

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON JUDICIARY**

**Eightieth Session  
April 4, 2019**

The Committee on Judiciary was called to order by Vice Chairwoman Lesley E. Cohen at 8:08 a.m. on Thursday, April 4, 2019, in Room 3138 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.state.nv.us/App/NELIS/REL/80th2019](http://www.state.nv.us/App/NELIS/REL/80th2019).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Steve Yeager, Chairman  
Assemblywoman Lesley E. Cohen, Vice Chairwoman  
Assemblywoman Shea Backus  
Assemblyman Skip Daly  
Assemblyman Chris Edwards  
Assemblyman Ozzie Fumo  
Assemblywoman Alexis Hansen  
Assemblywoman Lisa Krasner  
Assemblywoman Brittney Miller  
Assemblywoman Rochelle T. Nguyen  
Assemblywoman Sarah Peters  
Assemblyman Tom Roberts  
Assemblywoman Jill Tolles  
Assemblywoman Selena Torres  
Assemblyman Howard Watts

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

None



**STAFF MEMBERS PRESENT:**

Diane C. Thornton, Committee Policy Analyst  
Bradley A. Wilkinson, Committee Counsel  
Traci Dory, Committee Secretary  
Melissa Loomis, Committee Assistant

**OTHERS PRESENT:**

Matthew Hoffmann, Attorney, Atkinson, Watkins and Hoffmann, Las Vegas, Nevada  
Mike Cathcart, Business Operations Manager, City of Henderson  
Brian O'Callaghan, Government Liaison, Office of Intergovernmental Services,  
Las Vegas Metropolitan Police Department  
Dylan Shaver, Director of Policy, City of Reno  
Graham Lambert, Private Citizen, Henderson, Nevada  
Amanda Hertzler, Private Citizen, Henderson, Nevada  
Jennifer P. Noble, Chief Appellate Deputy, Legislative Liaison, Washoe County  
District Attorney's Office; and representing Nevada District Attorneys  
Association  
Shirle T. Eiting, Chief Assistant City Attorney, City of Sparks  
Lisa A. Gianoli, representing Washoe County  
Melissa A. Saragosa, Judge, Las Vegas Justice Court  
Kyle E. N. George, Special Assistant Attorney General, Office of the Attorney  
General  
Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada  
Megan Ortiz, Intern, American Civil Liberties Union of Nevada  
John J. Piro, Deputy Public Defender, Legislative Liaison, Clark County Public  
Defender's Office  
Alanna Bondy, representing Nevada Attorneys for Criminal Justice  
Sylvia R. Lazos, Legislative Advocate, Nevada Immigrant Coalition  
Dylan Lawter, Vice President, Policy and Legislation Society, William S. Boyd  
School of Law, University of Nevada, Las Vegas  
Kimberly Estrada, Co-Director, Nevada Student Power  
Zachary Kenney-Santiwan, Volunteer, Mass Liberation Project Nevada  
Shani J. Coleman, Deputy Director, Government Affairs Executive, Office of  
Administrative Services, City of Las Vegas  
Dana P. Hlavac, Court Administrator, Las Vegas Municipal Court  
Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association  
Mary Sarah Kinner, Government Affairs Liaison, Washoe County Sheriff's Office  
Wiselet Rouzard, Field Director, Americans for Prosperity – Nevada

**Vice Chairwoman Cohen:**

[Roll was called, and Committee protocol was explained.] We have three bills on the agenda this morning. The order we will be taking them is: Assembly Bill 418, Assembly Bill 434,

and Assembly Bill 411. I will open the hearing on Assembly Bill 418, which enacts provisions governing an offer of judgment.

**Assembly Bill 418: Enacts provisions governing an offer of judgment. (BDR 2-1115)**

**Assemblyman Steve Yeager, Assembly District No. 9:**

It is my honor to present Assembly Bill 418 to you this morning. Mr. Matt Hoffmann is in Las Vegas this morning to assist with the presentation of the bill after my introductory remarks.

As many of you know, when the Legislature is not in session, for better or worse, I am a practicing attorney. When I first began my legal career in 2004, I started by practicing civil litigation, almost exclusively defense civil litigation primarily in class action defense, complex commercial litigation, and insurance defense. I cannot say it was the most exciting thing that I have ever done in my life, but it was a good place to cut my teeth in terms of the civil world and pay off my student loans, which was another benefit. After doing that for a number of years, I went to the Clark County Public Defender's Office and worked there for nearly a decade. What many of you may not know is, after the last legislative session, I left the public defender's office and I now work at Battle Born Injury Lawyers where I am a partner and work with one of our former colleagues, Justin Watkins.

I hope all of the Committee members received a communication from me yesterday letting you know that there is a mock-up of the bill that essentially replaces the entire bill (Exhibit C). It is accomplishing the same thing, but the mock-up you have on Nevada Electronic Legislative Information System essentially puts our existing *Nevada Rules of Civil Procedure* (N.R.C.P.) 68, which has just been amended and became effective March 1, 2019, into statute. We will tell you in a moment why we are trying to do that and the significance of doing so. I would like to hand it over to Mr. Hoffmann to explain what A.B. 418 does and why it is needed.

**Matthew Hoffmann, Attorney, Atkinson, Watkins and Hoffmann, Las Vegas, Nevada:**

I am an attorney practicing in Las Vegas for nearly 15 years. I have spent my entire legal career in Nevada practicing exclusively in the area of civil litigation. I have represented both defendants and plaintiffs in a variety of civil matters. I am here today to discuss A.B. 418, which would codify N.R.C.P. 68 governing offers of judgment.

*Nevada Rules of Civil Procedure* Rule 68 is the rule dealing with offers of judgment in Nevada and, in essence, N.R.C.P. 68 authorizes either party in a civil action to serve one another with a formal offer of judgment, which provides a specific time to accept or reject an offer and penalties against a party who rejects an offer but does not later obtain a more favorable result at trial. Those penalties include attorney's fees, prejudgment interest, costs, and penalty interest. The purpose of N.R.C.P. 68 is to promote and incentivize the prompt resolution of civil actions, helping to reduce the tremendous burden on our court system.

Since 1971 and until 2015, *Nevada Revised Statutes* (NRS) 17.115 had codified N.R.C.P. 68. In 2015, the Legislature repealed NRS 17.115. There was no explanation given for the decision. I suspect that the statute was seen as being duplicative, but the result of its repeal has had what I believe to be unintended consequences.

The state of Nevada has an unusually diverse economy. We have many out-of-state visitors and corporations who do business in our state, and because of this, many civil actions result in out-of-state participants removing civil actions from our state courts to the federal courts based upon diversity of citizenship. When this is done, the *Federal Rules of Civil Procedure* apply, but the Nevada substantive law applies. Under the federal rules, unlike the Nevada rules, only a defendant may serve an offer of judgment in a diversity case. For over 40 years, however, because of NRS 17.115, which was substantive law, both parties, the plaintiffs and the defendants, could serve offers of judgment upon one another.

What this bill does is restore what was NRS 17.115, mirroring N.R.C.P. 68, and ensuring that any party to a lawsuit is allowed to serve offers of judgment regardless of whether the case is in state court or has been removed to federal court.

To be clear, A.B. 418 would not create some kind of advantage to either the plaintiffs or the defendants. Instead, it would level the playing field for Nevada residents whose cases find their way into federal court under diversity jurisdiction. And the reason an offer of judgment is so important towards prompt resolution is that it forces a party to make a more critical evaluation when offers to settle are made because there are consequences. This bill would help promote the intent of the Nevada Supreme Court to effectuate the prompt resolution of lawsuits. Without it, Nevada citizens find themselves at a disadvantage merely because the party who caused them harm is a resident of or incorporated in a jurisdiction outside of Nevada.

**Vice Chairwoman Cohen:**

I was trying to find the section on family law offers of judgment as they are a little different than offers of judgment in the civil realm. Will this affect that rule?

**Matthew Hoffmann:**

No, that would not affect the family court rule because, to my understanding, that is a completely separate rule and this is merely codifying N.R.C.P. 68 specifically.

**Assemblywoman Torres:**

For those of us non-attorneys in the room, could you clarify in layman's terms what this legislation does?

**Assemblyman Yeager:**

Essentially what it means is, if there is a civil lawsuit going on and you are in state court, either party can make an offer to settle the case to the other party. This is done in writing. It is called an offer of judgment and is a formal document. As Mr. Hoffmann said, when you receive that document it has legal significance because, if you reject it and you do not do

better at trial, then you are going to be on the hook to pay the other side's attorney's fees. Right now in state court either party can do that. Because of some legislation that was enacted in 2015, that is not the case in federal court in Nevada. In federal court right now, only defendants can make an offer of judgment, but plaintiffs cannot. The reason for that is a little bit tricky legally because federal court has its own rules, but it also looks to Nevada law to sort of supplement those rules. By putting our Nevada existing rule into statute, that will make the federal court open up the process so both plaintiffs and defendants can make these offers of judgment. As Mr. Hoffmann said, that was the way it worked for over 40 years in Nevada but, for some unknown reason, in 2015 that statute was repealed. So right now there is that inequity.

Just for clarification, the plaintiff decides where to file a case. What often happens here in Nevada is the plaintiff is a Nevada resident and files the case in state court but under some procedural rules, a defendant has the ability to remove that case to federal court in certain circumstances. When that happens now, there is this inequity whereby the plaintiff is not able to make that formal offer of judgment. What it really does is level the playing field when you are in federal court so both are playing by the same rules. The way we do that is by taking a rule and putting it into statute. This is not something new; we are just codifying N.R.C.P. 68 to make sure that the federal court recognizes its importance.

**Vice Chairwoman Cohen:**

The whole concept of the offers of judgment is to encourage settlement before a case goes to trial, correct?

**Matthew Hoffmann:**

Yes, the purpose of offers of judgment is to get the parties to engage and take a critical look at any offers that are made to one another and try to resolve cases. Again, we cannot have every case going to trial.

**Vice Chairwoman Cohen:**

As a party, if you receive an offer of judgment from the other side, you know that you have to try negotiating in good faith. Saying, I am just going to roll the dice and go to trial is not necessarily beneficial because if you lose and the offer of judgment is out there and you do not do better than the offer of judgment, then you are on the hook for attorney's fees?

**Assemblyman Yeager:**

That is precisely right, and often these offers of judgment do not happen until a little bit later in the case after you have had a chance to evaluate your case. For instance, from a plaintiff's side, I will talk to the client about what I think the result would be at trial, what I think the value of the case is, and we will come up with a number. The defendant will do that as well. The benefit to the offer of judgment is you can have a conversation with your client about settling the case at any point, but there is really no legal ramification. If the client says I do not want to settle when you get that written offer of judgment, then you have a conversation with your client about what this really means and, if we go to trial, are we going to do better or not. If we are not going to do better, what are the consequences?

In a lot of civil cases, having the ability to do an offer of judgment finally gets the parties to really sit down and evaluate the case and decide whether this is a case that needs to go to trial or not. In my experience, the offer of judgment stage usually ends up in a case being negotiated or, if not, it starts those very serious discussions about reaching a negotiation. To have a system in federal court where the plaintiff cannot apply that pressure and only the defendant can apply it, is really an unfair situation. That is what we are trying to accomplish in A.B. 418.

**Assemblywoman Backus:**

I do not have any questions; I am just making a comment. I really like offers of judgment and think they are imperative for any civil case no matter which side you are on. I just want to thank all of you for making A.B. 418 identical to N.R.C.P. 68 because for years we struggled with two different rules in statute. Thank you both for bringing a good bill.

**Assemblywoman Hansen:**

For a little bit of understanding for myself, could you give an example of when a case might go to federal court? If I understood that right, there is the equity in the other courts but not in the federal courts, and you are looking to address that.

**Matthew Hoffmann:**

The most common scenario we would see is when somebody is injured in a car accident involving an Uber or Lyft, which are out-of-state corporations. The plaintiff who is injured would file suit in state court, then the defendant, without answering, would file a notice of removal and they would remove the case to the federal court based upon diversity of citizenship and threshold of damages of \$75,000. That is the most common. You also see it with business transactions, but mainly torts. It could be incidents and injuries that occur at a Lowe's or a Home Depot—any out-of-state corporations that do business here in Nevada. When the plaintiffs initiate the lawsuit in state court, those out-of-state corporations then remove them to federal court based upon diversity jurisdiction.

**Vice Chairwoman Cohen:**

Do we have any other questions from Committee members? [There were none.] Do we have any testimony in support of A.B. 418? [There was none.] Do we have any testimony in opposition to A.B. 418? [There was none.] Do we have any neutral testimony on A.B. 418? [There was none.] Are there any closing remarks?

**Assemblyman Yeager:**

I want to thank Mr. Hoffmann for joining us this morning in Las Vegas. As always, Committee members, if you have questions later on about what this bill does or what we are trying to accomplish, please feel free to reach out. Thank you for hearing the bill and I urge your support.

**Vice Chairwoman Cohen:**

I will close the hearing on A.B. 418. I will open the hearing on Assembly Bill 434, which revises various provisions relating to offenses.

