

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

**Eighty-First Session
May 12, 2021**

The Committee on Commerce and Labor was called to order by Chair Sandra Jauregui at 1:16 p.m. on Wednesday, May 12, 2021, Online and in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/81st2021.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Sandra Jauregui, Chair
Assemblywoman Maggie Carlton, Vice Chair
Assemblywoman Venicia Considine
Assemblywoman Jill Dickman
Assemblywoman Bea Duran
Assemblyman Jason Frierson
Assemblywoman Melissa Hardy
Assemblywoman Heidi Kasama
Assemblywoman Susie Martinez
Assemblywoman Elaine Marzola
Assemblyman P.K. O'Neill
Assemblywoman Jill Tolles

COMMITTEE MEMBERS ABSENT:

Assemblyman Edgar Flores (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Marjorie Paslov-Thomas, Committee Policy Analyst
Sam Quast, Committee Counsel
Terri McBride, Committee Manager
Julie Axelson, Committee Secretary
Cheryl Williams, Committee Assistant

Minutes ID: 1211



OTHERS PRESENT:

Adrienne Navarro, Social Services Chief, Aging and Disability Services Division,
Department of Health and Human Services
Jennifer Montoya, Social Services Program Specialist II, Aging and Disability
Services Division, Department of Health and Human Services
Rique Robb, Deputy Administrator, Aging and Disability Services Division,
Department of Health and Human Services
Elisa P. Cafferata, Director, Department of Employment, Training and Rehabilitation
Troy Jordan, Senior Legal Counsel, Employment Security Division, Department of
Employment, Training and Rehabilitation
Jeffrey Frischmann, Acting Deputy Administrator, Department of Employment,
Training and Rehabilitation
Kendra Bertschy, Deputy Public Defender, Washoe County Public Defender's Office
David Schmidt, Chief Economist, Department of Employment, Training and
Rehabilitation
Deborah Westbrook, Chief Deputy Public Defender, Clark County Public Defender's
Office; and representing Nevada Attorneys for Criminal Justice
Sharon Dickinson, Chief Deputy Public Defender, Clark County Public Defender's
Office
John R. McCormick, Assistant Court Administrator, Administrative Office of the
Courts
Annette Magnus, Executive Director, Battle Born Progress
James Kemp, representing Nevada Justice Association

Chair Jauregui:

[Roll was called.] We have a packed agenda of a work session and bill hearings. We are going to jump right into our work session. I am going to be taking the work session out of order because we have some of the bill sponsors here in case anyone has questions, and they need to get to their committees for work sessions, so we will be taking them first. We are going to take Senate Bill 196, Senate Bill 290 (2nd Reprint), and Senate Bill 209 (1st Reprint) first and then go back and take the rest in order. Let us jump right into it.

Senate Bill 196: Prohibits the performance of a pelvic examination in certain circumstances. (BDR 54-34)

Marjorie Paslov-Thomas, Committee Policy Analyst:

Senate Bill 196 prohibits the performance of a pelvic examination in certain circumstances. It was sponsored by Senator Lange, and it was heard on May 3, 2021 [[Exhibit C](#)]. Senate Bill 196 prohibits a health care provider from performing or supervising a pelvic examination on an anesthetized or unconscious patient without first obtaining the patient's informed consent, except under certain circumstances. The bill also prohibits a health care provider, or a person supervised by a health care provider, from supervising or performing a pelvic examination that the provider is not appropriately licensed, certified, or registered to

perform, or that is not within the provider's scope of practice. Finally, the bill authorizes the imposition of professional discipline or denial of a license or certificate for a provider who performs or supervises a prohibited pelvic examination.

There is one proposed amendment by the sponsor, and that is to add Assemblywoman Tolles as a primary joint sponsor and Assemblywoman Dickman as a nonprimary joint sponsor.

Chair Jauregui:

Is there any discussion on the bill and amendment before you?

Assemblywoman Tolles:

I just wanted to thank the sponsor for bringing forward this bill and accepting additional cosponsors. I do believe this will genuinely help individuals who are vulnerable. I cannot thank you enough on behalf of those individuals.

Chair Jauregui:

Is there any more discussion? [There was none.] I will accept a motion to amend and do pass S.B. 196.

ASSEMBLYWOMAN KASAMA MOVED TO AMEND AND DO PASS
SENATE BILL 196.

ASSEMBLYWOMAN TOLLES SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMAN FLORES WAS ABSENT
FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Tolles. The next item on the work session is Senate Bill 290 (2nd Reprint).

