

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Eightieth Session
April 9, 2019**

The Committee on Government Affairs was called to order by Chair Edgar Flores at 8:35 a.m. on Tuesday, April 9, 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:

Assemblyman Edgar Flores, Chair
Assemblyman William McCurdy II, Vice Chair
Assemblyman Alex Assefa
Assemblyman John Ellison
Assemblywoman Michelle Gorelow
Assemblyman Gregory T. Hafen II
Assemblywoman Melissa Hardy
Assemblyman Glen Leavitt
Assemblywoman Susie Martinez
Assemblywoman Connie Munk
Assemblyman Greg Smith

COMMITTEE MEMBERS ABSENT:

Assemblywoman Shannon Bilbray-Axelrod (excused)
Assemblyman Richard Carrillo (excused)
Assemblywoman Bea Duran (excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Jason Frierson, Assembly District No. 8
Assemblyman Steve Yeager, Assembly District No. 9



STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Asher Killian, Committee Counsel
Connie Jo Smith, Committee Secretary
Trinity Thom, Committee Assistant

OTHERS PRESENT:

Jorge Padilla, Intern for Assemblyman Steve Yeager
Dylan Shaver, Director of Policy and Strategy, Office of the City Manager, City of Reno
Jordan Ross, Constable, Laughlin Township, Laughlin, Nevada
Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department
Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association
Mary-Sarah Kinner, Government Affairs Liaison, Washoe County Sheriff's Office
Mike Sherlock, Executive Director, Peace Officers' Standards and Training Commission
Lenora Mueller, Notary Administrator, Office of the Secretary of State

Chair Flores:

[Roll call was taken and Committee rules and protocol were explained.] We will take the agenda out of order and start with Assembly Bill 416.

Assembly Bill 416: Revises provisions relating to the collection of delinquent fines, administrative assessments, fees or restitution. (BDR 14-429)

Assemblyman Steve Yeager, Assembly District No. 9:

It is an honor to present Assembly Bill 416. Presenting with me this morning is my intern, and soon-to-be William S. Boyd School of Law student, Jorge Padilla. Many of you have met him in the building, and after I make some remarks, I will turn it over to him for some additional remarks.

Assembly Bill 416 originates from an interim committee that I chaired this past interim. The interim committee was created as a result of the adoption of Assembly Concurrent Resolution 9 from the 2017 Session. What that legislation did is create a study to look at the advisability and feasibility of treating certain traffic and related violations as civil infractions. Many states treat minor traffic infractions as civil rather than criminal offenses. In fact, all of our neighboring states do that. Nevada, however, treats them as criminal offenses. For example, if you get a speeding ticket in Nevada, that is a criminal misdemeanor that could carry up to six months in jail. It is the same thing with running a red light or rolling through a stop sign. Any moving violation is a criminal misdemeanor. Parking tickets are not because those are nonmoving.

Our interim committee included six members of the Legislature—three from the Assembly, three from the Senate. Four of the members were from the Las Vegas area, and two were from more rural parts of our state. The committee met five times in the interim and ultimately voted to advance four bill drafts. One of those four bill drafts seeks to change the system from criminal to civil. That is not the one in front of you today. We heard that particular bill in the Assembly Committee on Judiciary last week.

The other three bills seek to improve the criminal process. So if for some reason we are not able to transition to a civil system, or if we have to delay the implementation, these three bills, including A.B. 416, seek to make some changes to how we handle criminal traffic infractions in our state. We have heard the other three bills in the Judiciary Committee. One of them has passed out of committee, and I am hopeful the other two will get work sessions this week. Let me tell you what this bill does, and then I will hand it over to Mr. Padilla for some comments. After that, we will try our best to answer questions.

The bill itself is not overly complicated. Thankfully, it is a rather short bill. Section 1 of the bill indicates that any fine or fee owed by a defendant pursuant to *Nevada Revised Statutes* (NRS) 176.064 in justice court or municipal court is deemed to be uncollectible if it has been impossible or impractical to collect after five years. That is the way the bill is written. As it stands now, there is no uniform standard for when a fine or fee is uncollectible. Some courts have administrative orders where they wipe infractions off their books after a period of time—some do not. Mr. Chair, I should note that I have a conceptual amendment (Exhibit C), and I apologize for that because I know you are not a fan of conceptual amendments—nor am I. Given how late we are in the session, I did submit a conceptual amendment and, in this particular section, that would extend the time frame from five years to seven years. In thinking about this, I thought it made sense to align the time period with essentially the time period where something stays on your credit report, which is seven years. I think it gives the local governments two additional years to try to collect the fees. The conceptual amendment also specifies that the clock would start running once the fine or fee is assessed. Once the court determines that you owe, that is when the seven-year clock would start.

Section 2 of the bill deals with how local governments can seek to collect delinquent fines and fees. It removes the ability to report the delinquency to a credit reporting agency. The reason we are doing that is there is already a consent decree between the credit reporting agencies and the state of New York. At one point, the state of New York instituted an action against the credit reporting agencies saying it was not lawful for them to report delinquent fines and fees as a result of traffic infractions on credit reports. The credit reporting agencies agreed and signed a consent decree saying that they would not do that. For all intents and purposes, credit reporting agencies are not reporting delinquent traffic fines and fees. That language still remains in our statute and was in our statute before the consent decree between the agencies and the state of New York. I have confirmed with our local jurisdictions, particularly the City of Las Vegas, that they do not report these to credit reporting agencies. We are just looking to remove that provision to align with what has become de facto federal law under the New York Attorney General's consent decree.

Section 2, subsection 3, paragraph (b) also removes the ability of the local government or the court to ask a prosecuting agency to undertake collection efforts through garnishment or attachment, because that never happens in the real world. Prosecutors are not in the business of collecting delinquent payments, nor should they be. They are the prosecuting agency. This is something that collection agencies are doing on behalf of the court. In speaking with some of our local courts, they do not do this. They send the cases to collection and do not ask the local prosecutor to get involved. We are taking that section out.

Section 2, subsection 3, paragraph (d) requires that the court make a finding that a person has money to pay—meaning the person is not indigent, not poor, and is not willfully avoiding payment before someone can be put in jail for not paying fines and fees. This really is the case law. We do not have a debtors' prison in our state, but we want to make it very clear in the bill that if a court is looking to incarcerate you for nonpayment of traffic fees and fines, they have to make a finding that you can actually pay and are essentially thumbing your nose at the court.

Section 2, subsection 3, paragraph (c) also removes the ability to suspend a driver's license for delinquent fines and fees. The bill itself entirely removes that option. In my conceptual amendment ([Exhibit C](#)), I am restoring the option to suspend a driver's license, but it has to be limited to actions where the person has money and is willfully not paying. So your license can be suspended, but it has to be as a result of your making a conscious decision not to pay when you have the funds. In addition, I put in some guidance for the court in terms of how to determine whether someone is indigent and cannot pay. There is some additional language with four subsections which comes from another one of these traffic bills that we put that language in, and I thought it made sense to put it in here too.

Sections 3 and 4 of [A.B. 416](#) make conforming, technical changes—nothing major. With your permission, I would like to turn it over to Mr. Padilla to talk about the importance of the provision in section 2, subsection 3, paragraph (c) that eliminates the ability to suspend a driver's license for delinquent fees and fines unless the person has the money and is willfully not paying. With your permission, Mr. Chair, after that we would be open for any questions.