**Assembly Bill 434: Revises various provisions relating to offenses. (BDR 14-428)**

**Assemblyman Steve Yeager, Assembly District No. 9:**

It is an honor this morning to present Assembly Bill 434. Assembly Bill 434 comes out of an interim committee that I chaired this past interim. Some of this will sound familiar because we heard a bill previously, Assembly Bill 110, which came out of that interim committee. This was the interim committee that was created as a result of the passage of Assembly Concurrent Resolution 9 of the 79th Session. That legislation appointed a committee to essentially study traffic infractions in our state and to make suggestions about whether we should move to a civil system or whether we should maintain the criminal system with potential modifications. Our committee met five different times and ultimately we decided to advance four pieces of legislation. Assembly Bill 434 is one of those pieces of legislation. This is not the one that transitions to a civil system; that is the next bill on the agenda. But this bill makes some changes to our current criminal traffic infraction system.

Sections 1 and 2 of the bill increase the amount of credit received per day spent in jail from \$75 to \$150 per day when someone is jailed for not paying, and also provides the court with guidance about how to determine whether a defendant is indigent. Existing law does not allow you to be incarcerated if you cannot afford to pay a fine, but there really is not good guidance in the statute about how a court is to make that determination. In sections 1 and 2 you will see that there are four different provisions that would help the court make that determination of whether you are indigent. The impact of that is, if you are indigent and you cannot pay the fine, you cannot be incarcerated for a traffic infraction. But, that being said, if you have the money and you are willfully not paying, you can be incarcerated. The system right now is you get \$75 per day of credit for the incarceration. If you owed \$750, that would be ten days in jail. This bill increases that credit amount to \$150. You might ask why \$150. I think that was a pretty good approximation of what it actually costs the county to incarcerate someone. That amount had not been updated in quite some time.

Section 3 of the bill provides that if somebody is allowed to do community service rather than pay a fine, the court must credit that person no less than \$10 per hour for the community service that is done. Right now, that is the typical practice, but there are some courts in our state that depart from that. They give less than \$10 an hour of credit. We wanted to make sure we put in a standardized amount so every court knows it has to be a minimum of \$10 per hour. They can give you more if they want; if the court says we think you should be compensated \$15 an hour, then that is the credit you would get.

Sections 3 and 4 of the bill are really the heart of the bill and they create a new class of crime called a "petty misdemeanor." We have talked in this Committee about felonies, gross misdemeanors, and misdemeanors, so this would be below the misdemeanor level and be a petty misdemeanor. The real crux of this is, if you were convicted of a petty misdemeanor, you would not be looking at jail time. Right now, if you are convicted of a misdemeanor, you are looking at potentially six months in jail for almost all misdemeanors. There are some exceptions, but a petty misdemeanor, should we create that, would be subject to a \$1,000 fine or 100 hours of community service.

There are various provisions in this bill that downgrade certain crimes from a misdemeanor to a petty misdemeanor. I do not want to read all of them because there are quite a few and the bill is complex in the sense that sometimes you have to go look at three or four other statutes to figure out what is happening. Some of the bigger ones—running a stop light or a red light, failure to obey a no left or right turn sign, parking more than 18 inches from a curb, and overstaying a parking meter—would no longer be misdemeanors but would be petty misdemeanors.

I am not sure if any of you had a chance to really go through and look at all the different things that are being downgraded in here. There are some that I think go too far and need to remain regular misdemeanors. For the record, some of those are: failure to obey a school crossing guard, failure of a school bus to stop at a railroad crossing, and failure to stop for a peace officer. There are some modifications that need to be made. Unfortunately, there is one really important one that did not make it into the list that was supposed to make it and that is simple speeding. A simple speeding ticket, I believe, should be a petty misdemeanor. I am going to ask that it be amended into the bill. I think that was simply an oversight. Once you get to reckless driving, aggressive driving, or speed contest, those would all remain misdemeanors. The intent here is, for some of these more minor traffic infractions, to not have the possibility that someone actually spend six months in jail.

Section 6 of the bill specifies the order in which payments to the court should be applied. Some of you might know, when you get a ticket you have a fine portion of that ticket, but then you also have administrative assessment fees that have been added on in statute over the years. You might have court fees as well. For instance, if you miss court or your case goes to collections, the court will add additional fees. Section 6 specifies how, if you make a partial payment, that payment is to be applied. It would first go to the administrative assessment fees because those are earmarked for different programs in our state. It would then go to the fine, and the last portion to be paid would be the court-added fees. This is what most courts are doing, but not all of them are doing it. I should mention that as part of our interim committee, we sent surveys out to every limited jurisdiction court, justice court, and municipal court in our state. We tried to gather data in terms of what is happening in those courts. We had about a 50 percent response rate with most of the larger jurisdictions providing information. The picture I got, not surprisingly, is courts operate very differently in terms of what fees they are assessing and how they apply payment. So this is an effort to standardize in the state the payment schedule and how monies should be applied.

Section 7 does something similar. It essentially says, if you have multiple open cases or multiple open infractions and you make a partial payment, it has to go to satisfy the earliest ticket in time first. What we found out, much to my dismay, is that there were jurisdictions that were doing something like this: if you had four different tickets that you owed on and you made a payment that was large enough to pay off one ticket, the jurisdiction would apportion that payment to all four tickets, which would mean that it takes you a lot longer to get one paid off. The significance there is that if you miss the payment, you would be hit with collection or late fees on every single one of the tickets. So it had this spiraling effect, and sometimes we hear about how a \$100 or \$200 ticket can end up in a \$2,500 or \$3,000



fine and fee. This is how—because the payments were not being applied in a way that I think is appropriate and fair to a defendant. This section says you have to pay off one before you start collecting on the next.

Section 8 of the bill allows an offender to buy out of traffic school to have a charge reduced. I know those of you who do not do traffic tickets for a living, if you are wondering about what this is, there is a current practice now where—say you get a speeding ticket—the court often will agree to reduce your speeding ticket down to a parking ticket if you agree to attend a traffic school. But there is a catch, you can then pay an additional fee to get out of going to the traffic school and get the charge reduced. Right now, that extra payment to get out of the traffic school is characterized differently in every court, is called something different; it is a little bit uncertain as to where that fee actually goes. I also think it is potentially constitutionally suspect whether a court can assess such a fee. I think reasonable minds can differ, but my reading of existing case law is, that is probably not an appropriate fee because limited jurisdiction courts can only assess fees if the Legislature gives them permission to assess them or if they are part of an inherent court function. That is what the case law says. What section 8 does is expressly allow this fee to be charged, but we want to make sure it is going to fund our specialty courts in this state. It expressly authorizes a practice that is already happening and also says we want to control where that money goes. Right now I am not really certain where it goes and it depends on which court is collecting it, but with this bill it would go to specialty courts, which we have heard in this Committee are very effective.

Section 9 ensures that the state gets the money that is due to it. I am not sure if all of you realize this, but our *Nevada Constitution*, in Article 11, Section 3, states that any fine assessed by the state goes into our State Permanent School Fund. That fund is an account that generates interest and the interest goes to the Distributive School Account. Essentially, this is one of the ways we fund our schools, with fines that are paid for state infractions. Here is the tricky part. Local governments can create their own set of infractions, county codes, city codes, and when they do that and collect the money, it is no longer a state fine, it is a local fine and the local government gets to keep that money. That is the way the system works because it is a reflection of typically local law enforcement, and local prosecutors are the ones working on these cases.

Here is where things got a little tricky when I started asking questions. There are certain things in statute that we as a state have said we have the sole jurisdiction to enforce and local governments, you are preempted from regulating in this space. Here are two great examples: licensing of drivers and registering of vehicles. Those are functions of the Department of Motor Vehicles (DMV), which is a state agency. We do not allow local governments to handle those. As a result, if somebody is cited for not having a driver's license or driving an unregistered vehicle, that is a state fine and that fine needs to go into the State Permanent School Fund. What I realized was happening, whether intentionally or not, was sometimes those tickets were being processed in a way that they were being characterized as local offenses so that money that was intended to go into the State Permanent School Fund was actually going to the local government. I am not going into the weeds because it is a tricky

area, but there are ways that courts and other individuals can characterize offenses so that the state does not get the money that it should get. Section 9 says it does not matter what you call it or how you process it: if it is a state fine, it needs to go into the State Permanent School Fund so we can fund our schools. Over the years, the collections into that fund on the state side have gone way down from where they were. In some instances almost nothing is being remitted from certain courts to the state. We are here on behalf of the state. We all talk about education and education funding in this state and this is a way we can make sure that we are enacting the intent of the *Nevada Constitution*.

Section 28 relates to speeding. As I indicated, I want speeding to be a petty misdemeanor, but this standardizes how much the fine is for speeding. We have heard anecdotal stories and probably some of you have experienced this. You may get a speeding ticket in Clark County for ten miles over the speed limit and it is going to be one amount of fine, but it might be different in the City of Henderson or North Las Vegas. Some of our communities between Las Vegas and Carson City can be different and the fines can be very high for speeding. Section 28 says that the fine is \$10 per mile over the speed limit. If you are ten miles over the speed limit, the fine is \$100; if you are 20 miles over, it is \$200. We finally have a standardization where you are not going to be hit with a small fine in one jurisdiction and sometimes up to \$1,000 fine in other jurisdictions for going a few miles an hour over.

If someone gets a speeding ticket and they decide they are just going to pay the whole amount before coming to court, which you can do now in most jurisdictions, you can go online, particularly in Clark County, and pay the whole amount and never have to go to court. It says in that circumstance that the court must reduce the charge to a parking violation. The thought behind that is—practically speaking, this is what happens already, but these are individuals who are able to make good on the fine amount without using court resources, without having to bog down the system—you ought to get some kind of benefit for doing that. If you were to hire an attorney and go to court, you would get this negotiation anyway. It happens every single day, but there are also exclusions. It says, if you cause an accident or you hurt somebody, such as a pedestrian, you are not entitled to that kind of reduction. It would stay a speeding violation.

Finally, there is one additional item that I intended to be in this bill, but it did not make it. I intended to have a grace period for warrants. For instance, if you do not come to court or you miss a payment now—again talking about traffic infractions and not other kinds of offenses—the court will issue a warrant for your arrest. Courts are a little bit all over the place in terms of how long they wait to issue those warrants. I would like a provision in this bill that provides a grace period of 14 calendar days before that bench warrant goes active. That would essentially give a defendant in a minor traffic infraction case two weeks to come back to court to take care of their business before that warrant would go active in the system. There are some jurisdictions that are already doing this and there are some that are not. This would not apply to serious traffic infractions such as DUI, reckless driving, or vehicular manslaughter. You are not going to get that grace period; you will simply have a warrant issued because those are serious infractions.

**Assemblywoman Nguyen:**

I know that you worked on this during the interim, and it was my understanding that you contacted a lot of these local jurisdictions that handle tickets. We are talking about clarifying in statute where this money should go, because it seems like currently there are a lot of unknowns. Did you get any kind of impression while reaching out during the interim as to how much money we are talking about?

**Assemblyman Yeager:**

One of the difficulties was that a lot of the local jurisdictions were simply unable to provide adequate information or data to the questions that were posed. They were questions such as: How much money did you collect from traffic fines in this fiscal year? How much of that money was remitted to the state? How much of it was a result of court fees? How much were administrative assessment fees? These are things that you would think you would be able to process, but a lot of courts said they were unable to figure this out due to software limitations.

I do not feel comfortable that we got great information, but it is my belief, based on the information we did receive, that in excess of \$20 million or \$25 million annually did not go to the State Permanent School Fund. In the budgets that we have, that is not a huge number in an absolute sense, but keep in mind that that is money that stays in the State Permanent School Fund—it does not get spent, but the interest from that goes to our schools. Obviously it is important to us to make sure that, on the state level, we are getting every single dollar we can get. I am comfortable saying I think it is around that amount, and that is just for the last couple of fiscal years. Keep in mind, this practice has been happening for years and our interim committee was not the first one to study this. There was a study done in 1999. It was chaired by former Assemblyman Bernie Anderson, and former Assemblywoman Barbara Buckley was on that committee. I think this is the first time we actually have legislation that attempts to deal with this in an equitable fashion.

**Assemblywoman Nguyen:**

Who did you envision would administer these funds that would be redirected to or essentially be reinvested into the specialty courts?

**Assemblyman Yeager:**

We essentially earmarked it for the Administrative Office of the Courts' (AOC) Specialty Court fund. They are the agency right now that essentially collects all the specialty court monies and they have a process in which they divvy that out to the jurisdictions and to the different specialty courts. There is a formula they use to figure that out based on population and they give that money directly to the specialty court. Any county or court in the state that has a specialty court would be eligible to collect that money and to use it, and the benefit is that if you do not have a specialty court yet, you could potentially get funding to start one. In some of our more frontier areas that do not have these courts yet, there would be a mechanism for them to hopefully start one of these courts.