Senate Bill 290 (2nd Reprint): Enacts provisions relating to prescription drugs for the treatment of cancer. (BDR 57-973)

Marjorie Paslov-Thomas, Committee Policy Analyst:

Senate Bill 290 (2nd Reprint) enacts provisions relating to prescription drugs for the treatment of cancer. It was sponsored by Senator Lange, and it was heard on April 30, 2021 [[Exhibit D](#)]. Senate Bill 290 (2nd Reprint) requires certain health insurers to allow an insured who has been diagnosed with stage 3 or 4 cancer or the attending practitioner of the insured to apply for an exemption from its step therapy protocols. Health insurers must decide on an exemption of the step therapy protocol or may request additional information necessary to complete the application within 72 hours of receipt of an application. However,

if the attending practitioner determines that a step therapy protocol may seriously jeopardize the life or health of the insured, the insurer must make a determination on the exemption, as expeditiously as necessary, to avoid serious jeopardy to the life or health of the insured.

The bill sets forth the circumstances under which the insurer is required to grant the exemption. If the insurer grants the exemption, the bill requires health insurers to provide coverage for the requested prescription drug in accordance with the terms of the applicable health insurance policy. Finally, a health insurance policy issued or renewed on or after October 1, 2021, must include the required coverage, and any provision of the policy that conflicts is void.

There are two proposed amendments by the sponsor:

1. Revise the provisions of the bill requiring an insurer to disclose the name and qualifications of each person who will review the application for an exemption to remove the requirement that the name of each such person be disclosed, but retain the requirement that the qualifications of each such person be disclosed.
2. Amend the effective date of the bill from October 1, 2021, to January 1, 2022.

Chair Jauregui:

Is there any discussion on the bill or amendments before you? [There was none.] I will accept a motion to amend and do pass S.B. 290 (R2).

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS
SENATE BILL 290 (2ND REPRINT).

ASSEMBLYWOMAN CONSIDINE SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblywoman Carlton:

There was a lot of conversation about this bill. When we had the hearing, Medicaid was in and Medicaid was out. Knowing that the Public Employees' Benefits Program has put a fiscal note on this, this bill is destined for Ways and Means. We will continue to have a conversation about Medicaid. I am getting some numbers right now, and they are looking fairly promising, but I do not want to guarantee anything to anyone. There is another stage that this bill will go through. We will keep having those conversations. I do not want people to be apprehensive because they think we are providing care for one group and not another. That is going to be a continuing conversation. I know there are some people in this building who do not believe me when I tell them there is going to be a continuing conversation, but there really will be. I do not put anything on the record that I do not stand behind.

Chair Jauregui:

Any more discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMAN FLORES WAS ABSENT FOR THE VOTE.)

Since this bill is going to Ways and Means, there is no need to assign a floor statement. [[Exhibit E](#) was submitted but not discussed and will become part of the record.] The next item is [Senate Bill 209 \(1st Reprint\)](#).

[Senate Bill 209 \(1st Reprint\)](#): Revises provisions relating to employment. (BDR 53-953)

Marjorie Paslov-Thomas, Committee Policy Analyst:

[Senate Bill 209 \(1st Reprint\)](#) revises provisions relating to employment. It was sponsored by Senator Donate and was heard on April 28, 2021 [[Exhibit F](#)]. [Senate Bill 209 \(1st Reprint\)](#) requires certain employers in private employment to provide employees two or four hours of paid leave for the purpose of their employees receiving COVID-19 vaccinations. The bill also requires employers to allow an employee to use paid leave for any use, including, without limitation, to receive certain medical treatments, participate in caregiving, or address other personal needs related to the health of the employee.

In addition, the bill requires the Legislative Committee on Health Care to conduct a study during the 2021-2022 Interim regarding the state's response to the COVID-19 health crisis. The bill requires the committee to report the results of the study and any recommendations to the Governor and the Legislative Counsel Bureau for transmittal to the 82nd Session of the Legislature.

There are two proposed amendments, and there is a mock-up attached. The amendments are:

1. Delete subsection 11 of section 1 of the bill, which exempts certain employers and employees from the provisions of section 1.
2. Amend the bill to add Senators Ratti, Lange, Ohrenschall, Neal, and Hardy as nonprimary cosponsors and Assembly members Torres, Brittney Miller, Thomas, and Orentlicher as nonprimary joint sponsors.

Chair Jauregui:

Is there any discussion on the bill or amendments before you? [There was none.] I will accept a motion to amend and do pass [S.B. 209 \(R1\)](#).

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS
[SENATE BILL 209 \(1ST REPRINT\)](#).

ASSEMBLYWOMAN MARZOLA SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN DICKMAN, KASAMA, AND O'NEILL VOTED NO. ASSEMBLYMAN FLORES WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Considine. We will take the rest of the items in order. We will start with Senate Bill 103 (1st Reprint).