Jorge Padilla, Intern for Assemblyman Steve Yeager:

I am an intern for Assemblyman Yeager and also a constituent of Assembly District No. 8. I will be focusing on section 2 of the bill; more specifically, section 2, subsection 3, paragraphs (c) and (d). Existing statutes allow the courts to suspend the driver's licenses of individuals who have overdue and delinquent fees. The suspension of a driver's license, or a better phrase for it, the license-for-payment system, is an oppressive way for courts to force payment of a delinquent fee. This makes the practice of the system broken, and I believe it makes it unconstitutional. The license-for-payment system creates a divide between the low-income driver and the wealthy driver. For some, paying off these delinquent fees is as simple as writing a check, but for the low-income citizen who lives paycheck to paycheck, this fee is near impossible to resolve and makes citizens choose between paying for their delinquent fees and paying for their basic necessities.

The vicious cycle is simple. I have a friend whose name happens to be Steve. Steve is speeding to the donut shop to pick up his order and gets pulled over for speeding. He gets a ticket; thus he eventually receives a delinquent fee. Steve makes a minimum wage of \$7.25 an hour and lives paycheck to paycheck paying off the rest of his monthly bills. Therefore, Steve cannot pay his delinquent fee by the deadline and gets his driver's license suspended. However, Steve continues to drive even without a driver's license because he has no money for public transportation and still needs to maintain his job. He gets pulled over again and now gets a ticket for driving with a suspended driver's license. Steve continues to drive with a suspended driver's license so he can make it to work until one day he gets sentenced to jail time. Finally, Steve is out of jail, but now he has no driver's license, no job, more delinquent fines, and a conviction on his record. I just want to make it clear that even this situation is too perfect. What if Steve had children? What if he had pets?

The laws that exist now may violate a citizen's constitutional right to equal protection. Nevada law should not perpetuate a gap between low-income citizens and wealthy citizens. Deleting current statutory language in section 2, subsection 3, paragraph (c) will end the unjust license-for-payment system. Even more, current law violates a citizen's right to due process. Citizens should be granted their right to due process and be given the opportunity to establish their inability to pay for their delinquent fines. Therefore, section 2, subsection 3, paragraph (d) amends *Nevada Revised Statutes* 176.065 and 176.075 to include a court's determination of a citizen's ability to pay the amount due.

The conceptual amendment adds due process to protection for Nevada citizens and will ensure that the individuals who get their driver's licenses suspended are those who are actually able to pay for their delinquent fees but are willfully refusing to pay. Currently, Louisiana, New Hampshire, Minnesota, and Oklahoma are the only four states who require evaluation of the ability to pay, and there is no reason why Nevada has not taken this step in the right direction. We hope you pass A.B. 416 and provide the same protections for Nevada drivers as drivers in Louisiana, New Hampshire, Minnesota, and Oklahoma. We are open to any and all questions.

[([Exhibit D](#)) was submitted but not discussed.]

Assemblyman Hafen:

I have some concerns with this bill and the presentation that was given. I apologize in advance. I believe everyone in this room knows my father was severely paralyzed by a reckless speeder. I believe that driving in this state is not a right—it is a privilege. Every action that a person takes behind the wheel has a consequence. If you are speeding down the road, you are infringing on everyone else's rights whether they are walking to the donut shop because they lost their driver's license or because there are other drivers. So I have concerns when you are talking about not making people responsible for their actions. And if I understand you correctly, you are saying that if they cannot afford to pay the ticket, they can still drive to the donut shop and have their fees and fines forgiven. Is that correct?

Assemblyman Yeager:

I do not want to give the impression that this bill eliminates accountability. If this bill were to pass, a judge could still incarcerate someone for six months for speeding, given the circumstances of the case. This bill seeks to address the situation where someone has become delinquent in the payment of fees and fines that were assessed. At that point in the case, the judge would have to make a determination as to whether the person could actually pay those fees and fines. This bill says that if a person is indigent, meaning they actually cannot pay, a judge would not be able to incarcerate or suspend a license merely for the nonpayment of delinquent fees and fines. Every other option at the court's disposal would still be there, including up to six months of jail, community service, and going to traffic school. This bill simply seeks to look at what we do when folks cannot pay because they do not have the money; we are talking fees and fines and not restitution. That is completely different. I do not want to give the impression that there is no accountability. There is still accountability, but this just looks at whether we are complying with what our case law states, which is that we do not have a debtors' prison. We do not incarcerate folks for their inability to pay. Hopefully that answers the question, but I am happy to take any follow-up questions you might have.

Assemblyman Hafen:

Is there a dollar limit in here that could be forgiven, or are we saying \$5,000 could be forgiven? Are we talking about just the minor \$100 or \$200 fees?

Assemblyman Yeager:

Our traffic laws are overly complicated but, for the most part, judges can waive or forgive fines in certain circumstances. However, there are infractions where a judge has no discretion to reduce the fines; for instance, one is driving without insurance. That is a mandatory fine that cannot be waived by the judge. It is typical in circumstances for a judge to convert some of that to community service, usually at the rate of \$10 per hour. When we start talking about court fees, which are add-ons to your fine, I think there is a difference of opinion among our courts in the state whether they can waive fees or whether they can convert that to community service. Some think they can; some think they cannot. This bill does not seek to change what the current structure and the law is for when a judge can waive or reduce any fines or fees. That would likely be up to the judge's interpretation and the relevant case law that sometimes allows for that and sometimes does not.

Assemblyman Leavitt:

What defines impracticable? When we are talking about willfully not paying a fine when you have the ability to pay that fine, who makes that determination and how is it made? It seems as though there would be a cost in trying to determine whether someone can or cannot pay a fine. Are we going to go through their bank account? Are we going to look at the car they drive? What goes into that? On that note, I think when we are talking about fines, for your example, Steve needs to stay away from the donut shop. He gets a ticket and an associated fine. Let us say that he did not get his driver's license taken away and he has a fine. Could a payment plan be set up that makes it impossible not to be able to pay? That is probably a better avenue than just saying, Hey, the statute of limitations on this is seven

years, so if you can dodge us for seven years, you are free and clear. Why do we not just set up a payment plan that works within Steve's budget so he can buy donuts and pay this fine?

Assemblyman Yeager:

I think there were three questions, and I will try to answer those. The first was about what impracticable means. That is up to the court but, generally speaking, courts will do the following: if someone is delinquent, the court will send it to a collection agency. The biggest courts in the state have contracts with collection agencies, and the collection agency will work to try to collect that. There is first-party collection and third-party collection. But the bottom line is if the collection agency is completely unable to contact the person or collect any money after a period of time, currently, the courts are just making a determination that we are going to wipe this off the books because all these existing warrants, fees, and fines are never going to be collected. I think the court could use that kind of standard, and I think they could determine, by court policy, when something is impracticable. Normally that just means efforts over a continued period of time with absolutely no success at finding the person.

The second question you asked was how the court would make a determination that you are willfully not paying. Currently, in these situations, if the court is looking at imposing jail time, for instance, the court would need to appoint counsel for that person. There is a financial affidavit that is filled out by the individual; the court could ask for additional proof. This ties into your third question about the payment plan. Payment plans are great. The court has the ability to do that now, and most courts offer a payment plan—but not all courts. Sometimes the default is that if the person does not show up or misses one payment, the entire amount at that point is sent to the collection agency, the driver's license is automatically suspended, and a warrant is issued for an arrest.