**Assemblywoman Nguyen:**

I know that is just a part of the monies that are collected that would be redistributed or redirected towards that reinvestment in our own communities, but do you have any idea, conservatively, what type of funds we are talking about annually that might be redistributed to the specialty courts?

**Assemblyman Yeager:**

So everyone knows, this is section 8 of the bill where somebody can essentially buy their way out of a traffic school and get a reduction. Right now the amount that seems to be customary is about \$100 in addition to whatever your normal fees and fines are. I believe, based on what I have seen, and it is a conservative estimate, that fee would probably generate somewhere in the neighborhood of between \$10 million and \$25 million a year for our specialty courts.

**Assemblywoman Hansen:**

I really do like the idea of channeling those fees to the specialty courts. With some of these jurisdictions that lie in my district going from here to Las Vegas, I had that same issue where the fines can be pretty hefty. But I am also sympathetic because they depend on some of these revenues for their jurisdictions. I know we are doing a little bit of a dance, and of course, the *Constitution* is preeminent in my mind. Going to Assemblywoman Peters' concern about data systems, perhaps there could be an amendment that, if we let them keep the fines, they have to develop data systems in their rural jurisdictions so that we can gather data. I am saying that in jest but also seriously; maybe they need to keep some funds so that they can prioritize being able to have data systems.

**Assemblyman Yeager:**

Great point, Assemblywoman Hansen. I will note right now there is one administrative assessment fee, and I think it is \$10; any local jurisdiction can charge a \$10 premium and that goes into a designated fund that they can use for court upgrades. That is available now, and I know for some of our rural jurisdictions that is crucial for them to be able to have funding to upgrade their facilities, to remodel, et cetera. I think your point is well-taken. I think there is potentially some kind of workaround we can have where perhaps some of this money does go to that specific purpose of information technology and data systems. As you all know, it is extraordinarily expensive, and I guess we can blame the people in these chairs 20 years ago for not thinking about where we would be today. I am open to that and I just note that we have to specifically say that, because if we do not put it in a specific fund and the county or the city collects the money, they remit it the county or the city. Then they have to go through the process of trying to get it back in the budgeting process.

We, as a Legislature, can do that. I certainly would be open, in section 8 of the bill with the \$100 premium to get out of traffic school, to earmarking a portion of that to go back into technology infrastructure and upgrades. I appreciate the suggestion.

**Assemblywoman Tolles:**

I actually had the same question as Assemblywoman Hansen along those same lines that I absolutely appreciate. I always feel like when we talk about education funding, there is a hole in the bucket. We have all this money that tends to shift around and does not go where it is intended to go. I appreciate that we are trying to recoup what was meant to go to the State Permanent School Fund, as it would have a positive impact for schools, but I just want to hear a little bit more about what the impact would be when that \$20 million to \$25 million is going to schools. What is the impact on the local jurisdictions?

**Assemblyman Yeager:**

It is hard to say. I think you will hear from some of the local jurisdictions this morning. I do not want to give the impression that it is every court in the state, it is not—I do not want to impute any bad faith, I think folks are trying to do their jobs—but sometimes practices develop that are probably contrary to the *Constitution* and statute. In my mind, particularly regarding the fines and fees associated with no driver's license and no registration—those infractions and speeding by and large make up the biggest number of minor traffic infractions we have in the state—this is money that was always supposed to go to the state and, through local practice, has been deprived of the state. I think there will be a fiscal impact on the local governments, but at the same time, we are the stewards of the state and every dollar we can send into the classroom is significant. Perhaps some of that money does indirectly get back to the schools through the local governments, but it is not going where it should go. The State Permanent School Fund does not have money drawn out of it. The bigger that fund grows—and it has been growing since the *Constitution* was enacted—the more money we have in that, the more interest that is going to be generated and there is a compounding effect over time.

That being said, I am sensitive to the fact that, as you and Assemblywoman Hansen mentioned, there is a real fiscal impact to this and I think we are still trying to work our way through some of that. One of my hopes is that through this bill and some of the other bills we are hearing, if we streamline this process and we make our courts more user-friendly, I actually believe collections are going to increase from people who are able to pay but have problems accommodating their schedule to match the court's schedule. My hope is that we will come out even but I cannot say that for sure at this point.

**Assemblyman Edwards:**

I really like the idea of having a grace period if you miss a court date before a warrant is put out there, especially for an infraction like this. I would, however, propose that the days be at least 30 days because if you have to show up in court, the courts are already overworked so they might not be able to schedule you, frankly. In that case, I think we should maybe say that the courts have to automatically extend the deadline 60 days for a maximum of 120 days, or something of that nature, just so that we do not put an unworkable requirement on either party. Also, what about having some sort of annual amnesty where people—if for whatever reason, did not make it, screwed it up, or did not get it right—actually have one last shot at fixing things without having to go to jail for it?

**Assemblyman Yeager:**

I appreciate the suggestion, particularly on the warrant grace period. I think that is something we can work on. Initially I thought 7 days and then went to 14 days, but you are right; especially in our busy urban jurisdictions, it is pretty difficult to get back on calendar. I am certainly open to that suggestion of more days. I think the suggestion of an amnesty day is a good one and perhaps some of the local governments can talk about that. I think some of them do that already, but I do not know if that is through the courts or through the prosecutors. I know the Clark County Public Defender's Office is doing a warrant-quashing day in early May on a Saturday. I do not think that has ever been done before, so I am looking forward to going to the courthouse to see exactly how that functions. There are some programs in place: the Veterans Stand Down, for instance, will quash warrants. I am hopeful that we can do that. I do not want to put too much of a burden on the court, but I think working with some of our community partners, some of these programs that are happening could be expanded. It is a lot easier for someone to get somewhere on a Saturday morning to take care of a warrant than it is to have to show up on a random Tuesday at 8:30 a.m. or 2 p.m.

**Assemblyman Edwards:**

And maybe the other aspect is to actually have certain judges work on a weekend or two, even if we had to expand the number of judges to do that, which I, frankly, would support.

**Assemblyman Roberts:**

I was trying to look for a definition of "petty misdemeanor" in the bill and it does not really define it there. I went to *Nevada Revised Statutes* (NRS) Chapter 193 which defines criminal misdemeanors and gross misdemeanors. Is a petty misdemeanor a civil infraction or is it a criminal violation?

**Assemblyman Yeager:**

Right now petty misdemeanor does not exist. This bill actually creates a new class of offenses called petty misdemeanor. It would, in this bill, still be a criminal infraction. The only difference is, you cannot be jailed for it. The next bill will talk about civil; but this bill would be enacted essentially if we are not able to transition to a civil system. It is kind of a backup. It would be criminal, but you are not looking at jail time.

**Assemblyman Roberts:**

If this goes and the other one does not, would it be defined in NRS Chapter 193? I just know that when we teach our cops, we pull definitions right out of the statutes and they have to recite it a thousand times before they can graduate.

**Assemblyman Yeager:**

Other states have classes of misdemeanors and we have that with felonies, of course. I think the intent was to just set up for one to be called a misdemeanor and one a petty misdemeanor. I am not wed to that terminology. I think if it makes more sense to call one a class 1 or a class A or class B, I would be happy to look at that as well. Maybe you could have some

input whether that would be easier in the field—to do that instead of create a separate, new thing called a "petty misdemeanor."

**Assemblyman Roberts:**

Maybe even keep "petty misdemeanor" as the term, and then if you make it a civil infraction, just define that in the statutes and leave it that way. Just a suggestion.

**Assemblyman Daly:**

Thank you for the explanation. When I read through this, most of my questions were related to the next bill so I am hoping we will see how those two mesh together. The one thing that I thought was interesting and wanted to follow up on is the reduction to a non-moving violation if you pay before the court appearance. I was just curious if you had heard from or been contacted by anybody in the insurance industry. I know that is how they do a lot of ratings; they check your moving violations and various things. I do not want to raise a red flag. Then how does that work on the other side with the other bill, which I am hoping you will explain when that bill comes up. I did not see the same reducing it to a non-moving violation in Assembly Bill 411.

**Assemblyman Yeager:**

The genesis of that provision is to align policy with practice. Right now, if I am speeding on Interstate 215 in South Summerlin and I get a ticket, the ticket tells me when I have to go to court. Before I go to court, I can go to the website and decide how I want to proceed. One of my options on the website is to just pay in full; pay the whole amount because I do not want to be bothered by going to court. The interesting part is if I do that, that actually is a conviction for speeding and it gets reported to the DMV as a conviction for speeding, and however fast you are going is how many points you will be assessed. Meanwhile, at the same time, when I am on the website I have two other options: I would like it to be reduced to a parking ticket so I will pay all the fines and I will go to traffic school. If I do that, then it gets reduced down to a non-moving violation and that, of course, does not get reported to the DMV. The third option, which is section 8 of this bill, is I want a reduction but I do not want to go to traffic school, so I will pay extra money not to go to traffic school. When I do that, I get the reduction as well.

I guess when you look at that, it seems like the first scenario of someone going online, paying the whole amount, and not taking up the court's time—that is the kind of practice we want to encourage. That person does not get a reduction and I will tell you, that surprises people. I had a call from an attorney in Louisiana who read an article about our interim committee and he said, Hey, I got a speeding ticket and just went online and paid it. Is that on my record now? I said, Yes, it is on your record now. He had some concerns about whether he had to report that to the Louisiana State Bar Association because it is a criminal conviction. I had a conversation with him about that and I said, Next time, do not do that. Contact an attorney because the truth is, even if you do not want to pay the whole amount, if you hire an attorney to go to court for you, they are going to get that same negotiation where you get a reduction. When I was thinking about this, it seems like we want to encourage

people to be responsible right up front as quickly as possible, if they do that, we ought to give them a reduction.

To answer your second question, I have not heard from insurance companies on it. I will say that this is current practice really, absent the one example from Louisiana. Most people are getting speeding tickets reduced to non-moving violations already. I will note that there are some inconsistencies between these two bills that I think probably need to be put in alignment. As I worked through some of these bills over the last couple of days, I realized that as well. This bill as well as the next bill are both works in progress at the moment.

**Vice Chairwoman Cohen:**

I have a question about the determination of indigency. Section 1, subsection 2, has a person who has a household income that is less than 200 percent of the federally designated level signifying poverty. I was thinking about families who maybe are at 300 percent but there are five people in the family as opposed to that one person who is at 200 percent but is the only person in the family. Was there any consideration given to the size of the family?

**Assemblyman Yeager:**

What I do not know at the moment is whether the level set by the federal government takes into account family size or not. It looks like Assemblywoman Peters is nodding her head that perhaps they do take into account family size. I think that would address that potential concern, but I can certainly look at that. I want to also point out that this is definitely how you prove that you are indigent, if you qualify under one of these provisions. Even if you do not fit under this, a judge does not have to incarcerate you. A judge can find mitigating circumstances. What I liked about this section is that we simply had no definition of indigency in the law. It was just whatever the practice was in court. Your concern is well-taken and I will get a handle on exactly how the federal government defines poverty.

**Vice Chairwoman Cohen:**

Do we have any other questions from Committee members? [There were none.] I will open it to testimony in support of A.B. 434. [There was none.] I will open it up to testimony in opposition to A.B. 434.

**Mike Cathcart, Business Operations Manager, City of Henderson:**

We are supportive of the policy goals of where A.B. 434 is going, however, we are opposed to section 9. We would like to have a little more conversation about that. I believe that we need to get our court administrator and really take a look at our fees and see how they are being processed. I can see one of the issues that could become complicated by that section is you may have one of the fines that goes directly to the state, but it may be rolled up into fines that are going to the city as well in the same infraction. We need to take a look at our systems, sit down with Assemblyman Yeager, and see if we can talk through how section 9 will work in the future. I look forward to doing that.



**Brian O'Callaghan, Government Liaison, Office of Intergovernmental Services,  
Las Vegas Metropolitan Police Department:**

The only section we have concern with is section 28, subsection 4, regarding speeding. What this sets up here is it eliminates the progressive penalties for multiple speeding offenses. It opens up for allowing driving privileges if you continue to speed, but then have it reduced every time by codifying in law. The big problem we have in this state is that many of our accidents are due to speed, so there is no deterrence there.

**Dylan Shaver, Director of Policy, City of Reno:**

I live on a street called Skyline Boulevard which is a predominantly residential street, but we also have a firehouse on the street which means that the speed limit has to be 35 miles per hour (mph) and there cannot be speed controls. As I am sure you know, 35 mph does not mean 35 mph, it means much, much more. Under this bill, we have basically commoditized speeding. If you charge somebody \$10 per mile over the speed limit to drive up and down this residential street, they can go 60 mph for a \$250 fine and, given the provisions of the bill, zero points on their license.

As a city, we retain the right under NRS Chapter 266 and NRS Chapter 268 to do things to guarantee the health, safety, and welfare of our citizens. I do not believe it was Assemblyman Yeager's intent, but we view enacting these measures in tandem as a serious infraction into that authority. We want to keep our streets safe and we want to make sure that the habitual speeders get the points on their license that, frankly, they should get. At the end of the day, that is how we find these people. They are getting fined time and time again for infractions like this, and eventually they lose their privilege to drive. By not reporting these infractions to the DMV, you have taken away that enforcement mechanism.

