because I was taking the time off with my mother. My wife happened to work at the same company and she was fired at the same time—when I was working she was home taking care of my mother.

We moved to Ohio where my wife was diagnosed with MS. I was working for a private college and I was able to use my sick time to take her to medical appointments. There was no problem, and I appreciated the opportunity that the college gave me to support my wife and be there with her, so I would understand everything that was happening to her.

In 2013, when I turned 65, we made the decision that I would retire. I was working full-time, 10-12 hours per day, taking care of her the rest of the time. I retired to become a full-time caregiver to my wife. I urge you to vote in favor of A.B. 90.

**William Ledford, representing Lutheran Engagement Advocacy in Nevada:**

We lend our support on the basis of our social status as a church. We see this as a bill offering needed help to lower income people who, when these kinds of situations arise, cannot afford alternative sources of caregiving. The situation where someone might have to choose between losing their job, neglecting their family who is in need, or driving themselves further into poverty, is not a decision they should have to make—this bill offers a way out of that. The Lutheran Church stands behind families of all shapes, people with financial struggles, and we see that this bill supports all of those things.

**Lawrence J. Weiss, President, Center for Healthy Aging:**

I support everything that the previous presenters have said and support A.B. 90. My fiancé went through an experience with her employer where she was fired because she took too much time dealing with her mother's death. She was actually picking out a casket when she was fired. I have done some research with Washoe County employees about the elder care responsibilities and needs. I discovered that by not allowing their employees time off to handle elder care responsibilities, it cost the county \$1 million in lost productivity. Therefore, it would be a benefit to the employers as well.

**Elisa Cafferata, representing Planned Parenthood Votes Nevada:**

We support this bill. We have a long history in this building of supporting access to health care and the wraparound services that make that possible.

**Chair Spiegel:**

Is there any opposition on this bill?

**Mendy Elliott, representing the Reno Sparks Chamber of Commerce:**

I have a question for legal. On the fiscal note, it says "Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility."

**Assemblywoman Carlton:**

If there is a fine or imprisonment, we typically do not add a fiscal note, because that is the State General Fund and public safety responsibility. The zero fiscal note that is from the Labor Commissioner would be for the postings of the flyers, and those would be included in their budget. They could come back and ask for a work program on that. They are usually fairly minimal; that is the reason they would have submitted a zero—because it is going to be inconsequential to their budget.

**Mendy Elliott:**

Is an employer subject to jail?

**Wil Keane:**

Legal will put the fiscal note for local government any time there is an expansion of an existing penalty. The penalty is in the bill—you can see it in section 3, where it provides for a misdemeanor. It is just a general misdemeanor, up to six months in jail or not more than a \$5,000 fine.

**Mendy Elliott:**

You answered my question—an employer could be subject to a six-month jail time. I was trying to go through the statutes and understand the applicability that there was potential jail time for an employer.

I want to thank Assemblywoman Bilbray-Axelrod for meeting with us. We are opposing subsection 7 of A.B. 90 which expands the definition of family from the FMLA definition of a spouse, son, daughter, or parent—to a child, spouse, domestic partner, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent or stepparent of an employee. We feel that definition is rather broad. We also would be hopeful that this bill would be applicable to those small businesses that have 50 employees or greater. Employees are the lifeblood of small businesses. It is a partnership when you have 2, 3, 5 or 10 employees; and for a small business, it needs to be a team effort. Most employers will certainly be responsible and thoughtful when it comes to their employees. We are prepared to work with the bill sponsor, and we hope we can develop a friendly amendment to mirror FMLA's definition of family. Most of the people that came up here said their parent, their spouse, their child—we understand that. We think the broadening of the definition could be problematic for businesses. We appreciate the work of the Committee during the interim session.

**Assemblyman Kramer:**

This bill does have an out for someone that does not like it. If you have a business and do not want to abide by these rules, just do not offer sick pay. I do not know whether many would do that, because right now competition for labor is such that you need to have benefit programs. If an employer felt uncomfortable with that, just drop the sick pay program.

**Mendy Elliott:**

That was a subject at the public policy committee. There were two concerns: 1) employers may drop some type of sick leave in order to avoid the elements of this bill; and 2) if they were considering some type of sick leave policy that they may not engage it. I agree with you, and I think from the Chamber's prospective, they were trying to make sure that our employer/employee relationship continues to be positive.

**Assemblyman Daly:**

When it refers to the misdemeanor portion of the section, and there is a whole list of violations that the Labor Commissioner has, it is my understanding that the Labor Commissioner does not have the ability to issue a citation or implement any kind of criminal activity on the misdemeanor side. The most the Labor Commissioner could do would be to report it to the office of the district attorney, or the person who would have prosecutorial jurisdiction, and then they would have to prosecute the case. Is my understanding correct?

**Wil Keane:**

Section 2 of the bill lists the people who can take the action. If you look at subsections 1, 2, and 3, those are the people who could prosecute the misdemeanor. I would note that in subsection 2 of section 2, page 3, they identify the Deputy Labor Commissioner. *Nevada Revised Statutes* 607.050 provides for the Deputy Labor Commissioner to potentially be an attorney who can actually bring the criminal cases on behalf of the Labor Commissioner. Generally speaking, the Labor Commissioner would not bring the prosecution him- or herself, and it would be the district attorney or the Attorney General.

**Assemblyman Daly:**

I have never seen it happen. I have seen a lot of the other things that the Labor Commissioner normally deals with, and never experienced that.