What we are trying to do is put a procedure in place where the courts around the state are on the same page—that they are actually making some kind of individualized determination. I think some courts are doing that already, but some are not. That is likely going to require the defendant to appear in court, and we just want to add that protection. I think the court, in receiving testimony from the individual and any other additional information, would be able to make the determination as to whether there is willful nonpayment. The court could also make the determination as to what an appropriate payment plan is because, as you say, some people can only afford \$5 a month. The court would, at that point, be able to make a determination as to how long they would want to keep the case open. If you have a \$500 fine and you are paying \$5 a month, that might be 20 years.

We want more judicial involvement in that process before the default is to issue a warrant or to send a person to collections. The bottom line is, I think some courts are doing it well, but there will have to be some procedures put in place to make sure that all courts are complying with this bill—if it passes.

Assemblyman Ellison:

Most justice courts allow for payments to be made, and they are successful in collections. If someone has high fines, and the reason they are getting fines is from lack of insurance, where would that fall? The reason for that is it is a safety issue for the public.

Assemblyman Yeager:

I want to thank you, Assemblyman Ellison, because you were on the interim committee, and I think you were faithfully at all the meetings and asked good questions, so thank you for your service over the interim.

Lack of insurance is kind of unique in our statute. As I mentioned, a judge is not able to reduce or waive a fine for lack of insurance—that is one of the few instances where a person has to pay it. The way I envision this bill working is exactly as you say. A court could give payment plans; a court could allow for community service to be performed. What we are trying to prevent is the default being, We are going to suspend your license and issue a warrant for your arrest, in the absence of a finding that the person is willfully not paying. I do not think this bill is going to change, in a practical way, how we deal with someone who has no insurance. It is just going to put some additional protections for the defendant into statute. You may recall from the interim committee, I think our rural communities are doing a better job at this because the volume is less. We are having some difficulties in our two urban cores because of the huge volume of traffic tickets. Sometimes there is an accommodation given there for payment plans. Hopefully that answers the question, but I do not think we are going to make any changes with respect to that. Not having insurance is a serious offense and, obviously, as a state we suffer when there is an auto accident and someone does not have insurance. As taxpayers, we want to make sure we are doing everything possible not to condone driving without insurance.

Assemblyman Ellison:

I am glad you mentioned that. In the rurals, the courts allow for community service and a person works at the landfill, for instance, so that works out pretty well.

Assemblywoman Hardy:

Do you have an idea of how many fines, potentially, would not be paid with this legislation?

Assemblyman Yeager:

It is really hard to say. I think some of the local jurisdictions are likely in the room and could give you an estimate. What we found out through the interim committee, which is pretty interesting, is that in Las Vegas, both in justice court and municipal court, at some point due to nonpayment, they just wipe it off the books. When they get to that point, it is usually millions of dollars that are wiped off the books. I do not know that this legislation would increase that amount. Hopefully, what would happen is we would collect more because there would be an accommodation for payment plans or, if nothing else, we would get some community service done in our respective communities. We are not doing a good job as a state when it comes to collections. The amount of money being spent on collection agencies, and then looking at what is actually collected, I do not think that anyone who has

any business experience would continue to operate in the manner in which some of our courts are operating now. I do not know the precise answer to your question, but we are hoping to try to get some of that information and, again, I think this puts due process in. These are likely fines that would not be collected anyway, but we are trying to prevent suspension of driver's licenses and jail time for nonpayment when the person simply does not have the means.

Assemblywoman Hardy:

It would be interesting to see who would have that information of what we are not collecting and, potentially, if we would collect more or less. It would be interesting to see those numbers.

Assemblyman Yeager:

One other thing I wanted to mention that the Committee may not know is that our *Nevada Constitution* requires that any traffic fine for a state infraction—because there are local infractions and there are state infractions—goes to our state's school permanent fund. That is an account where we use the interest to fund education through the distributive school accounts. I can tell you unequivocally that I am interested in collecting as much and as many fine amounts as we can as a state because that is going to help us better fund our schools. Whatever we can do to put systems in place to make that happen is going to make our job easier in the future because that permanent school account continues to grow and grow. We do not take money out of that account, but we use the interest. And it has been that way since we started as a state. There is a lot of money in that account. The more we can get from fines for things like no insurance, no driver's license, no vehicle registration—those are state infractions—the better off we are all going to be as a Legislature and the better off our colleagues years down the road who are sitting in these seats are going to be.

Chair Flores:

Committee members, are there any additional questions? [There were none.] Is there anyone who would like to speak in support of Assembly Bill 416? [There was no one.] Is there anyone who would like to speak in opposition to Assembly Bill 416?

Dylan Shaver, Director of Policy and Strategy, Office of the City Manager, City of Reno:

I am here today in opposition to A.B. 416. I want to say from the get-go that we have no policy interest nor government interest in trying to extract blood from a stone. We understand there are people who cannot pay fines. We understand people whose life circumstances do not grant them the privilege that you or I may have and, because of that, we work very hard to make sure people who are indigent—people who do not have the means—have the opportunity to make the restitution that society deserves of them, while at the same time not being financially crippled by it. For example, our courts operate a specialty court system. We have a special indigent court. We actually have a homeless court where people can see a judge in a park. We set up court on folding tables. People can come and have their fines reduced—most of the time actually waived wholesale in

circumstances like this. We are not trying to go after folks to turn the indigent center into a profit center.

That said, we have serious concerns about how A.B. 416 is able to interfere with our ability to collect fines across the board. In the City of Reno, you have the option to plead guilty and pay your fines right away—about 15 percent of ticket recipients do that. Within two weeks we get their check, everything is cleared, everything is taken care of. It is our belief then that the remaining 85 percent of captured tickets would be written off under this measure, and that is troubling for us. With regard to the concerns expressed by Assemblyman Hafen, for example, we want to make sure that our drivers know that this is a privilege. Unfortunately, in the City of Reno, we have the same number of police officers that we had in 1991. What does that mean? It means that those police officers are spread pretty thin, and they are dedicating less time to traffic enforcement. What we cannot do is send the message that we are being lenient on traffic offenders, even above and beyond that. We simply do not have the resources as a municipality to put more police officers on the roads.

When we talk about the conceptual amendment brought to the bill, we do appreciate the sponsors seeking to restore the suspension of a driver's license as a penalty. But then putting the onus on the court to determine if the person has the ability to pay the amount due and is willfully avoiding payment—it is very difficult for us to determine somebody's willfulness in avoiding payment if we have not been able to interact with them. What is the difference between somebody willfully avoiding payment and somebody who just misplaced their ticket and forgot? We just have conceptual challenges with that as a concept.

Going back to the ability to pay, we appreciate having as many tools in our governance toolbox to make sure we are going after the people who should be paying and not unduly penalizing people. I want to make that very clear for a second time. Philosophically, this is an effort that we are supportive of because this bill attempts to give us more tools, but practically speaking, unfortunately, we must oppose.

Chair Flores:

Committee members, are there any questions?

Assemblyman Assefa:

You mentioned 15 percent of the citations that are issued are relatively easy to resolve, and 85 percent of them are not. How much time and effort do you spend in trying to collect the payments for those tickets?

Dylan Shaver:

It really depends on the nature of the fine, Assemblyman Assefa. As I said, we have specialty courts and diversion programs to help mitigate the severity of the penalties the drivers may face. Realistically speaking, our municipal court is not a huge operation. We are not talking about the Clark County Justice Court. Our effort to pursue that is actually resource-limited in the first place. Even if we wanted to track down every last fine, I will admit that we do not have the staff or contracts in place that would really help us do that

beyond the simple matters of the law like suspending somebody's driver's license—that is really the big hammer we have in our toolbox.