Outside of that, the overarching ideological goals of the bill are goals we support. It is going to be a long road to get there, and we look forward to working with Assemblyman Yeager and members of the Committee, but we just want to illustrate that there are serious challenges on our roads. I told one of you just the other day that we live in a world where we literally have to post signs to remind people to look up from their cell phones when they are crossing the street into a crowded roadway. As a municipality, we want as many tools as we have at our disposal to make sure we can keep those people safe.

**Graham Lambert, Private Citizen, Henderson, Nevada:**

We oppose just a small portion of this bill and perhaps A.B. 411 will make this point a non-issue. As a medical student at Touro University Nevada, what happens is we apply for residency after medical school, and when we submit that application we have to state any criminal activity. As it stands currently and as this bill proposes, any moving traffic violation such as a speeding ticket could, in fact, become one of these types of actions that will have to be reported and could potentially hinder someone's ability to get into a residency. The reason this is important and specific for Nevada is it will help level the playing field. If you are unaware, all of the surrounding states consider simple moving traffic violations as just civil infractions, meaning that when students from those states apply for residency, they do not have to cite speeding tickets as criminal activity. The states surrounding us that do consider

speeding tickets as civil infractions are California, Arizona, Utah, Idaho, Oregon, and Washington. Again, we are proponents of A.B. 411 simply for the fact that it will help level the playing field, and if A.B. 411 goes through, again, this would be a non-issue for us. This is the only reason we are in opposition to A.B. 434, again just because the fact that changing it to a petty misdemeanor still means that it is criminal activity that will have to be reported when applying for residencies.

**Amanda Hertzler, Private Citizen, Henderson, Nevada:**

I am speaking on behalf of the osteopathic medical students at Touro University Nevada as the student government president. Respectfully, we are also in opposition to this bill. Like my colleague said, it is simply because this is taking a speeding violation down to a petty misdemeanor. Regardless of the fact that it is now just a petty misdemeanor with this bill, as residents and people who are applying to residencies, we would still need to report that on our residency application. It is simply for that reason that we are in opposition to this bill.

**Vice Chairwoman Cohen:**

Especially for me, it is always gratifying to see students from Touro University Nevada in beautiful Assembly District No. 29 visiting us at the Legislature and participating in the process.

**Jennifer P. Noble, Chief Appellate Deputy, Legislative Liaison, Washoe County District Attorney's Office; and representing Nevada District Attorneys Association:**

We have two concerns with this bill. The first is the creation of a "petty misdemeanor." In general, we do not oppose making these civil infractions like the next bill will do, but we do not want to create a new class of misdemeanor. I think if this is a bill that goes through, we could perhaps craft language where we just apply different punishments under the misdemeanor scheme for different offenses.

Our more primary concern is that expressed by Mr. O'Callaghan, and that is that speeding is a public safety concern. Yes, people do get reductions on their speeding tickets. I have spent more time litigating speeding tickets than I ever want to remember. We certainly do try to resolve those. In Washoe County, you do not automatically get a non-moving violation if you are going 30 mph over the speed limit. Our primary concern here is if we have somebody who is routinely egregiously speeding in areas, that should be reflected on their driver's license. Wealthier people should not be able to pay their way—a tax for speeding—and then go on their way continuing to endanger the public. That is our primary concern and our opposition.

**Shirle T. Eiting, Chief Assistant City Attorney, City of Sparks:**

We are in opposition to this bill and agree with the other concerns that have been raised by the other jurisdictions. We look forward to working with the sponsor to resolve the contradictions between A.B. 434 and A.B. 411.

**Vice Chairwoman Cohen:**

Do we have any other testimony in opposition to A.B. 434? [There was none.] I will open it up to neutral testimony on A.B. 434.

**Lisa A. Gianoli, representing Washoe County:**

I just want to get on the record—and I know that the sponsor is willing to work with us—we have some confusion with some of the language and it does probably, in some cases, change the fee structure as far as where the dollars are going to go. For us, it means money going to the state, which in some cases might be appropriate, but we just want to get on the record that that does change our funding piece. We do, as a county, fund the bulk of the justice courts. The fees do pay a portion of it, but I think in our case, the two are lumped together now with regard to A.B. 434 and A.B. 411. We do want to get on the record that we want to work on those things and make sure that we take into account all those issues that will change that funding mechanism for us.

**Melissa A. Saragosa, Judge, Las Vegas Justice Court:**

On behalf of our court, we are neutral on the bill. We do have some questions and concerns about a few areas and I look forward to working with Assemblyman Yeager to work through some of those issues. I do agree with Assemblywoman Peters with regard to the federal poverty guideline. I deal with that guideline quite often in our court, and it does distinguish by number of individuals in the family.

The one area that I had the largest concern with was section 8. With respect to the funds that are here, my court is a court that has a process in place currently that will allow an individual to pay a higher fee, something that is more costly than a driver school program—in fact, almost double what the driver's education program costs—in order to reduce those points and not have to attend the traffic school. This particular bill contemplates that, in lieu of that money currently going to the court that collects it, it would go to the AOC for the specialty court fund. While I have no issue with those dollars being spent in that fashion, the one thing I noted was in my particular court, we have a large number of specialty courts—two DUI courts, a drug court, a veterans treatment court program, a community impact center—and we put all of the money that comes in through that into our court education fund. It is a slightly different fund than the specialty court fund, but for us, the court education fund does fund locally all of our specialty courts. It funds a number of staff positions right now that are not covered through the AOC. We are only able to offer these specialty court programs because we have those funds. Our court coordinators who run our specialty courts are funded out of this. I am not opposed to the position that it does this, but I am hopeful that we might be able to work something out so that we can use the money in the exact same way that this anticipates but not having it filtered back up through the AOC in hopes that we will get a fraction of it back, because it would require some additional funding for our current staff.

In section 28, the area of the bill that talks about if an individual wants to avoid court altogether, they may pay the full amount of the fine ahead of time. The one thing I wanted to clarify was that that was the full fine plus all of the administrative assessment fees that go

along with it, not just the fine portion of it. I will save my other comments for a further discussion when we can work out the details of the bill.

[([Exhibit D](#)) was submitted on behalf of the Nevada Judges of Limited Jurisdiction.]

**Vice Chairwoman Cohen:**

Do we have any other neutral testimony on A.B. 434? [There was none.] I will invite Assemblyman Yeager back to the table for concluding remarks.

**Assemblyman Yeager:**

I heard what I believe are some very legitimate concerns from the opposition and neutral testimony. I think we can work through some of those. I am certainly not trying to give serial speeders who act in dangerous ways breaks that they do not deserve. But I think we can potentially tighten up that area. Although I will say, I believe in Clark County, there are serial speeders who are routinely getting traffic tickets over and over again. It happens all the time, which does not mean it is right, so we can try to address that. I think we are in agreement as to where we are trying to go. Maybe we have some disagreement about how best to get there, but the number-one priority for me is making sure that every dollar that is supposed to go into the State Permanent School Fund is going into that fund. I think everyone wants to do that as well. Thank you for hearing A.B. 434. I will continue to work on it, and I urge your support.

**Vice Chairwoman Cohen:**

I will close the hearing on A.B. 434. I will now open the hearing on Assembly Bill 411, which provides for civil penalties for certain traffic and related violations.

**Assembly Bill 411: Provides for civil penalties for certain traffic and related violations.**  
**(BDR 43-426)**

**Assemblyman Steve Yeager, Assembly District No. 9:**

It is my honor to present Assembly Bill 411 this morning. This is the big one that we all have been waiting for that seeks to change our system for minor traffic infractions from criminal to civil. I am not going to go over all of the history of where we have been to get here. You have all heard multiple times about the interim committee that met. I did want to tell the Committee that there was an effort to do just this in the 2013 Session, which did not really go anywhere. There was also an effort to do this in the 2015 Session and it, again, did not go anywhere. In the 2017 Session, we established the interim committee to study it because as you know, it is a more complicated issue than you might first believe it to be.

This is the legislation that finally comes out of what I believe is six or seven years in the making of trying to figure out how to join many of the states around us, including all of our neighboring states, who treat minor traffic infractions as civil offenses rather than criminal.

As you heard in the last bill and I am sure you will hear in this bill, there are implications for Nevada citizens who at times have to report criminal traffic infractions on applications, so

this is an equity issue where we want to put Nevada citizens on par with our neighboring citizens. The majority of states have transitioned to a system like this. We are not breaking new ground; in fact, we are behind the curve.

The main goal of this bill is to make sure that we are not arresting and incarcerating people for committing minor traffic infractions, especially when those people do not have the means to pay the tickets. Consider for a moment, even though we say that they are criminal traffic infractions, we do not treat them as if they are criminal traffic infractions. We do not give them proper due process in the system we have now. For instance, if you get a speeding ticket and you do not go to court, all of the fines, fees, and additional fees for not coming to court are assessed against you and then all of those are sent to a collection agency which then tries to collect the money from you. Keep in mind, no one has adjudicated you as guilty of the offense that you are charged with. We have a system right now that I think is of dubious constitutionality. If we are going to say they are criminal, we need to treat them like they are criminal. If they are not, then we need to stop saying that they are criminal because the process we have now is not working. Transitioning to a civil system will help those issues.

I understand that this is a really long bill and it is pretty involved. Part of that is because our traffic laws are probably unnecessarily complicated in statute. Essentially what this bill tries to do is to create a civil system where, if you miss court, a default judgment would be entered against you—not a criminal judgment, but a default civil judgment—just like in any another civil case that might proceed. If you do not come to court and state your case as a defendant, the court simply orders a default judgment against you. At that point, the local government—whether it be the city, county, or sometimes the state—would be able to collect on that default judgment just like anyone can collect on a default judgment that exists in the civil world. This bill indicates that a default judgment expires after ten years. Essentially, if they cannot collect or find you after ten years, it is just going to be written off the books because that is essentially what is happening now anyway.

In this circumstance, if the court issues a default judgment and the defendant against whom that judgment is issued is not indigent, meaning you have the funds to pay—but you are intentionally not paying or making good on your obligation—the court can garnish wages, suspend your driver's license, or hold you in contempt of court, including potentially imposing jail time. But we are putting protections in this bill that those mechanisms only apply if you have the means to pay and you are willfully choosing not to pay. The structure of that is set up in section 36 of the bill.

Please allow me to take you through the bill as succinctly as possible, then take questions. Again, as you noted from some of the testimony, this is a work in progress. If A.B. 411 were to be enacted, I do not believe we would need Assembly Bill 434 that we just heard. Assembly Bill 434 is essentially a bill that would only apply if we were not able to enact A.B. 411. Assembly Bill 411 changes the structure we have dramatically.

Under this bill, the more serious traffic infractions will remain criminal misdemeanors—things such as reckless driving, DUI, vehicular manslaughter, and drag racing—so I do not

want to give the impression that we are moving everything to a civil system. It is indeed the minor traffic infractions. Our traffic laws are fascinating when you start looking at some of the things that we criminalize. Some of those we have talked about that would be considered civil infractions are: basic speeding in section 22; driving without a license in section 15; having a passenger in the bed of a pickup truck in section 46; and failure to move over to the right if there are five cars behind you on a one-lane road and you are driving too slow in section 57—that is a criminal infraction right now. I know all of you experience that driving from Las Vegas to Carson City. So, five cars behind you is the period where you are obligated to pull over if you can safely do so and let those cars pass you. That would be a civil infraction, but right now it is a criminal misdemeanor.

Some others—infractions dealing with bicycles and lighting in section 59; length limitations in section 65; certain permit violations to transport equipment in section 67—are all criminal infractions under our existing laws. Under this bill, they would become civil infractions.

Sections 9, 11, and 12 make clear that civil infractions still count as infractions on your driving record. This goes to the question that Assemblyman Daly asked on the last bill. Even the civil infraction would still be reported to the Department of Motor Vehicles (DMV) and you would still acquire whatever points correspond with that citation. In terms of insurance companies being able to assess whether you are a good driver or not, this bill would not change that.

Sections 23 through 26 actually talk about the procedure of how these cases would be processed in court. Section 24 provides what the notice of civil infraction would be, what it would look like in terms of what you would be handed in the field by a peace officer. Section 26 makes clear that a police officer can still stop you if they think you are committing a civil infraction and they can detain you for a reasonable amount of time to investigate. I do not want to give the impression that you are going to be able to do whatever you want and the police are not going to be able to stop you. That is not the case; that is not going to change at all. If they look in your car and see evidence of criminal activity, they are going to be able use that against you. It is just not going to be criminal, it will be civil.

Section 30 basically says that if you are faced with one of these civil infractions, you have three options. The first option is to just pay the fine and be done with it, as we talked about earlier. The second option would be, I want to contest it; I did not actually commit this infraction. The third option would be, Yeah, I did it, but I want to explain why and provide some mitigating circumstances to try to get a reduction in penalty.