**Assemblywoman Carlton:**

If I remember correctly, in all the testimonies I have heard about small business, Nevada is 75 to 80 percent small businesses, which is businesses under 50 people. Is that correct? So your proposal is to make this bill not effective to 75 to 80 percent of the employees that could be impacted by this. If that is your opposition, I have concerns about that. To exempt that many people from this type of protection I do not believe would be the best avenue for small business. In my own experience, you become a better employee when you know your family at home are doing well. When they are in the back of your mind all day while you are working, you are not as good of an employee. I would have concerns about taking 75 to 80 percent of the people we represent out of a bill that is really good for taking care of your family.

**Mendy Elliott:**

It is 75 percent of our economy; you are accurate.

**Assemblywoman Neal:**

You stated there were conversations that some businesses may want to drop their leave or remove it, I am curious as to why. Is it the existing leave that would be available or allowing other family members to participate? It would be interesting to find out if they would rather have an employee who cannot function and go home, versus one who would try to figure out how to manage their affairs, use the time wisely, and schedule appointments based around whatever sick time they may have. Would they get rid of the sick time rather than go forward with a program like this?

**Mendy Elliott:**

There were no specifics. I can certainly respond back to the Committee. There was a concern with a multitude of members of the Chamber that either an employer may not develop a sick leave policy or could cancel a sick leave policy, as Assemblyman Kramer alluded to. We did not have a chance to do any polling of the membership, but I could get back to you with respect to some type of additional response.

**Assemblywoman Neal:**

Yes, that would be interesting. If their goal is to get rid of the sick leave policy and find someone who has a healthy life and a healthy family, they will run out of employees.

**Chair Spiegel:**

If you can get back to us with that information, that would be appreciated. Just as an editorial comment, as we were talking about the broadening of immediate family, I was thinking about my own family and some things that have been going on. My mom has been ill and undergoing treatment and my ex-sister-in-law takes my mom to her medical appointments. She would not be covered by this, but it just made me think of how families are different, and today's families are not the same as they were in days gone by. We all want the best for our family members. Where you are thinking that it is too broad, there are instances where real families are affected by people who are not even covered by that definition.

**Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce:**

We appreciate the thoughtful dialogue that has been occurring today, and we respect the conversations being brought forward by the bill's sponsor. As the Chamber, our employers employ approximately 230,000 Nevadans, and we definitely understand the importance of the bill. The Las Vegas Metro Chamber of Commerce is the largest in the state—we have multiple industry sectors and sizes of businesses. Both our larger members and smaller members have specific concerns. We have spoken with the bill's sponsor, and you do have our commitment to try to mitigate those concerns.

**Chair Spiegel:**

Is there anyone with neutral testimony?

**Katie Roe Ryan, Director, Public Policy, Dignity Health-St. Rose Dominican:**

We remain neutral based on today's testimony and our ongoing discussions with Assemblywoman Bilbray-Axelrod and AARP, and we really want to thank them for their flexibility and patience with us for working to clarify some of the bill language.

**David Boire, representing Children's Advocacy Alliance:**

We support this bill.

**Chair Spiegel:**

Do the presenters of this bill have any final comments?

**Assemblywoman Bilbray-Axelrod:**

I just wanted to address a couple of things that came up. Thank you very much, Assemblywoman Carlton, for bringing up the 50 employees. Chair Spiegel, thank you for the definition of family. One of our colleagues wanted to be here, Assemblywoman Backus, as she was a caregiver for a long time for her father-in-law. We all have stories and it was remarkable to me how every person came up and had a personal story about being a

caregiver. I would also like to thank my surprising but new ally, Mr. Wachter. I think he made the point that most businesses now are moving on to personal time off. If you want to stay home and binge-watch Netflix for the day for your mental health, then you can go ahead and take that as personal time off.

**Barry Gold:**

I want to thank the Committee for hearing this bill. I think it is an amazing coincidence that there are 348,000 AARP members across the state and there are about 348,000 family caregivers in this state.

**Chair Spiegel:**

Are there any final comments from members of the Committee? [There were none.] [A letter in support of Assembly Bill 90 dated December 26, 2018, from the Nevada Silver Haired Legislative Forum, was submitted by Barry Gold prior to the meeting ([Exhibit E](#)). A document in support of Assembly Bill 90 titled "Support AB90 to Help Nevada's 350K Caregivers" was submitted by Barry Gold prior to the meeting ([Exhibit F](#)). Letter in support of Assembly Bill 90, submitted by Diane Ross, CEO, The Continuum ([Exhibit G](#)).]

We will close the hearing on A.B. 90. Is there any public comment? Seeing none, we will be adjourned for today [2:35 p.m.].

RESPECTFULLY SUBMITTED:

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Karen Easton  
Committee Secretary

APPROVED BY:

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Assemblywoman Ellen B. Spiegel, Chair

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



## EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is written testimony submitted by Barbara Paulsen, NCG Leader, Nevadans for the Common Good in support of Assembly Bill 90.

[Exhibit D](#) is written testimony dated February 22, 2019, submitted by Donna Clontz, Private Citizen, Reno, Nevada in support of Assembly Bill 90.

[Exhibit E](#) is a letter dated December 26, 2018, from John A. Yacenda, Forum President, Nevada Silver Haired Legislative Forum in support of Assembly Bill 90, submitted by Barry Gold.

[Exhibit F](#) is a document titled "Support AB 90 to Help Nevada's 350K Caregivers," in support of Assembly Bill 90, submitted by Barry Gold for AARP Nevada.

[Exhibit G](#) is a letter dated February 21, 2019, submitted by Diane Ross, CEO, The Continuum in support of Assembly Bill 90.