Assemblyman Assefa:

Does that usually bring people into compliance, or is that going to exacerbate the situation?

Dylan Shaver:

We find that is the most effective piece to bring people into compliance. As the sponsor said, we certainly have other options, including the visage of jail time. We rarely use that option—that is a little heavy-handed. We find the best way to bring people into compliance is to revoke that driving privilege.

Assemblyman Ellison:

One of the questions that came up during the interim committee quite a bit was from the rural justice courts in regard to the assessment fee that was collected. During the time of fines that were paid, an assessment fee paid for training and computer expansion. Actually, I think Las Vegas paid for almost all of their justice court with the assessment fees that were collected on fines and forfeitures. Would that have any impact on you whatsoever? I do not remember you testifying on that.

Dylan Shaver:

Regarding the court fees, you are at an advantage, Assemblyman Ellison. Where you participated in that interim process, I was a miner at the time. I cannot say what we may have spoken to at that time. I can tell you in my conversations with the municipal court, we believe it would pose an operational challenge to lose some of these fines and fees. Most of those funds go toward our specialty and diversion programs, so we would either have to find some other resource to fund those programs or eliminate them. I want to make it very clear that this is not something we want to do because of the tax law that has been in place in Nevada for 40 years. As local government, we do not have the ability to pursue financing elsewhere. We cannot adjust the property tax or the sales tax a little bit. What we do have the option to do is move things from one budget category to another during the normal budgeting process as any government could do, and that would have to be a decision for that time.

Chair Flores:

Is there anybody else wishing to come up in opposition to Assembly Bill 416? [There was no one.] We will move to the neutral position. Is there anyone wishing to speak in the neutral position for Assembly Bill 416? [There was no one.] I would like to invite our bill sponsor to make any closing remarks.

Assemblyman Yeager:

I think what we are trying to do with this bill is put some equity into how we treat traffic offenders. I am confident that if we get this right, collections will not be an issue as you have heard. The courts really struggle with collections as it is. I did not get into all those numbers but, if any of you are interested, I can shed some light on how much money is being spent on

collection efforts for how little revenue is being generated. I think we are trying to walk that line here. I will continue to work with Mr. Shaver and other interested parties to see if we can get this in shape to potentially be in work session this week.

I wanted to thank Mr. Padilla for presenting with me today. He has been a fantastic intern in my office. If you have not had a chance to get to know him and interact, please do. Your life will be better off for it. With that, Mr. Chair and members of the Committee, thank you for your attention and your questions. I urge your support of Assembly Bill 416.

Chair Flores:

I think Assemblyman Ellison has one additional question.

Assemblyman Ellison:

Thank you for the presentation. It was quite interesting to the interim committee. Of all the committees I have sat on for the last five sessions, you were the fairest to all the people—from the courts to the people testifying. I want to put that on the record. I have never seen a more fair session in my life.

[([Exhibit E](#)) was submitted but not discussed.]

Chair Flores:

I will close the hearing for Assembly Bill 416 and open the hearing on Assembly Bill 478, which requires annual completion by all peace officers of continuing education in certain subjects.

Assembly Bill 478: Requires annual completion by all peace officers of continuing education in certain subjects. (BDR 23-1002)

Jordan Ross, Constable, Laughlin Township, Laughlin, Nevada:

I am chair of the Southern Nevada Rural Constable's Alliance. I am the constable of the township of Laughlin, and most recently I was appointed to the board of directors of the National Constables and Marshals Association as their parliamentarian. I want to thank Speaker Jason Frierson for introducing this bill. The bill brings to a highlight a couple of things that, ironically, I was in the process of working on—revising our own use-of-force policy. Two things that particularly stand out are the issues of racial profiling and individuals with mental health issues. Regrettably, even after you adjust for an individual's social and economic capital, the fact is, we still have racial bias. It is something that each and every one of us, regardless of what shade we may be, struggles against. I think that bringing this to the highlight for continuing education for peace officers is going to be a positive thing—particularly in use of force—but also in ordinary, everyday interactions. The same is going to be true with mental health. We have seen incidents nationwide and, regrettably, a few of them here in Nevada, in which individuals had confrontations with peace officers due to mental health issues that did not end in a manner that I think all of us would have liked to see happen.

By taking these particular items that have all been listed here [section 1, subsection 1, paragraph (c), subparagraph (2)], human trafficking and the like, and making an emphasis that this training will happen, I think the Speaker has really put his finger on the button. Use-of-force policies in Nevada are actually at a pretty sophisticated state right now. I think by including a few things that are going to address subcultures that may not be in the mainstream, to be perfectly honest, if someone has a confrontation with a peace officer and they look like me, they have a much greater likelihood of that confrontation ending well. It is something we all struggle with, and I think situational awareness, which is something we talk about a great deal in law enforcement, is going to be important. Bringing it to the forefront with the types of issues that are laid out in this bill can make a significant difference—trying to encourage peace officers to be less like warriors and more like guardians. We had a legacy of problems when there was the deinstitutionalization of mental health patients in the 1980s and 1990s, which was a good thing. There were horrible things happening. The problem is on the other end; communities have been starved for adequate mental health resources. It is my feeling that this Legislature is going to do a good job in addressing that and other legislation. Again, I thank Speaker Frierson for introducing this bill. I strongly support this bill and am happy to take any questions.

Chair Flores:

We will come back to Carson City and allow Speaker Frierson to get his remarks on the record and then open it up for questions for both of you.

Assemblyman Jason Frierson, Assembly District No. 8:

Thank you, Chair Flores and members of the Committee. I appreciate the remarks in introducing the concept of this bill and would like to go through a brief presentation. I present to you today Assembly Bill 478 that requires the Peace Officers' Standards and Training (POST) Commission to include certain types of study in their minimum standards for training. I want to say at the outset that I reached out to law enforcement early and inquired as to whether or not this would be an issue. The information that I got was that, for the most part, the items contained in A.B. 478 are things they already do. So my interest in bringing forth this bill is that because they already do it now does not mean that whoever is in charge in the future is going to continue to do it. I think it is important that we continue to do it.

Up until now the only thing that was expressly set forth in writing was that law enforcement officers be trained on attendance and choke holds. I think we are at a time now where there are other things that should be part of the training requirement. I also want to say that it is my understanding that they are a part of the training now and this is not a bill designed to villainize the law enforcement community. In fact, this is designed to acknowledge that the law enforcement community has grown and advanced and included these measures, and we want to make sure they continue to do so in a modern and forward-thinking way.

The things that the bill proposes to add are:

- Racial profiling;
- Mental health;
- Officer well-being;
- Implicit bias recognition;
- De-escalation;
- Human trafficking; and
- Firearms.

Some of these are obvious; for example, firearms. Things like officers' well-being and mental health are things that, as we move forward, and looking at suicide rates, particularly among our law enforcement community, and post-traumatic stress disorder, I think it is worthwhile to make sure they are emphasized.

For a little background, and I apologize as I am not entirely sure how much of the POST background was already presented, the Peace Officers' Standards and Training is the regulatory agency that establishes and maintains the minimum qualifications for training and standards for Nevada's peace officers. They develop training, conduct the basic training academy, and they provide other training to peace officers throughout the state. It is carried out over several weeks, and the current summary of subjects contained in the basic training include law and legal procedures, patrol operations and investigations, performance skills, and functions as a peace officer.