Sections 31 through 33 describe what such a hearing would look like in court. It is going to look a little different than it does now. First of all, the *Nevada Rules of Civil Procedure* would not apply so we are not going to have written discovery, depositions, or any of those things that you would see in a typical civil case. The defendant does not have to hire an attorney but he can. The city or county prosecutor can participate in a trial if it happens, but they are not obligated to be there. It is completely at their election. The burden of proof is a preponderance of the evidence. This is a big difference. Right now, under criminal, it is

proof beyond a reasonable doubt that you committed the infraction. Under a civil system, it would be a preponderance of the evidence which has been defined as 51 percent; once you get past that it is more likely than not. The citing officer does not have to come to court, they can simply submit a statement under oath for the judge to consider. The judge can consider the citation itself. Any party can subpoena a witness, so if the defendant said, No, I want the officer there, or, I have an eyewitness, that person can be subpoenaed. A prosecutor can do that as well. Then, if you lose, you can appeal as you can under any civil case right now in justice or municipal court. That would be what the hearing looks like if you are going to fight it all the way to the end.

A mitigation hearing—meaning, I did it but want to explain why—would be less formal. There would be no ability to subpoena. Basically, the offender would show up in court and explain to the judge the mitigating factors for the judge to take into consideration when assessing a penalty and there would be no appeal.

Section 34 basically says that unless a greater penalty is provided under the law, the penalty amount for a civil infraction will be \$250. There are infractions that have greater penalties; for instance, not having insurance or speeding over a certain amount carry greater penalties. What we are trying to do here is finally, much like the last bill we looked at, have a uniform system of what your citation is going to be so that if you get a civil infraction in Las Vegas, Reno, Goldfield or Elko, it is \$250 and you will know that upfront. No longer would your fine be \$1,000 in one place and \$100 in another.

Much like we talked about with respect to A.B. 434, if the civil infraction is a state offense, it would go to the State Permanent School Fund. Let me be clear about this because there was a question as to whether local governments could actually enact civil infractions in their own codes like they have now with criminal. The answer is yes. Nothing would prevent a local government from adopting their own civil infraction codes and keeping the funds if it is a violation of a city or county code. A city or county would not be able to classify these as criminal, because the state is saying they are civil, but it would be much the same system as we have now where we have state offenses and local offenses. The local governments would be able to do that and would continue to be able to collect their funds. Hopefully that should relieve any concerns that every single dollar from every single infraction is going to go to the state rather than the local government, as that is not the intent.

Section 34 also continues the system of administrative assessment fees as they now exist. As we talked about and Judge Saragosa mentioned on the last bill, there are these administrative assessment fees that are in statute. I am not looking to get rid of those. They are important in funding various things in our state including courts, victim services, domestic violence services, and others. However, this bill would allow a judge to find extenuating circumstances and waive or reduce those civil penalties.

There are certain infractions now in our statute where we, as a Legislature, have told the judge they are not allowed to reduce fines, period. They are not allowed to reduce them at all, no matter what the circumstances. This bill would give some flexibility there. We want

to depend on our judges to make the right analysis and frankly, I have seen some cases where it is so abundantly clear that the offender is never going to be in a position to pay the fine. A fine of \$1,000 may not sound like a lot, but for some people that is a lot of money. Sometimes these cases are open for four, five, or six years and people are coming in making \$5 payments, and it allows a judge at some point to assess that and ask, What are we doing throwing good money after bad? This would allow a judge to reduce or waive the penalties as well as set up payment plans.

Section 80 would require that any existing warrant for a failure to appear in court would be cancelled. If you have something out there right now that we are now saying is going to be a civil traffic infraction and you have a warrant for it because you did not go to court, if we enact this bill, those warrants are going to be cancelled and removed from the Central Repository for Nevada Records of Criminal History system. I think that is the right thing to do if somebody has one of these infractions and has not been to court yet and now, as a Legislature, we are saying this is a civil infraction, no longer criminal. I think cancellation of those warrants is the right thing to do, so that would be retroactive. If you have already entered a plea, you have already been found guilty, or you are already making payments, we are not cancelling that because we cannot as a Legislature.

Finally, this bill would be effective on October 1, 2019, so that would be the date that we transition from criminal to civil. Again, there is a lot of history behind this bill. There is a lot of information I could give you about practices going on in courts, but I do not want to overwhelm you. But I am happy to answer any questions about how the bill would work. I am happy to answer any questions about the interim committee or answer any questions any of you have about A.B. 411.

**Assemblyman Daly:**

You touched on a couple of questions that I have. The first is more rhetorical. In section 51 [subsection 4], there is going to be an increased penalty for going more than 20 miles over the speed limit. Who wanted that?

**Assemblyman Yeager:**

I have to be honest, the work that we did on the interim committee seems like a very long time ago at this point in the session, but I think one of the things we were concerned about was wanting to go civil but we also wanted to—much in response to Mr. Shaver's concerns from the City of Reno—make a distinction between those who maybe just were not paying attention and going five or ten miles over the speed limit versus those who really are causing a risk. We put that in there to indicate that if you are going more than 20 mph over the speed limit, the fine is going to be doubled. Hopefully that will address some of the concerns we heard earlier from some of the local governments.

**Assemblyman Daly:**

You did touch on the penalties being \$250, but I think I read \$250 up to \$500. Is that what you are talking about where it doubles? It sounded to me like there was a range, but maybe I read it incorrectly. Then my question is, how is that range going to be set? Is it not a



sliding scale, is it a set amount, or is it doubled for certain infractions? because it does say in certain circumstances.

**Assemblyman Yeager:**

I think you are looking at section 34, subsection 1, which indicates that it would be \$250 per violation unless a greater penalty is authorized by statute. There would not be a range in the actual penalty, but I think the language you are referring to is in section 36, subsection 1, paragraphs (a) and (b). Those are amounts in terms of collection fees. Basically if you do not pay, the court can assess a collection fee on you and the ranges there are based on the amount of the underlying fine. It is a little confusing in the way it is set up, but it is current law. That is what happens right now when someone has a criminal infraction and does not pay—there is a collection fee. There is a range that can be assessed by the court. I wanted to keep those intact because I understand the court is going to have to make efforts to collect and they are going to need to pay collection agencies to do that kind of work.

**Assemblyman Daly:**

You said people can issue subpoenas. How does a regular person issue a subpoena? Do you have to get a lawyer? I could just write it on tissue paper and send it in. I do not know how that works, so could you explain that process? Right now it is criminal and with beyond a reasonable doubt burden of proof, and this lowers it to a preponderance of the evidence, which you explained as well. I am not so concerned with that. What I have found is it may be beyond reasonable doubt but it is preponderance, as the cop has never been wrong in my experience.

**Assemblyman Yeager:**

I think you are right. I think aligning this to a civil standard makes more sense and probably aligns with what is practiced anyway. Sort of the trade-off there was if we are going to say you cannot be arrested or incarcerated, we probably do not need a higher standard. To get back to your question about subpoenas, that is a really good question. I do not know the answer to that yet. One of the courts may be able to weigh in. Attorneys have the ability right now to issue subpoenas in criminal cases. Civil is a little bit more interesting so I think that is a wrinkle we are going to have to work out—that if you have someone who does not have an attorney and wants to issue a subpoena, what is the process going to be? I do not think they can just come up with one themselves, and then, of course, they would have to serve the subpoena. That is an area we are going to have to continue to look at, how to make that work in the real world.

The other point I will make on that is, even now with criminal infractions, so very few of these actually go to trial. Some of the statistics we received in the interim committee showed some jurisdictions had 10 or 15 total for the whole year that actually went to trial on criminal traffic infractions. I do not anticipate that there will be a huge workload increase, but we do have those situations where individuals may want to subpoena, so we will have to figure out how that is going to be done in a way that works for everybody.

**Assemblywoman Tolles:**

I have certainly received a number of emails from constituents who are very interested in this legislation. Under section 17, just by way of example, as I read the existing statute [NRS 483.575(1)], it reads: "A person with epilepsy shall not operate a motor vehicle if that person has been informed by a physician . . . that his or her condition would severely impair his or her ability to safely operate a motor vehicle." Reading through this, it seemed like a good example to be able to better understand that the current statute would say that person is banned altogether because a physician has deemed that they are unsafe, which is a public safety issue on our roads. As I read it now, this change would remove that ban, which is there to protect public safety, and make it just a misdemeanor. Am I misreading that or was that the intention?

**Assemblyman Yeager:**

Here was the difficulty: in existing law right now there are a lot of things you are told you cannot or shall not do. Those are misdemeanors even though our statute does not say that. If you were told you shall not do something and you do it, it is a misdemeanor. Existing section 17, the way the law is now, it says "shall not," but if you do it, it is a misdemeanor. The way that this bill was constructed and why it is so incredibly confusing is that, essentially, the bill looks at all of the different things under minor traffic infractions that right now would be misdemeanors and there are four or five different chapters with hundreds of subchapters. What this bill does is say all of these things are now civil infractions unless we say they are not. There are things that are pulled out of there and are now being called misdemeanors to make it abundantly clear that they are no longer civil infractions. The intent of section 17 is not to change one iota what the law is right now, but I think it was a drafting choice to say it is a misdemeanor. I think we could also leave "shall not" in there but indicate that it is a misdemeanor so it actually is clarifying that we are not intending to downgrade the penalty for violating section 17.

That is how most of the bill reads. When you read through the bill, there are a lot of items that are designated now as misdemeanors. What that means is they already were misdemeanors, but now we have to specify since we are creating a system of civil infractions. That is why the bill is really hard to read and to get a handle on what is happening. Hopefully that answers the question, and I think if you are more comfortable keeping the "shall not" in there and also specifying a misdemeanor, we could easily accomplish that.

**Assemblywoman Tolles:**

Thank you for that explanation. I did just pick that one example because I did see, as you stated, that it was repeated over and over again for a number of infractions that are currently "banned" or "shall not" under law. I do think it would be important to keep that language in there so that the intent is clear that we want to keep public safety first. Along those lines, you spoke to how much this does impact, and I do not know if, in the course of your study, there was ever a chart—which might be too much to ask in this short period of time. But as I was reading this and wrapping my head around what exactly we are changing from current statute, what exactly we are swapping out toward civil, it would be nice to have that in some

sort of comparative chart so that it is clear, because it is quite a lengthy bill. There is some room for misinterpretation of what we are doing in regards to public safety versus appropriate penalties.

**Assemblyman Yeager:**

I do not think a chart like that exists right now. I can certainly ask for help in making that happen. It is a little tedious, but I think it would be helpful. Just to give you an idea, this bill is one of the few drafts that I sent back a couple of times to legal and I am sure they were not pleased by that because it was a very long draft. I tried very carefully to look at items that I thought really did impact public safety. For instance, the one you just identified, things involving school, crossing guards, school buses, and not stopping for police officers are all ones that would impact public safety. Different versions of the bill had some of those as civil infractions so I tried really hard to pull those out and make sure that we are not going to jeopardize public safety. I will do my best to get some kind of chart together that lays out exactly what it is we are talking about. The big ones in terms of volume are basic speeding and driving without a license. A lot of the other ones, quite honestly, are things that you probably never heard of and would be surprised to know are actually infractions under the law. I will try my best to get that over to you and the Committee, hopefully by early next week.

**Assemblyman Edwards:**

What can we do to improve the situation with those drivers who are driving slowly in the left lane? This is one of those things that everybody faces and too little is done about it. They say we do not have the manpower and so forth. I would like to propose that we increase the penalties, increase them even further if they are blocking traffic intentionally with preponderance of the evidence as it may be. In order to encourage the local communities to actually get them out of our way, actually let the local communities or the issuing agency keep the money. We need to incentivize it somehow because they are a hazard and a danger, in all seriousness, but it is also a tremendous annoyance to just about everybody on the roads. I would like to include something, and I would be more than delighted to help you to instill something into the bill so I can support it enthusiastically.

**Assemblyman Yeager:**

I sense some passion on this issue, Assemblyman Edwards. I think you had a piece of legislation last session that talked about this issue.

**Assemblyman Edwards:**

Indeed, and I am not satisfied with the results.

**Assemblyman Yeager:**

To your point though, one of the beauties of this bill is the local government would still be able to enact whatever local code they want that would address this issue. I think they would be able to figure out what the appropriate fine is and what to do with it. That may be a way to incentivize, because I do not know if this is necessarily a problem in all jurisdictions, but

I certainly share your frustration of being in the left lane behind somebody who is going 40 mph in a 65 mph zone.

**Assemblyman Edwards:**

I feel your pain.

**Vice Chairwoman Cohen:**

I love to see bipartisan bonding.

**Assemblyman Roberts:**

In sections 24 through 29, we get into the nuts and bolts of how this bill works. In the first few sections, it talks about what the police officers do in the field as far as ticket books and things of that nature. I do not want you to get bogged down with a fiscal note at some point, because that will be an issue from the physical ticket books to the Brazos Electronic Citation books. I do not know what it would cost. Department of Motor Vehicles is good with fiscal notes, so I am sure they will have a good one for us. Is there a way to push the transition into the courts and not necessarily into the field versus having a completely separate system on the front end? When you looked at the other states around us, how do they do it? Maybe that is the norm, that they have two different citation books?

**Assemblyman Yeager:**

I think the answer is yes, there probably is a way to do it that way. I am sensitive to that concern and I have had some conversations with law enforcement about what it would be like to have two different sets of books and tickets. I think we can do that. Another option might be to have one standard one that you check civil versus criminal. I am certainly willing to work with them. I am not sure off the top of my head how other jurisdictions do it. It is somewhat complicated only in the sense that some of these are going to remain criminal misdemeanors. But we will keep working on that to try to come up with something that works and also be mindful of the regional differences in our state. I do not think everyone is on electronic citations yet in the state, but I will keep working on that. Your point is well taken.

**Vice Chairwoman Cohen:**

I have a question about the mitigating factors. I know that is not set in statute, but we are talking about things like, my child was in their car seat and was throwing up or throwing a tantrum and I just needed to get them home—that type of thing.

**Assemblyman Yeager:**

I anticipate exactly that, or I was late to something or I was not paying attention. I am sure that Ms. Noble can tell you that happens now anyway on traffic tickets when you are negotiating. You do not usually get someone who says I did not commit the act, it is usually that I should have a lesser penalty because I had something going on. I think that is what is happening now with the negotiations, but that pitch would just be made to a judge and then the judge would be able to decide whether that weighs into or potentially mitigates the amount of fine or community service given.

**Assemblywoman Peters:**

I am just wondering how we are going to use this change to start doing some data collection on how we handle traffic violations. We can discuss that later, but I just wanted to put that out there.

**Vice Chairwoman Cohen:**

Are there any other questions from Committee members? [There were none.] I will open it up to testimony in support of A.B. 411.

**Kyle E. N. George, Special Assistant Attorney General, Office of the Attorney General:**

The Office of the Attorney General is pleased to support this bill. I do have to say, at this point, it is qualified support. There are still some issues we are vetting though the bill and we have spoken to Assemblyman Yeager about them. We know there are some opportunities to make some amendments. But I think it was really important that our office come out and speak in support instead of neutral given the magnitude of this change in our criminal justice system. This is an important tool as part of the larger effort towards criminal justice reform, and the Attorney General's Office is pleased to put its support behind it.

**Graham Lambert, Private Citizen, Henderson, Nevada:**

I am a fourth-year medical student at Touro University Nevada and a military member through the Health Professionals Scholarship Program. I am also a registered voter in Nevada and I plan to return here after completing my military service. I just want to say that we are in support of this bill for the reasons as stated earlier. As Nevada law currently stands, simple moving traffic violations and parking citations are deemed misdemeanors. This puts Nevada students of the medical and other professions at a great disadvantage when compared to those surrounding states. While these offenses are currently misdemeanors in Nevada, they are civil infractions in the surrounding states of California, Arizona, Utah, Idaho, Oregon, and Washington, the significance of this being that if two medical students with a speeding ticket applying for the same residency program—one being from Nevada and another being from one of the previously mentioned states—the Nevada student would have to declare a misdemeanor and the one out of state would not, although the same actions were performed. Criminal history such as misdemeanors can be detrimental when applying for residency and I am just asking that you level the playing field for the students of Nevada by passing A.B. 411 to decrease the penalties for the activities cited therein to civil infractions as opposed to misdemeanors as it currently stands. I myself have never received any tickets for speeding or parking citations, and I have already been accepted to a residency program. This is not for myself; this is for the other students of Nevada. I am in favor of this bill, and I hope that you will vote yes on A.B. 411.

**Amanda Hertzler, Private Citizen, Henderson, Nevada:**

I am speaking on behalf of the osteopathic medical students at Touro University Nevada as student government president. I will not reiterate what my colleague has just said as they are all excellent points that we all agree with, which is why we are here today. What I would like to do is give you a better idea of why this is so significant for medical students, not only osteopathic medical students, but all medical students in Nevada. When we apply to

residencies as third-year medical students, everyone in the nation uses the exact same application process and the exact application. What that means is those students who got speeding violations in any of our neighboring states, when they are filling out that exact same application, they do not have to say, Yes, I have been convicted of a criminal misdemeanor. Those students in Nevada do have to answer in that fashion on the application. When residency programs are looking at this massive stack of applications, they are at this point just looking at one thing to make the list a little bit shorter. That can be one of the things they will look at and then automatically not consider that applicant because they have that check mark in the box. That is happening to Nevada students; it is not happening to other students in the nation. That really puts us at a disadvantage when we are applying to really competitive residencies. On top of that, as I am sure you all know, Nevada is in a doctor shortage. We are training wonderful doctors here in Nevada. My classmates are wonderful as are those at University of Nevada, Las Vegas. This bill will help us keep those doctors in Nevada; keep Nevada-trained doctors in Nevada so that they are just as competitive as those in our surrounding states when they are applying to the residencies here in Nevada. We are in support of this bill and hope that you are in support of this bill so that we can keep Nevada-trained doctors in Nevada and make them competitive nationally and not be those underdogs simply because we have to check that box on our application.

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

We are in support of A.B. 411. For many people in Nevada the first step into the criminal justice system is a traffic stop. Because Nevada's traffic tickets are currently criminal violations rather than civil, something as seemingly harmless as a broken tail light or unpaid parking tickets could lead to arrest or incarceration, particularly in low-income communities. Often the fines associated with these criminal penalties are outside the economic means for many Nevadans. Still today, 40 percent of adults could not pay a \$400 unexpected expense.

Assembly Bill 411 addresses this concern by creating a set fine, allowing the court to waive or reduce a fine deemed excessive, or enter into a payment plan. In addition, by making minor traffic violations civil infractions, we remove the overly harsh punitive measures and prevent the physical, emotional, and economic harm that being incarcerated can have. At least 37 states, including all of Nevada's neighbors, have already taken the step to decriminalize minor traffic violations. We believe it is time for Nevada to join them and we urge your support.

**Megan Ortiz, Intern, American Civil Liberties Union of Nevada:**

I would like to echo everything my colleague just said. We are always looking for ways to decriminalize certain procedures and certain infractions so that this does not echo out further into the criminal justice system where we then might encounter more problems of incarceration and several of the things that Ms. Saunders just noted that we would potentially have to deal with. I would also like to echo the sentiments of my fellow professional students in Las Vegas. As a second-year law student, we also have to put a mark in that box just for anything like a traffic ticket. If you have ever been to the University of Nevada, Reno, or the University of Nevada, Las Vegas, it is not easy to park at either one of those

spots, and oftentimes that can result in something like a traffic ticket. We urge your support of A.B. 411.

**John J. Piro, Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office:**

We wholeheartedly support this measure, and thank Assemblyman Yeager for sitting through those meetings during the interim to bring this bill forward. If I could bring it down to a granular level for you, we do bench warrant quashing clinics fairly regularly in Clark County. I do not think anybody in this room, or at least most of us in this room do not live paycheck to paycheck, but when you do, a \$400 traffic ticket can ruin your life. Here is what generally happens: You get that ticket and then you are scared because you cannot pay and you do not want to go to jail so you do not go to court, which is not a good decision. You should definitely go in and explain your circumstances to the judge, but people avoid it. If you do not appear, you get a bench warrant. If you are in municipal court, that bench warrant fee tacks on another \$500, so now your \$400 ticket is a \$900 ticket. You definitely cannot pay that ticket. Then you get pulled over for another traffic offense and get arrested. Then you are in custody for two to three days. If it is municipal court where they only work Monday through Thursday and you get arrested on a Thursday, you may not see a judge until Tuesday. You have lost your job, and you lost your housing because you live paycheck to paycheck and do not have that money saved up. You could not even pay your \$400 ticket so you cannot pay back that rent that you missed. Your whole life gets ruined. For some people that we have run into at these clinics, single moms in particular, their lives really get ruined because the kids are then put with either a family member or into child protective services' custody while the moms wait in jail to see a judge for a traffic ticket. That is why this measure is so important, that we stop incarcerating people.

I know there may be some opposition from the municipalities, but a couple of things on that: There are a couple of business owners on this panel. It is \$170 a day to incarcerate somebody and all of us in here wind up absorbing that for that \$400 traffic ticket. So when they say they are going to lose that revenue stream from some of these traffic tickets but we are incarcerating them at \$170 a day, anybody who has ever run a business would look at that and say, Your math is kind of funny because we are paying more to keep that person in than we are taking in on these traffic tickets in the first place. That would not be a wise way to run a business and I do not think any business owner would do that. That being said, perhaps delaying the implementation can help these municipalities to prepare for the change and evaluate some of those circumstances. Obviously, I am not the sponsor of that, but I do want to make this the most palatable bill possible to start helping people. Instead of funding our municipality court systems on the backs of poor people, we should look for different funding mechanisms.

**Assemblywoman Tolles:**

I may or may not have ever received a speeding ticket, but I do not know that I was ever in fear of being sent to jail in that moment. So I just wondered if you could clarify those statements about the tie to incarceration for speeding tickets.

**John Piro:**

I am in the same boat. I definitely have gotten my share of speeding tickets and I will admit that on the record. But I do not live in that place where I live paycheck to paycheck anymore. For the person who does live paycheck to paycheck, he tells the judge he cannot pay, and the judge says, Sir, I will give you another 30 days—you figure out how you are going to pay for this and come back. He starts worrying about not coming back. Maybe he will go to jail. You and I, who live well, we are going to pay that ticket. He comes back again, and the judge gives him more time to pay the ticket. Then he needs to start thinking about what his next option is. If he goes to court the next time, the judge is going to put him in custody, maybe to teach him a lesson for one or two days until he pays this ticket. He is not going to go back. At least most of my clients do not go back. That is where the bench warrant adds fees and those people wind up in custody.

**Alanna Bondy, representing Nevada Attorneys for Criminal Justice:**

I would like to thank Assemblyman Yeager for bringing this bill. It is an important bill and has been a passion of mine since going to law school. I am going to touch on the issue that John Piro raised with incarceration arising from traffic violations and the inability to pay a fine. That practice is an unconstitutional practice called a "debtors' prison." A debtors' prison arises when individuals are imprisoned for their inability to pay a fine. The Department of Justice has previously found that the practice of automatically issuing arrest warrants for missed payments likely violates a prohibition on debtors' prisons. Other jurisdictions, such as Ferguson, Missouri, have been involved in class action lawsuits for engaging in practices that constitute the establishment of de facto debtors' prisons and these practices are similar to practices Nevada is currently engaging in. This bill would address the issue of de facto debtors' prisons, and for that reason, we are urging your support of A.B. 411.

**Sylvia R. Lazos, Legislative Advocate, Nevada Immigrant Coalition:**

We are comprised of Progressive Leadership Alliance of Nevada, Culinary Workers Union, Make the Road Nevada, Mi Familia Vota, the University of Nevada, Las Vegas Immigration Law Clinic, American Immigration Lawyers Association, America's Voice, Planned Parenthood, Service Employees International Union 1107, ¡Arriba! Workers Center!, UndocuNetwork, Children's Advocacy Alliance, Catholic Charities of Southern Nevada, NextGen, DREAM Big Nevada, Asian Community Development Council, America Votes, and For Nevada's Future ([Exhibit E](#)). We support A.B. 411 and want to thank Assemblyman Yeager for his hard work in bringing such a good bill together. Apart from the comments that Mr. Piro has already made regarding the compounding of fines, bench warrants, and how that hits home so hard for working families, there is also the issue of who is the person who is going to get ticketed. I will have my true confessions moment that I have speeded and I have deserved tickets, but somehow I have gotten away with not getting a ticket. What I tell my students at the law school is, if you look pretty boring, as I do, you probably are not going to get a ticket. But a young, good-looking man like Mr. Piro is probably going to get a ticket. There has been some work and studying done on this. African Americans are 20 percent more likely to get a traffic ticket and Latinos are 30 percent more likely to get a ticket. This whole issue also has racial disproportionality. We ask you to please pass this



bill because penalties should be proportionate to the offense that the driver or citizen has committed.

**Dylan Lawter, Vice President, Policy and Legislation Society, William S. Boyd School of Law, University of Nevada, Las Vegas:**

I have submitted a letter and petition signed by students and faculty at William S. Boyd School of Law supporting this bill to treat moving traffic violations as civil infractions rather than criminal misdemeanors ([Exhibit F](#)). When we began supporting these bill draft requests, initially we were generally focused on how law students are directly affected by the impact criminal misdemeanors can have on our bar applications. While it is true that we have the duty to report all traffic violations—whether criminal or civil—from any jurisdiction when we sit for the bar, we became concerned that misdemeanors on our record for Nevada traffic violations would be viewed more scrupulously and this could present yet another hurdle to receiving bar admission. As some of you may know, the bar exam is difficult enough, in and of itself.