In today's society, of course, training law enforcement officers is just as important as a doctor going to medical school, or teachers receiving classroom management training, or lawyers passing the bar exam. Without the necessary training, law enforcement cannot function appropriately and, of course, we support peace officers being trained in multiple topics to meet the requirements of any given day. Recruiting and retaining peace officers is difficult with the pressures and demands and expectations of the community, and finding the appropriate individuals and retaining them is a daunting task. It is something we need to be fully committed to, both in recruiting qualified and quality officers and retaining them once they get started. The goal of A.B. 478 is to support continuing education that will increase safety not only for our community but also for our peace officers.

Briefly, to touch on each of the topics, I will begin with racial profiling. I was honored to have submitted a law review article in 2001 on racial profiling. That was submitted by then-Assemblyman Wendell Williams and former Speaker of the Assembly Barbara Buckley. The Legislature passed a law outlawing racial profiling and required that the Attorney General conduct a study on racial profiling. That study was done, and it confirmed the existence of racial profiling. We have a study showing that it does happen. I think it is no surprise to learn that it happens. What is important is that we work toward trying to deal with it.

Next is the increase in mental health issues. I mentioned earlier that we have a mental health crisis across the whole state, but research indicates that approximately 10 percent of calls for law enforcement involve somebody who is mentally ill. Research also shows that mental

illness plays a part in approximately 25 percent of law enforcement confrontations that end in death. How officers handle these calls makes the difference between life and death. If there were a lack of training about how to safely interact with those people—experience in a mental health crisis—it leaves both the officer and the community at risk of tragedy. It was not in Nevada, but we have seen folks with mental health issues having unfortunate exchanges with law enforcement, and I can see the challenge in not knowing what you are facing when you are coming up on an individual who you do not know. I think training is well warranted.

And, of course, there is officer well-being. Physical, mental, and emotional stress can have serious consequences on anyone's health. With the rigors and stress associated with law enforcement and peace officers, they can face a variety of health issues. Studies have shown that when officers' physical and mental health go unaddressed, the job performance decreases, the decision-making abilities are impaired, and agency costs increase. I do not think that is exclusive to law enforcement. I think we all know that stress in the workplace and declining health impacts everybody's ability to be as efficient and effective in their jobs. Research shows that police officers live an average of 15 years fewer than the average person. It has been found that cardiovascular morbidity is greater among law enforcement than the general population. I mentioned earlier, when looking at suicide rates, for three straight years more officers died by suicide than in the line of duty. I think that mental health training is something that is very much warranted, and I think officers deserve to have that as part of their training and preparation to do their job.

Implicit bias, I think, goes without saying. Let us be clear; I think we all have implicit bias—every single one of us has implicit bias. It is part of our human existence and our life experience. What is more important is that we recognize that we all have implicit bias and that we are trained to deal with it. Not all of us are given a badge and a gun and charged with protecting the community, but for those of us who are, I think not only is it implicit bias of the officer but of the individuals they interact with in the community. There are folks who have implicit bias as to law enforcement and against law enforcement. I think it is important that law enforcement has training that covers those dynamics.

De-escalation training: This aspect of the bill was what initially sparked my interest in it. We are one of 35 states, I believe, that has POST training but not expressly de-escalation training. There are 15 states that, as of last year, have de-escalation training in their POST training. But as was mentioned earlier, giving officers the tools to de-escalate a situation can often be the difference between life and death. I spoke earlier in the session about having participated in the Hope for Prisoners graduation where folks were reentering the community. A woman was there who was in a sling. She was graduating into the program and finishing out the program. She was in a sling because she was shot by an officer. She thanked the officer for changing her life. That officer was there and they hugged. Her biological son was there, as were the foster parents and the adoptive parents. That officer was trained to take less action than something that would have taken her life—the officer's actions saved her life. It is amazing to see somebody get shot and thank the officer for

changing her life, and that is what happened. That officer was equipped and prepared to deal with the situation in a way that did not have to cost the woman her life.

Human trafficking: I think the nature of human trafficking and the increase of human trafficking in Nevada is something where training is warranted, not only with adults but with juveniles. What we are seeing is juveniles who are being recruited and put in a human trafficking ring. I think it is important that we are trained on how to deal with that. We made some policy decisions in this Legislature that victims of human trafficking are just that; they are victims. If you have a 16-year-old on the streets, something in our system failed that 16-year-old, and the system needs to include training to make sure that we embrace that and recognize it. We have done that in policy. We have done that in the Clark County Department of Juvenile Justice Services, and I think to make sure that law enforcement has that training is also a worthwhile endeavor.

Firearms: This is obvious, and there is already training in that so that law enforcement can make decisions tactically.

In closing, overall I have had wonderful conversations with the law enforcement community about this. It is interesting that in the legislative process, no one likes to be told what to do, even if they are already doing it. I have all the confidence in the world in our law enforcement officers and leaders whom I have worked with, but they are not always going to be here. I want to make sure that we have policies in place so that the next class of leaders embraces this policy. My intention was not to increase the burden on them but to make sure it included these concepts. To the extent that POST is already doing this, I would be satisfied that what they are doing is appropriate, and I want to make sure that they are including that. With flexibility in the amount of things, the level of detail, and in the number of hours allowing POST to do their job, we need to make a statement that part of what is their normal training and requirements has to be for the safety and health of not only our community but our law enforcement officers.

With that, I am happy to answer any questions.

Chair Flores:

Committee members, I will open it up for any questions.

Assemblyman Leavitt:

Assemblywoman Neal presented in front of us, and Assemblyman Ellison agreed with her, and we thought a place was freezing over. So having you sit here and Jordan Ross presenting the same bill, I think that place would freeze over twice. My question is, when we are talking about the training that currently exists, how defined is that training? I know they do continuing education because that is something that is required. Are you trying to reinforce what is currently being done? Are we adding new categories to that training?

Assemblyman Frierson:

First of all, I want to remind you that I am a prosecutor. My day job is as chief deputy district attorney, so it should not surprise you that much. I make sure to reach out to my partners and stakeholders, because I think it is important to get their perspective to the extent that I can on the front end to avoid unintended consequences. As I have learned over the years, we frequently agree on where we are trying to go and, sometimes, just not how to get there. I appreciate that I have been able to talk with law enforcement and members of the law enforcement community on this in particular. I will say that the statute does not require a certain set of criteria, but there are regulations that are subject to change that do. My concern with putting it in statute is that it is there in statute, and it cannot be changed. When it is a regulation, it can be changed throughout the whole interim, and there is no consistency. So, again, I do not want to put details in training that are so rigid that they cannot adapt to the times. But I do not want to leave it open to be changed and have a different philosophy about the law enforcement community for future leaders that may take this for granted.

The current statute is *Nevada Revised Statutes* 289.510. It says that there are minimum course study requirements of attendance and qualifications, and then the category training is described, but the only subject matter in the statute is attendance. In regulations, there are other requirements, expressly a choke hold, so this is something that I think is well worth updating. A choke hold was a conversation we were having nationally in the 1980s. I think it was worthwhile to add these components and make sure the requirements of POST include these things at a minimum. I am confident that POST will do what they need to do to make sure that it is meaningful and substantive. We have talked about the number of hours and being flexible with that. I am certainly open and flexible with that, but the emphasis of the bill is that there are certain things that I think help protect both the community and law enforcement in doing their duties.

Assemblyman Leavitt:

I agree with you. I think this is probably a needed thing. When we are talking about continuing education, and talking about these subjects, currently I think the continuing education is more in the law enforcement realm. With the things listed here, for example, de-escalation procedures and firearms, when we are talking about continuing education for something like racial profiling or mental health, are we going to have to change who teaches those continuing education courses? It seems as though it is a more specific field of study and maybe someone who is well-versed in showing you how to de-escalate a situation and use your firearm may not be the right person to effectively teach how to get past racial profiling and mental health issues in the community. Can you talk a bit about that?

Assemblyman Frierson:

As I stated at the introduction of the bill, there is nothing in this bill that is not already being done, and I want to make sure they keep doing it. There is no additional burden to hire people or to find a psychiatrist or a social worker. My intention is to put in statute things that I am informed are currently being provided in training, and to make sure they continue to do that in the future.

Assemblyman Ellison:

I think training is a great thing. In POST there is a living document that shows it is always changing and progressive. I think that is one of the most important things. Mental health seems to be one of the biggest problems we have. The police force addresses it out on the streets, along with domestic violence and other issues. We had a shooting Saturday in Elko where the husband allegedly shot the wife and then tried to commit suicide in front of the children. These are issues that our police force faces every day. I am glad we are looking at this. As I said, it is a living document that is always moving and changing as we go. I think it is a great bill. I think anything we can do, not only for POST but also for the officers out on the street, is a good thing. Maybe every other year an updated course could be given in these matters. I do not know if that is still done, but I wanted to get it on the record—it is a good bill.

Assemblyman Frierson:

The bill does call for annual continuing education, so I agree wholeheartedly. I think that it is not just training them to deal with mental health issues in the community, but to deal with our own mental health issues. You can imagine the trauma of an officer who shows up at the scene where someone has been killed or somebody else has tried to kill themselves and with kids who saw it. I think this bill intends to make sure that the officer is provided with some training and education on how to deal with that as well.

Assemblyman Ellison:

I am glad you brought that up. I was a police commissioner at one time and there was a shooting involving three officers, and we were trying to get them some help in dealing with the effects of the shooting. One refused the help and two did accept the help. One ended up having mental problems later on in his career. The two who accepted went on to being good officers. I agree that anytime there is a shooting or trauma or anything like that, it is always good to get the officers some kind of training and to have them sit down and talk with someone.

Assemblywoman Hardy:

Unfortunately, with the state of our world and the things that happen now that individuals and officers face and see every day, these are things that they need for their own mental health and physical health. To have the training to go out on a situation—and force is not always the best way to approach that—and know how to de-escalate something or approach those individuals to try and calm a situation is very important. I appreciate this bill. It is much needed, especially in today's world. Things are probably only going to get worse.

Chair Flores:

Committee members, are there any additional questions? [There were none.] I would like to invite those in support of Assembly Bill 478 to please come forward.

Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:

We are here in full support of the bill. I appreciate Speaker Frierson reaching out to me even before the session started to discuss training for law enforcement, and what the Las Vegas Metropolitan Police Department (Metro) does, and how we could help get this bill passed—I think it is beneficial not only to this type of training, but it is a win-win situation. It helps the officer, it helps save the lives of officers, and it also helps reduce the use of force and saves lives in the community.

Regarding Metro, as the Speaker said, we already do all this training. To give you an idea, every officer in our academy goes through Crisis Intervention Training (CIT), which is training in dealing with the mentally ill and mental health issues—people in crisis. We also have human trafficking training that occurs in the academy. In 2013, we had an organization come and review our agency. It was the Consortium for Equality and Policing. One of the things they recommended, and it was kind of a unique concept at the time but we have taken action to do it, is that when you talk about training for racial profiling and training for bias-based policing, that training should be inserted, sprinkled, I guess, into other types of training. The reason is that sometimes when you have an eight-hour block of bias-based police training, officers tend to shy away from that and even though it is mandatory, they feel like, Oh, I have to go to this training because people think I am a racist, or the public does not have trust in me, or they think I am out there doing something I should not be doing. They are reluctant, or not very enthusiastic, about that type of training. But when you sprinkle that training in with other things, and maybe have it as part of the CIT training—you have bias-based policing mixed in with that or part of use-of-force training or de-escalation training—then officers are more receptive and they get more out of it. It is better.

Also, as you know, the collaborative reform model that our agency did with the Department of Justice, was that we had over 75 recommendations that came out of that with de-escalation being one of the prime recommendations. We do advanced officer skills training every year that officers must attend. De-escalation has become a critical component of that training. Anytime we have a use-of-force situation, we have a Critical Response Team that goes out and does an administrative review of that incident, along with the criminal review. That administrative review looks at how we can make changes and how we can do better, and that is always incorporated into the training that officers receive.

Regarding the question from Assemblyman Leavitt, to give you an idea of how training can be done, the most basic level is briefing room training where before an officer hits the street, a sergeant will do 10 to 15 minutes of training with the officer and then tell him or her, Okay, get out there; handle calls for service. We also have continued training called UMLV (University of Metro Las Vegas), an online training program where officers can watch a video, take a course and answer questions, take a test right online, and get credit for that—POST credit in many cases. We also have LVMPD Everyone, which is an email blast that goes out with snippets of training. We have outside instructors who come in. The sheriff is very committed to wellness training for our officers, and after October 1, we had an organization come in and do mandatory training not only with supervisors but also with

officers dealing with emotional trauma and dealing with stress. Obviously, we already do quarterly firearms training. We have an instructor development course where we have officers in our agency go through instructor development and learn to be instructors and learn to put together lesson plans that can be approved by POST. Finally, we have a program titled Train the Trainer where an officer can get training and get certified to a certain level, then they can take that training back to train other officers. We appreciate this bill and appreciate the Speaker bringing it forward.

Chair Flores:

Committee members, are there any questions? [There were none.]

Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association:

I am here in support of Assembly Bill 478 with the proposed flexibility and the hours presented. We thank Speaker Frierson for bringing this bill forward. We agree with everything in his presentation. It is much needed, and we thank him for recognizing the need to keep our law enforcement professionals throughout the state serving our citizens in the highest capacity and to the best of their abilities. A lot of things that are in *Nevada Administrative Code* 289.140 cover these topics that are listed in this bill. There are three topics on the handling of persons with mental illness crisis intervention in your personal communications. A lot of these things are covered in the basic training of law enforcement officers, but we do appreciate the fact that we can have this continuing education training every year for our officers for these topics, and we support the bill.

Mary-Sarah Kinner, Government Affairs Liaison, Washoe County Sheriff's Office:

We thank Speaker Frierson for bringing this bill forward and echo the comments made by our fellow law enforcement representatives. We support this bill and look forward to continuing to work with the Speaker on it.

Chair Flores:

Is there anyone else wishing to speak in support of Assembly Bill 478 here in Carson City? [There was no one.] We will go to Las Vegas. Is there anyone else wishing to speak in support of Assembly Bill 478? [There was no one.] Is there anyone wishing to speak in opposition to Assembly Bill 478? Is there anybody in Las Vegas wishing to speak in opposition?

Jordan Ross:

No, Mr. Chair. I am the only person in the room.

Chair Flores:

Understood. We will come back to Carson City.

Mike Sherlock, Executive Director, Peace Officers' Standards and Training Commission:

I am going to say the same thing that the Speaker said in support, but I am coming in opposition to the bill as introduced. Obviously, we do not oppose the training that is

proposed. Having said that, the Speaker did take time to meet with the Department of Public Safety training commander and me to listen to our concerns. I truly believe that we will come up with an amendment we can all support. I just want to get on the record that in the current text, the training mandated is already covered.