As I shared this petition with other law students, several have shared with me how this has adversely affected the lives of members of our community. We have a misdemeanor clinic at the Boyd School of Law and we help those who have violated these and other current laws. Many individuals have bench warrants out for their arrest for failure to pay tickets for moving violations, and we believe this contributes to overcriminalization in the justice system and can have adverse effects on how the community views law enforcement and the justice system as a whole. These concerns are particularly important to those in lower socioeconomic groups and minorities who feel targeted by such laws; they would be pleased that justice be meted out in a civil manner and that you vote to pass this bill to change moving traffic violations from criminal misdemeanors to civil infractions.

**Kimberly Estrada, Co-Director, Nevada Student Power:**

We are a student-led statewide group fighting to improve the lives of marginalized students through financial literacy, policy education, and direct actions. We represent students in Reno and Las Vegas; students who also have to check that box. We fight for issues related to housing justice and racial justice among other things. I am here today as someone whose family and friends have been directly affected by the criminal justice system to share a bit about our stories regarding traffic tickets.

I have had multiple family members incarcerated for traffic tickets. That scenario that Mr. Piro went through for everyone is not an extreme case scenario; that is actually something that happens pretty frequently to a lot of people. It is just usually people who are low-income, people of color, or young people, like myself. My boyfriend has actually left Nevada in fear of being incarcerated for his traffic tickets. He moved back to southern California with his parents where, of course, we know there is not as much opportunity to get a job as there is here. I myself have traffic tickets for speeding when I was late to work. I was pulled over and the police officer gave me two tickets: one for speeding and one for having an unregistered vehicle. I was one day past the expiration date because I am living paycheck to paycheck and it is not \$400 that I cannot afford, it was the \$200 for that

registration fee that I cannot afford. I was just waiting for that paycheck to pay it, and because I am a child of immigrants, I did not know about temporary moving permits because my parents do not know about them. You can see how this affects certain people differently. My nephew was recently incarcerated for traffic tickets and nearly lost his job because of it. This is just adding to a cycle where we are putting people in a place where they are set up to be incarcerated. I would like to thank Assemblyman Yeager for bringing this to light, and I urge you all to support it.

**Zachary Kenney-Santiwan, Volunteer, Mass Liberation Project Nevada:**

I am here in support of this bill for a lot of the reasons already discussed: the disproportionate impact on low-income people and the fact that the criminalization of traffic tickets equates to the criminalization of poor people for being poor. There are a couple of other angles that I would like to emphasize here, one of which being the fact that the criminalization of traffic tickets has also been shown to be a vehicle to deportation for individuals who, given the higher priority this presidential administration has placed on the enforcement of immigration laws, a lot of law enforcement officials, when they find a traffic ticket on someone who could very well be deported, will hand them over to Immigration and Customs Enforcement which is an organization known for mistreatment of those that it takes into custody. That is something I would like you to consider.

This is something that was touched on earlier, but I would also like to use this opportunity with this bill to emphasize to the Committee and ask you to consider this part of the larger traffic ticket system as a whole. According to a 2015 investigation by the *Las Vegas Review-Journal*, a lot of municipal courts here in Nevada rely on the money from these traffic tickets. You would think there would be a reason not to emphasize them, but the fact remains, as has already been discussed, this is a thing that disproportionately impacts people of low incomes and by extension, people of color, as was earlier said. People of color are 20 to 30 percent more likely to get pulled over and given a traffic ticket. What this essentially does is create a system in which our municipal courts are being funded by those who have the least amount of money to offer and are essentially funding the system that is incarcerating them and negatively impacting their communities. With regards to this bill, I would like the Committee to consider that angle and consider the greater failure of the traffic ticket system and the larger, negative impacts it has on low-income communities as a whole.

**Assemblyman Edwards:**

I would like to correct something for the record. Immigration and Customs Enforcement is not known for mistreating people. They have a difficult job and they do the best they can. I just think we need to treat them a bit more fairly rather than launching accusations like that.

**Vice Chairwoman Cohen:**

Thank you, Assemblyman Edwards. As we know, it is a touchy subject with people having concerns on both sides of the issue. Do we have any other testimony in support of A.B. 411? [There was none.] I will now open it to testimony in opposition to A.B. 411.

**Mike Cathcart, Business Operations Manager, City of Henderson:**

The proposed changes will have a significant impact on the operations of our Henderson Municipal Court, but I do want to go on the record that we are not against the policy piece of this and moving these to civil. I think there just needs to be some work done on the details and how we get there. We did file a fiscal note in the amount of \$175,000, which would be for our changes to our software. Our current case management system does not handle civil infractions so we would have to make a change there. We are also looking into what type of impact it would have on our revenues with the \$250 cap unless *Nevada Revised Statutes* (NRS) provides otherwise. We are trying to look through our records and see what kind of impact that would have on our court revenues. The City of Henderson also has concerns with the omission of NRS Chapter 482 regarding motor vehicles and trailers. It is not addressed in the proposed bill and there are 33 possible misdemeanor violations in that chapter so we want to make sure that things are consistent.

In section 80, subsection 3, of the proposed bill, we have some concerns about how to handle the warrants because many times the failure to appear bench warrants could have a traffic citation and it could have something more serious as well. We currently have 3,000 active warrants so we would have to look through all 3,000 of those active warrants because they could be comingled between the new civil infractions and criminal infractions. We also have concerns with the October 1, 2019, implementation date. We believe that could be unattainable.

Lastly, I just wanted to mention that there are several pieces of legislation that will impact municipal courts, and I believe the Committee needs to look at how all of these different changes to law would work together. For example, the Henderson court will need to spend an enormous amount of resources just to implement the changes in A.B. 411, moving to the civil infractions, while simultaneously adjusting to other prosecution of new crimes that may be moved to municipal courts by another piece of legislation which is Assembly Bill 236. We also heard Assembly Bill 434 this morning. There are lots of moving parts for municipal courts so I hope we can sit down and really look at the impact on our operations before we move forward.

**Jennifer P. Noble, Chief Appellate Deputy, Legislative Liaison, Washoe County District Attorney's Office; and representing Nevada District Attorneys Association:**

I want to begin my testimony by saying that we are 100 percent okay and supportive of the idea of decriminalizing traffic offenses in general. During the interim, we testified in front of a subcommittee as such. But if we are going to be making these civil, then we want the district attorneys out of it. We do not want to have a "may" clause in there so that a judge can require us to come to court and litigate traffic tickets. They do not do that necessarily in other states. The police officer can show up, the alleged traffic offender can show up, and they can present their testimony to the judge, which is basically what happens anyway. When you are prosecuting traffic citations, you do a lot of, What happened next? What happened next? Having a district attorney in there simply to ask what happened next when really it is just going to be the judge making the call in terms of what occurred and what to do is a waste of resources. That concern pertains to section 31.

I appreciate Assemblyman Yeager's statements about section 26 not affecting the development of reasonable suspicion or probable cause on a traffic stop, but if you look at section 26, it says, "A peace officer in this State who has reasonable cause to believe that a person violated a provision of chapters 483 to 484E, inclusive, 486 or 490. . . ." These are just chapters of the NRS that are related to vehicle violations. We believe that if the officer during that encounter develops reasonable suspicion to believe that a crime is occurring that is outside of these chapters, they should be permitted to continue to investigate with all of the constitutional laws that apply regarding the development of probable cause and our statute about detaining people still applying.

Our last concern is the crime of driving while revoked due to a DUI, and that is different from not getting your license reinstated after a DUI. That should remain a crime and not a civil infraction because we believe that presents a threat to public safety.

**Dylan Shaver, Director of Policy, City of Reno:**

In the City of Reno we have a municipal court, and much of what Mr. Cathcart said I will just file under ditto. However, I wanted to bring your attention to something that I think we have lost sight of in a lot of the testimony—the fact that these municipal courts are institutions of the community and they are a service to the community. We are responsive to community needs, so in the last few years our municipal court has stopped the practice of issuing warrants for minor traffic offenses which means no jail for anybody at any point. We have taken the fees on these offenses as low as we can and still provide the service to the community. We no longer report traffic violations to the Nevada Criminal Justice Information System (NCJIS), just to the DMV to make sure those repeat offenders that I was talking about in my previous testimony have their driver's privilege restricted the way that it should be. These are things that we do in response to community needs. We see who is getting tickets; we know what is going on in the community.

We have also set up a series of specialty court systems to help deal with community needs. We have veterans court, a special indigent court, and a homeless court, which literally has judges holding court in the parks to quash warrants and assist them to get on the right track. These are services we provide as part of the community. As the proponents of the bill said, if somebody ends up in jail because they were driving on a one-day-late registration, well, that is probably not justice as we had all collectively envisioned it. We have taken steps proactively to address these issues.

Similarly to what Mr. Cathcart said, we have to look at how all of these bills play together. For example, next week you will be hearing Assembly Bill 416, which will basically make it unlikely, if not impossible, for a municipal court to collect any fines at all. You combine these two things together, then all of those specialty courts that we offer will go away because they are funded somehow. That is a decision made through this building. I know this is not the money committee, but we have to realize that as these costs are pushed into our courts while money is taken out, well, we have very few options at our disposal at that point. Local governments do not have the opportunity to go out and seek new revenue sources like this body does, and we must live within a certain number of means.

Finally, as per this bill and our previous conversation, our law enforcement personnel want as many tools as possible to make sure we can keep our roads safe. Traffic infractions and the injuries and fatalities that occur because of them are a leading cause of death, not just in the City of Reno, but across the state. We want to make sure that we have the ability to protect our citizens and keep them safe. As always, we look forward to working with the Committee and Assemblyman Yeager. We do believe there is a bill here, we are just concerned about some of the ramifications as drafted.

**Shirle T. Eiting, Chief Assistant City Attorney, City of Sparks:**

I would like to draw the Committee's attention to section 27, which states that a "peace officer may prepare a notice of civil infraction manually or electronically in the form of a complaint issuing in the name of "The State of Nevada." Our concern about that is, if you then take that to section 34, it requires that the fines be paid to the state. The City of Sparks would then not be collecting any fines whatsoever based on our reading of it. We figure that is about a \$600,000 loss to our general fund which equates to four police officers for the city.

Also, on behalf of the court, I can tell you that this would require a major overhaul of the processes and procedures, and I believe there was an October deadline proposed. It would be impossible for the court to meet that deadline.

Finally, the language contained in section 26, which Ms. Noble previously referred to, is going to need some clarification so that again we do not lose reasonable suspicion or probable cause during a traffic stop investigation such as a DUI. Having personally prosecuted for a number of years, I know how criminal defense attorneys are very good at taking the law and using it to show we do not have probable cause or reasonable suspicion, and I believe that language could put it in danger there.

**Brian O'Callaghan, Government Liaison, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:**

I want to thank Assemblyman Roberts as he brought up one of our concerns. We also have the same concerns with section 26 that Ms. Noble referenced.

**Shani J. Coleman, Deputy Director, Government Affairs Executive, Office of Administrative Services, City of Las Vegas:**

We, too, similarly situated to Henderson, have concerns. We support the concept and understand the work that Assemblyman Yeager has done on criminal justice reform. We are concerned about the operational challenges that this could pose for our municipal court. We are in opposition, but are willing to work with the sponsor.

**Dana P. Hlavac, Court Administrator, Las Vegas Municipal Court:**

The court itself remains neutral on the bill. We had been asked to submit a fiscal note by the city, which is rather expansive, and I was asked to be here to explain how that fiscal note was derived. We took the offenses which would become civil and looked back to see how many cases of that particular offense went into warrant. In fiscal year (FY) 2016 there were 43,000 cases in municipal court and in FY 2017, there were 55,000 cases that went into warrant.

I would recognize that many of those cases went into warrant multiple times. Those warrants are issued for failure to appear or pay, it is not just for failure to pay. Basically, somebody is given the option if they cannot pay; all they have to do is appear. The result of that lost warrant fee, the revenue from what is actually assessed for those warrants on behalf of all those, averages \$4 million per year.

The second amount was reduced fine revenue. We looked at the offenses which will be reduced to civil offenses and looked at the average fines which were imposed. Most of our fines are well below the \$250 recommended cap, however, there is a series of offenses which generally represent the types of offenses which cause accidents. These are offenses such as: a prohibited U-turn, violation of turns in an intersection, one-way road violations, and unsafe lane changes. Our city attorney in those cases tends to seek higher fines and those fines are generally higher. When you take those average fines, reduce them to \$250 at the cap, that results in \$1.5 million of lost fine revenue on an annual basis.

The last and most concerning is what we see as a significantly decreased ability to collect any revenue that is actually assessed. From the fines that were assessed in FY 2016, it was a total of about \$10.9 million in fines on the offenses which would be turned into civil. Over the subsequent three years, we have collected about 72 percent of those fines. In general, when you look at civil collection rates they are somewhere between 20 and 40 percent and those are for medical bills, dental bills, past-due rent, or lease and contract-type debts.