The POST Commission is tasked by statute with developing and mandating both basic training and continuing education. It is the function of the Commission to develop training using experts in the field, obviously, and then mandate agencies across the state to conduct that training. This includes both basic training hours and mandated yearly training hours. Currently, agencies are mandated training each year that covers much of what is being proposed in this bill. Our current mandates allow local, county, and city agencies to tailor training within those mandated hours to the needs of their particular communities. So those are some of our concerns. In terms of this bill as it is written, it may result in a reduction of training in certain cases, or force agencies to spend training dollars on areas that they may not want to emphasize at that point, or have already had training in. I believe the Speaker is working on an amendment that removes some of the redundancy and mandated hours and would memorialize these concepts which we do not oppose and, at the same time, acknowledge that we already train in those areas. We look forward to the opportunity of working with the Speaker on an amendment, and I would be happy to answer any questions you may have as they relate to those POST mandates.

Chair Flores:

Committee members, are there any questions?

Assemblyman Ellison:

You get requests all the time for different training aspects from all the communities throughout the 17 counties, is that correct?

Mike Sherlock:

That is correct.

Assemblyman Ellison:

The Highway Patrol might train a little differently than the sheriff's department versus Metro. It is all pretty generic, but you still have specialty in some of the trainings, is that correct?

Mike Sherlock:

I would say that is correct to a certain extent. I will say that the requested mandates in this bill, I think, apply uniformly. We have no issue with that. I think they are important topics; critical topics in some cases. Our point is that it is already mandated in terms of hours and yearly training.

Assemblyman Ellison:

I cannot see anything different in this bill other than hitting on highlights. I do not see anything different in this bill that would effect coming in opposition—maybe I am wrong. Could you address that?

Mike Sherlock:

Certainly. To give you an example, currently agencies are mandated to have 12 hours of continuing education every year. In addition to that, they must demonstrate proficiency in what we call critical skills. Critical skills are firearms training, and that has to be done twice a year. This bill mandates firearms training. They have to demonstrate proficiency and constitutional use-of-force policy. I would agree with you from the perspective that, why would we oppose what they are already doing? The problem comes with the 12 hours left to the agency. Say that an agency has a very vibrant peer support group. They have no issues in terms of mental health training because they just did it the year before. They want to use the 12 hours for another critical area that is affecting their community. The text of this bill would force them to again train on officer mental health and forgo, perhaps, some other training that they want to do to meet their current 12-hour mandate. That is our only opposition.

Chair Flores:

Committee members, are there any additional comments or questions? [There were none.] Is there anyone else wishing to come up in opposition to Assembly Bill 478? [There was no one.] Is there anyone wishing to come up in the neutral position for Assembly Bill 478? [There was no one.] Assemblyman Frierson, would you like to make closing remarks?

Assemblyman Frierson:

Thank you for your attention. I think that, again, as I said at the introduction of the bill, it is always uncomfortable to be required to do something, but if it is something that you are already doing, I think we have to make a policy decision about whether or not that is worthwhile. I do want to reiterate, and with speaking with folks, the two concerns that I committed to making clear on the record were that if you are already doing it, I am not saying that you need to do 12 hours more. I am saying that if you are already doing it, then that counts. The training that you do should include these things. I will also point out that there is nothing that prevents you from having more than 12 hours if you want to. I just do not want to create and increase it by mandate, but you could always do more. There are aspects of the rural communities that probably have unique things that they encounter; this is the same in the urban communities. I think that being flexible and being able to adapt to those is important, but I wanted to make it clear that I am not saying that they have to do 12 hours more. I am just saying that what they are doing should include these things.

With that, I think several states of the 15 states that have it, almost all of them except maybe two or three, have set hour requirements. In fact, they micromanage it even more than I was willing to do, to say you have to have two hours in de-escalation, one hour in implicit bias, and one hour in racial profiling. I did not want to do that. I want to leave it up to the professionals to create a training program that fits their needs and that they know how to manage. I believe it provides enough flexibility to allow them to continue to do what they are doing and to get credit among policymakers for what they are already doing and comfort and assurance that they will continue to do it.

Chair Flores:

I would like to close the hearing on Assembly Bill 478.

Assemblyman Hafen:

I would like to make a motion to do pass Assembly Bill 478.

Chair Flores:

Committee members, I would like to remind everybody that regarding the Assembly Standing Rules, we have waived Rule 57.4, which is our 24-hour rule.

ASSEMBLYMAN HAFEN MOVED TO DO PASS ASSEMBLY BILL 478.

ASSEMBLYMAN ELLISON SECONDED THE MOTION.

Committee members, is there any discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN BILBRAY-AXELROD, CARRILLO, AND DURAN WERE ABSENT FOR THE VOTE.)

Assemblyman Hafen will take the floor statement. [([Exhibit F](#)) was submitted but not discussed.]

With that, I will hand the meeting over to Vice Chair McCurdy so that I can proceed with introducing Assembly Bill 412.

[Assemblyman McCurdy assumed the Chair.]

Vice Chair McCurdy:

We will now open the hearing on Assembly Bill 412. We will hear from Assemblyman Flores.

Assembly Bill 412: Revises provisions governing notaries public. (BDR 19-890)

Assemblyman Edgar Flores, Assembly District No. 28:

I represent some of the hardest-working women and men in the state. It is an honor to be here today presenting this on their behalf. I am here to present Assembly Bill 412. You have probably had an opportunity to review this rather simple bill. I wanted to give everybody some context as to why this bill is so simple and what I intend for it to become once we move to the Senate side.

In the interim I had an opportunity to sit down and talk to companies that identify as mobile notaries. Typically, these companies are usually a one- or two-person operation. They travel all over Nevada in remote areas where a person has a hard time getting something notarized. You give these businesses a call and they handle that for you. It is incredibly important because for those of us who live in Las Vegas or Reno, I think we take some of that for

granted. For those of us who maybe have never been in a position where we have been obligated to perhaps be confined to a bed or a specific location because either we are ill or for whatever other reason, we take for granted the fact that often we need documents notarized and there are not a lot of people who do this. The reason there are not a lot of mobile notaries is because, unfortunately, the way we currently have the *Nevada Revised Statutes* (NRS) structured, there is not a lot of money to be made. Some of the pushback that I have always had is some of these companies end up getting very creative in how they charge. In fact, sometimes they are violating the NRS because of the fee structure they have in place. It goes against what we have in statute. We have this weird dynamic where I completely understand that for purposes of overhead and profitability and having a successful business, you have to be able to charge more. At the same time, we have something written in the NRS that is completely contradictory to that. Saying to people, well, do whatever the NRS says, or do not do it, to me is not the correct answer because, again, we are actually impacting all those individuals in remote areas who desperately need the help and, at the same time, we are tying the hands of a business.

With this bill specifically, we are talking about changing the fee when we have a second signature or acknowledgment from \$2.50 to \$5. However, I want to make my intent very clear. Right now we are overworking the Legislative Counsel Bureau's (LCB) Legal Division, and I did not want to come here with a conceptual amendment, put 14,000 things on there, make LCB Legal draft it, and then find myself amending it on the Senate side. In the interest of not doing that, what I intend to do is allow myself the next two to three weeks to work with stakeholders. That will include the Office of the Secretary of State, the mobile notaries we have been working with, and coming up with these changes:

1. How do we address the concern of a notary traveling X amount of miles and being adequately compensated for that?
2. We have not, in years, changed what a notary can charge per signature, and we need to come up with something, again, that is reasonable both for the business and for those who require that service.
3. Looking at some of the areas that are problematic. What I mean by that is, often there is tension and/or a misunderstanding between mobile notaries and hospitals and mobile notaries and jails, and then there is a question as to what exactly a notary can charge.

Some of these mobile notaries find themselves becoming very creative in trying to find different fees that they can assess so they can make their business profitable.

Again, this bill is simple because I do not want to send 14 different drafts to the Legal Division. I will kill the bill myself if I do not have the Secretary of State and all of the stakeholders on the same page. For that reason, I have kept it this simple. In fact, within the next two days, if I think we are not going to get there, then I will not even request that we move it out of Committee. I just wanted to put that on everybody's radar—that is what is

happening. It is a problem that we need to address, and I want to help fellow Nevadans and, at the same time, I want to help those one- or two-person operations that are in this arena.

I cannot offer you any more than that. That is why this bill has had some modification, and I will not change it until I get to the Senate side. I wanted to make the intent abundantly clear, because should we move it out of Committee, I think it is fair for you to know exactly what it is we are moving out and with what intent I am moving it. Again, the bill will die if I cannot get everybody on the same page.

We have someone here from the Secretary of State's Office who could answer basic questions as to how much we are currently charging. When was the last time we changed the fee structure? I think that is prudent for this conversation. I do not want to prolong this hearing, because I think the stakeholder conversation needs to be had in much more depth before we can give you a definitive answer on what is an appropriate fee. We have been at \$5. Should we go up to \$10? Should we keep the fee at \$5? How much should we charge per mile traveled? Those are the things we will be analyzing within the next two weeks. With that, Mr. Vice Chair and Committee members, I will take any questions you may have.

Vice Chair McCurdy:

Committee members, are there any questions?

Assemblyman Ellison:

I do a lot of the notaries for the businesses. I was at a bank and they already charge you \$5 for each signature. I thought that was shocking that they are already implementing this. If my wife had come in and signed, that was another \$5 for her signature. Maybe you can explain that.

Lenora Mueller, Notary Administrator, Office of the Secretary of State:

It would depend on what type of notary transaction took place at that bank. If it was a jurat, then that is exactly what is outlined in statute to charge. If it was another type of transaction, then I could discuss that further with you.

Assemblyman Ellison:

I always thought it was a standard fee. I thought that was different, but they are already doing it, if that helps.

Assemblyman Flores:

I think for situations like banks and for instance, my law office, I have not seen my banks charge me for that. Sometimes that will be provided as a service, as a courtesy.

This bill, through my lens, is not intended to capture them. I am trying to focus more on the one- or two-person operation that makes its livelihood off this and will charge every single time whatever it can pursuant to the NRS. Those are the ones I am trying to capture because I think their hands are often tied. I was looking at some of their profit margins—they are so small and when they drive two hours out, that just does not make sense to me. I want them to

continue to do that. We need them to make that two-hour drive, and we need that committed business owner, but at the same time, we need to make sure the mobile notaries are compensated, that they have an incentive, and they are not creating these weird structures that are not in the NRS to try to make it work.

Assemblyman Hafen:

I agree with you that we need to update these numbers, and I agree with the language that is written in here that it should be the standard for each additional signature. If I understand correctly, what you are proposing is to try to pass this out of Committee as is, and then try to work with the stakeholders to amend it on the Senate side. Is that correct?

Assemblyman Flores:

That is correct.

Assemblyman Assefa:

How much does it cost to become a notary public?

Lenora Mueller:

There is a \$35 application fee and a \$45 training fee required by the state. The state also requires a \$10,000 bond that they pay a \$20 fee to file in whichever county they reside. On top of that, and completely optional, they would get errors and omissions insurance.

Assemblyman Assefa:

There is a fairly high standard for them to comply with as a notary. Assemblyman Ellison pointed to the fact that some people already charge \$5. I am aware of some notaries who charge \$10 for the first signature. I use them all the time and will not mention their names, but I will have conversations with them. Is there an enforcement mechanism from the Secretary of State's Office on those bad actors who decide to go above and beyond in possibly trying to cover their expenses for being a notary?

Lenora Mueller:

Great question. It is hard at this point, with resources, to enforce compliance on many levels. Most of our notaries, I would say 80 percent of them, are located in Clark County. The Notary Division of the Secretary of State's Office is here in Carson City. I have called mobile notaries and asked for a service mentioning that I am in Henderson, or other places, and have gotten a variety of responses—many noncompliant with statute. It is an issue.

Assemblyman Flores:

If I may add one additional note, one of the things that I am trying to address with this specific bill is also understanding right now that when there is a request for somebody to travel X amount of time, in my opinion and what I have been seeing, it is often the bad actor who will accept that. Because they do not see a financial incentive in doing it, the good actor will often refuse to accept that job. It is actually some of the bad actors who will accept it because they are going to add on additional charges. So for them, it makes sense. What I am trying to do with this bill is to have it make sense for the good actor so that we can weed out

the bad actors, and the good actor can have that incentive to continue to operate in this world in a successful way, and that we continue to take care of those who need it as well.

Vice Chair McCurdy:

Are there any further questions from the Committee? [There were none.] We will now take testimony in support of Assembly Bill 412, either in Carson City or in Las Vegas. [There was none.] We will take testimony in opposition to Assembly Bill 412. [There was none.] We will move to neutral. Are there any in Carson City or Las Vegas in the neutral position? [There was no one.]

Assemblyman Leavitt:

I would like to make a motion to do pass Assembly Bill 412.

ASSEMBLYMAN LEAVITT MOVED TO DO PASS ASSEMBLY BILL 412.

[Assemblyman Flores reassumed the Chair.]

Chair Flores:

Assemblyman Leavitt has made the motion to do pass Assembly Bill 412. Do I have a second?

ASSEMBLYMAN ASSEFA SECONDED THE MOTION.

Is there any discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN BILBRAY-AXELROD, CARRILLO, AND DURAN WERE ABSENT FOR THE VOTE.)

Chair Flores will take the floor statement.

Thank you all for diligently working today, and I think we are trying to be as effective as possible with the time crunch that we have. We anticipate having a lengthy work session on Thursday. Please give yourself an opportunity to review those documents and the amendments that will be coming in. Regarding any questions you may have, please feel free to reach out to me so that I can get clarification prior to the work session. Obviously, some things are important to get on the record, but if we can get clarity before, I would like to do that.

I would like to invite anyone wishing to speak for public comment to please come forward.
[There was no one.]

This meeting is adjourned [at 10:10 a.m.].

RESPECTFULLY SUBMITTED:

Connie Jo Smith
Committee Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a proposed conceptual amendment to Assembly Bill 416, presented by Assemblyman Steve Yeager, Assembly District No. 9.

[Exhibit D](#) is a document titled "Driven by Dollars," presented by Assemblyman Steve Yeager, Assembly District No. 9, regarding Assembly Bill 416.

[Exhibit E](#) is a letter dated April 8, 2019, in support of Assembly Bill 416, submitted by Jim Hoffman, Legislative Committee, Nevada Attorneys for Criminal Justice.

[Exhibit F](#) is a letter dated April 8, 2019, in support of Assembly Bill 478, submitted by Jim Hoffman, Legislative Committee, Nevada Attorneys for Criminal Justice.