This bill has significant limitations, as well as some of the existing law at the federal level has serious limitations, on our ability to collect. For instance, in section 36, subsection 2, it would require, before the court would proceed with standard collection, that the court makes a finding that the person against whom the judgment is entered is not indigent and that the person has intentionally failed to satisfy the judgment. The problem is, that means that anybody who simply defaults and never appears before the court could not have collections proceeded. It would basically be impossible. Secondly, in that same paragraph it says if you make that finding, you could report it to the DMV. By not being able to make that finding, you could not report it to the DMV; therefore holding a DMV suspension over someone's head would not be an enforcement tool.

Lastly, there was a civil settlement in a case involving the New York attorney general in 2015 and the credit reporting agencies. As a result of that settlement agreement, the credit reporting agencies prohibit the reporting of non-contractual debt such as court fines and fees to the credit reporting agencies. There would be no impact in terms of the credit ratings of individuals so that would not be an incentive for people to pay either. As a result of what we see as a significant decreased ability to collect on fines that were assessed, we estimate that there would be another \$4.5 million of lost revenue.

With respect to section 80, it is a very complicated issue to clear warrants. Warrants are sent both to the NCJIS and also, when a warrant is issued, notice of that warrant is also sent to DMV, and a person's driver's license could be suspended while that warrant is outstanding. So you would have to clear the warrant in both places.

The last fiscal impact we had was the expense of converting our case management software systems. We are currently in the process of implementing a new system which will not be ready until after the effective date or sometime next year so we would have to essentially convert an old system and a new system and those conversions are extremely complicated. While many of us think it is simply a matter of switching one little bit or byte from a 0 to a 1 and it changes everything, I have learned with a two-year overdue system that is not the case. It would be beyond difficult, it would be impossible to meet an effective date of October 1, 2019, and actually have our systems implemented to meet the interfaces that we have to create with the Department of Public Safety, Administrative Office of the Courts, DMV, the southern Nevada system called SCOPE [Shared Computer Operation for Protection and Enforcement, NCJIS [Nevada Criminal Justice Information System], Brazos, and OffenderWatch, which is the system that the city uses for the jail, and our city internal finance system.

**Lisa A. Gianoli, representing Washoe County:**

I do not want to be redundant, but I echo many of the concerns that were voiced. I look forward to working with Assemblyman Yeager. We did also upload a fiscal impact for Washoe County, which was roughly \$3 million.

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

Pursuant to Committee rules, I am here in opposition to A.B. 411. We just have a few concerns with the mechanics of the bill as written, all of which have been addressed by my colleagues. I look forward to being a part of the conversation going forward.

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

In the interest of time, I will say "ditto" to Mr. Spratley's comments and I look forward to working with Assemblyman Yeager on this bill.

**Vice Chairwoman Cohen:**

Do we have any other opposition testimony on A.B. 411? [There was none.] I will now open it up for neutral testimony on A.B. 411.

**Melissa A. Saragosa, Judge, Las Vegas Justice Court:**

On behalf of the Las Vegas Justice Court, we are neutral on this bill. I had a few things I wanted to comment on. The first is, we likely will have a fiscal note on this as we have been trying to gather the information that we need. We may need some additional employees to help with the processes and the recalling of warrants. We just have not quite figured out what that will be. The other aspect of our fiscal note may entail the processing of determining indigency. We do have some software related to a TransUnion-type product, and we are charged on a per-transaction basis. Right now if we were to run that system to determine indigency of each of our traffic offenders we would do an estimated 10,000 transactions a month—so we are trying to figure out what that cost will be to include in the fiscal note.

One specific area that I wanted to raise to the sponsor's attention is, currently in Las Vegas Justice Court, we use an individual who is designated as a referee under NRS 4.355 who hears almost all of our traffic matters. If these were to move to civil infractions, then we would ask that there be an amendment to NRS 4.355 to authorize the referee to hear those civil infractions. Currently, it allows him to hear misdemeanor criminal matters or misdemeanor traffic matters but since there is that change, we would like to have that amended as well.

Additionally, because of the nature of these moving to a civil matter, currently the referee statute reads that each of the items that are brought to a trial before a referee would essentially be a recommendation, and that an individual would have an opportunity to formally object to the recommendation, and then a judge would have to hear the case *de novo*, or all over again. We would ask that if there is an amendment made to NRS 4.355 for referee, that his or her decision be a final decision on the case and one that is appealable.

Section 31, subsection 2, paragraph (b) uses the language: "the district attorney of the county may represent the State, county, or town, as applicable, at the hearing" should a hearing be requested. The question we had was, what if the individual opts out if they are given that optional "may" language? I know there was a reference from the Nevada District Attorneys Association that they do not want the court to be forcing them to appear. My question is, does the court just proceed without them? To that extent, in section 31, subsection 4, it says, "The State has the burden of proving by a preponderance of the evidence that the person named in the notice of civil infraction committed a civil infraction." My suggestion would be to rephrase that to, "the court must find by a preponderance of the evidence that the person named . . .", leaving off any particular entity because it may be a city, the county, or the State.

With respect to section 36 on collections, there are some confusing areas in there and some areas where it appears that there may be some disagreement between different portions. For example, section 36, subsection 2, reads that the civil judgment may be enforced in any manner provided by law for the enforcement of a judgment. Those manners provided by law would be the issuance of a writ of execution or writ of garnishment in those matters. But when you look at subparagraph (a), that we must go through this process before you can undertake collection through the garnishment and that the collection efforts would be limited to "by attachment or garnishment of the property," the question was, can our collection agencies that we currently use go about their business the same way that they have been or are they limited only by attachment and garnishment? Do we have to wait until there is a finding that the person is not indigent to take the steps outlined in section 36, subsection 2, subparagraphs (a), (b), or (c), or can we enforce those at the moment you get a judgment? These are just a little confusing and I look forward to working with Assemblyman Yeager on those issues.

One other question along those lines is, when a writ of execution or writ of attachment is issued there are filing fees, because now we are talking about a civil judgment being entered. Filing fees are required for those. Who would pay those filing fees, or would they be waived



because it is a governmental entity seeking the execution, garnishment, or attachment? Currently it is a \$25 fee for each writ that is payable to the court as a civil filing fee. The other question would be, who would be the plaintiff on a civil judgment? Would the civil plaintiff always be the State of Nevada, in which case, any collection efforts on a civil matter would go to the State of Nevada? I think there is some question because, as was noted by Assemblyman Yeager earlier, there are some municipalities that have ordinances—Clark County being one of those. So Clark County may have an ordinance that addresses a speeding violation, and if there is a finding that they have committed a violation of the county ordinance, then typically the civil penalty would go to the county. If we are getting a civil judgment out of that, are we saying that the plaintiff would now be Clark County, Nevada, or the State of Nevada because that is what the civil infraction says? There is a little bit of confusion there, so I look forward to working with the other stakeholders to clarify that.

With respect to section 78, that is an interesting section that nobody else referenced this morning, but that we had questions about. It is about a juvenile offender. In one sentence [subsection 1] it says that the juvenile court has the exclusive jurisdiction over proceedings concerning a child who commits a minor traffic offense, but then later it seems to give the juvenile court the authority to transfer the case to a justice or municipal court, which seems mutually exclusive. Juvenile court cannot have exclusive jurisdiction and then transfer their exclusive jurisdiction away. It does appear that there is some sort of finding that it must be in the best interests of the child, but I am not sure what that analysis would entail or what circumstances might make it in the best interests of a child to have a minor traffic offense heard in an adult court rather than a juvenile court. What I can tell you is, as a matter of practice, every juvenile traffic violation gets transferred to the justice court. Quite frankly, we think those are better suited in the juvenile court, but we leave that to your policy decision and wanted to bring that to your attention.

The only other comment that I had was to echo the comments that the October 1, 2019, effective date may be a little optimistic, and there are definitely some technology issues. With Brazos being the electronic citation program that would be used, it might take a little longer than that for us to get all of these gears moving in the change of direction. We would be requesting an extension—perhaps even as late as January 1, 2021—but we would be working with the stakeholders to determine what would be a reasonable time frame.

[([Exhibit G](#)) was submitted on behalf of the Nevada Judges of Limited Jurisdiction.]

**Vice Chairwoman Cohen:**

Do we have any questions from Committee members? [There were none.] Do we have any other neutral testimony on A.B. 411 either in Las Vegas or Carson City? [There was none.] I will invite Assemblyman Yeager back to the table for concluding remarks.

**Assemblyman Yeager:**

It has been a long week and we still have one day to go, so I just want to thank you for your attention to what can sometimes be very "in the weeds" policy that we are talking about.

I am encouraged that for the first time we are actually having a real discussion around this issue after six or eight years of trying this. I think some of the concerns that were raised are obviously very valid concerns. I agree with Ms. Noble that driving on a revoked license due to a DUI should remain a misdemeanor. I did want to clarify that I am not trying to change what law enforcement does in the field. If they stop someone for a traffic infraction and then through reasonable suspicion or probable cause, they find other things going on, I am not intending to change that. If we need to change the language, we can.

I did not go too much into some of the information I learned in the interim committee. I will say that I was very concerned about the inconsistencies among courts, and frankly I was concerned about the constitutionality of some of the practices that I saw. I am not here today to drag anyone through the mud or impute bad intent, but I think there are things that need to be cleaned up in the system. Going to civil is a way to do that. One example I can add is, there is at least one jurisdiction where if you do not pay your traffic ticket, you get charged with another misdemeanor called "failure to pay." That kind of practice, I think, is not something that we should be proud of in our justice system. I think it is time to have this discussion, it is time to do what is right. I think at the end of the day we have to look in the mirror and ask ourselves, Do we want to be incarcerating our Nevada citizens because of minor traffic infractions?

I will tell you that it does not happen often, but it happens, and it is disastrous when it happens. We need to find a way to make this work, and I know we do not have a lot of time, but I am committed to doing everything I can to get something workable between now and next Friday. I am encouraged that I do not think anyone came up in opposition and said they do not like the policy that we are trying to accomplish. What we heard a lot about was fiscal concerns. Fiscal concerns are definitely important, but the policy is important too. It is important for us as a state to get this right. Again, I want to thank you for your attention, and thank you for chairing this morning, Vice Chairwoman Cohen. With that, I would urge your support of A.B. 411.

**Vice Chairwoman Cohen:**

I will close the hearing on A.B. 411. I will now open it up for public comment either in Carson City or Las Vegas.

**Wiselet Rouzard, Field Director, Americans for Prosperity – Nevada:**

We definitely second what Assemblyman Yeager stated here. This is definitely a step in the right direction. When you talk about the criminal justice system, a lot of people are dealing with traffic violations who face severe financial hardship. I think it is something that needs to have continuous discussions. Just recently I had a young activist of ours who literally holds all the bills at his home and while driving home, he did not know that the license plate was suspended due to his mother not having the money. This is his only means of driving to and from school and work. He is a senior in high school, and unfortunately he was taken into the jail for the first time. He was really broken down. He had a \$1,800 fine assessed on him and literally, this kid is one of the hardest working kids I know in Las Vegas, and he is still

facing that financial hardship to try to pay that off and get his life correct while also paying all the bills.

When we look at the policies and look at the taxing that happens through different things within the law that compounds, it really makes it harder, and the last thing we want is to create more criminals by means of their hardship and financial situation. We admire what the police officers are doing. It is very important because we do want our communities and our streets safe. But we also have to consider the incarceration rate and the criminal justice system and how it is being overwhelmed with very, very minor infractions like this. It is due to people not having the financial means to get out of the financial situation that is imposed on them by the laws.

I definitely think it is great to see today many discussions on these issues occurring, and I thank you all for giving us the time and opportunity to share our insights on how we can be better moving forward.

**Vice Chairwoman Cohen:**

Do we have any other public comment? [There was none.] Do we have any questions or comments from Committee members? [There were none.] We will start tomorrow morning at 8 a.m. The meeting is adjourned [at 10:47 a.m.].

RESPECTFULLY SUBMITTED:

---

Traci Dory  
Committee Secretary

APPROVED BY:

---

Assemblyman Steve Yeager, Chairman

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

## EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a proposed amendment to [Assembly Bill 418](#), submitted and presented by Assemblyman Steve Yeager, Assembly District No. 9.

[Exhibit D](#) is a document titled "Comments/Questions Re A.B. 434," submitted by the Nevada Judges of Limited Jurisdiction, regarding [Assembly Bill 434](#).

[Exhibit E](#) is a letter to Chairman Yeager and members of the Assembly Committee on Judiciary, dated April 1, 2019, in support of [Assembly Bill 411](#), authored and submitted by Sylvia R. Lazos, Legislative Advocate, Nevada Immigrant Coalition.

[Exhibit F](#) is a letter to Mr. Tick Segerblom dated March 29, 2019, with a signed petition, in support of [Assembly Bill 411](#), submitted and presented by Dylan Lawter, Vice President, Policy and Legislation Society, William S. Boyd School of Law, University of Nevada, Las Vegas.

[Exhibit G](#) is document titled "Comments/Questions on A.B. 411," submitted by the Nevada Judges of Limited Jurisdiction, regarding [Assembly Bill 411](#).