Senate Bill 103 (1st Reprint): Prohibits certain insurers from discriminating based on the breed of dog at a property. (BDR 57-826)

Marjorie Paslov-Thomas, Committee Policy Analyst:

Senate Bill 103 (1st Reprint) prohibits certain insurers from discriminating based on the breed of a dog at a property. It was sponsored by Senator Scheible and was heard on April 21, 2021 [[Exhibit G](#)]. Senate Bill 103 (1st Reprint) prohibits an insurer from canceling, refusing to issue or renew, or increasing the premium for certain policies of insurance on the sole basis of the breed of a dog that is kept on an applicable property. The bill provides an exception to this prohibition if the particular dog is known or declared to be dangerous or vicious.

There is one proposed amendment, and that is to change the effective date of the bill from passage and approval to January 1, 2022.

Chair Jauregui:

Is there any discussion on the bill before you? [There was none.] I will accept a motion to amend and do pass S.B. 103 (R1).

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS
SENATE BILL 103 (1ST REPRINT).

ASSEMBLYWOMAN DICKMAN SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN KASAMA AND O'NEILL VOTED NO. ASSEMBLYMAN FLORES WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Dickman. The next item on the work session is Senate Bill 112 (1st Reprint).

Senate Bill 112 (1st Reprint): Exempts certain products for the treatment of certain animals from regulation under state law. (BDR 54-821)

Marjorie Paslov-Thomas, Committee Policy Analyst:

Senate Bill 112 (1st Reprint) exempts certain products for the treatment of domestic animals from regulation under state law. It was sponsored by Senator Hansen and was heard on April 26, 2021 [[Exhibit H](#)]. Senate Bill 112 (1st Reprint) provides for certain veterinary biologic products that are regulated under existing federal law and administered to certain livestock, specifically, cattle, pigs, goats, sheep, and poultry, to be excluded from regulation under Nevada law governing drugs and medicines. There are no proposed amendments.

Chair Jauregui:

Is there any discussion on the bill before you? [There was none.] I will accept a motion to do pass S.B. 112 (R1).

ASSEMBLYWOMAN CARLTON MADE A MOTION TO DO PASS
SENATE BILL 112 (1ST REPRINT).

ASSEMBLYMAN O'NEILL SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMAN FLORES WAS ABSENT
FOR THE VOTE.)

I will assign the floor statement to Assemblyman O'Neill. The next item on our work session is Senate Bill 145 (1st Reprint).

Senate Bill 145 (1st Reprint): Revises provisions relating to financial institutions. (BDR 55-481)

Marjorie Paslov-Thomas, Committee Policy Analyst:

Senate Bill 145 (1st Reprint) revises provisions relating to financial institutions. It was sponsored by Senator Spearman and was heard on April 23, 2021 [[Exhibit I](#)]. Senate Bill 145 (1st Reprint) requires a financial institution, subject to the federal Community Reinvestment Act (CRA) of 1977 (12 U.S.C. §§ 2901 to 2905), to notify the commissioner of the Division of Financial Institutions of the Department of Business and Industry of their CRA rating as soon as it becomes publicly available. The bill also requires financial institutions to provide training to persons and organizations in the community, including, but not limited to, faith-based and consumer advocacy organizations, about the obligations imposed on financial institutions by the CRA. The financial institutions must report to the commissioner the number of training sessions conducted each year. Finally, the bill requires the Division to post on its website the current CRA rating for each financial institution and

to submit a biennial report to the Legislature containing the names of each financial institution, their most current CRA rating, and the number of training sessions conducted. There are no proposed amendments.

Chair Jauregui:

Is there any discussion on the bill before you? [There was none.] I will accept a motion to do pass S.B. 145 (R1).

ASSEMBLYWOMAN CARLTON MADE A MOTION TO DO PASS
SENATE BILL 145 (1ST REPRINT).

ASSEMBLYWOMAN TOLLES SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN DICKMAN AND O'NEILL
VOTED NO. ASSEMBLYMAN FLORES WAS ABSENT FOR THE
VOTE.)

I will assign the floor statement to Assemblywoman Martinez. The next item on our work session is Senate Bill 229 (1st Reprint).

**Senate Bill 229 (1st Reprint): Revises provisions relating to the practice of pharmacy.
(BDR 54-823)**

Marjorie Paslov-Thomas, Committee Policy Analyst:

Senate Bill 229 (1st Reprint) revises provisions relating to the practice of pharmacy. It was sponsored by Senator Ratti and was heard on April 26, 2021 [[Exhibit J](#)]. Senate Bill 229 (1st Reprint) deletes certain requirements and protocols concerning a pharmacist who engages in the collaborative practice of pharmacy or collaborative drug therapy management pursuant to a collaborative practice agreement entered with a licensed practitioner. The bill prohibits a collaborative practice agreement from granting a pharmacist authority to engage in an activity that is outside the scope of practice of the practitioner. The bill also prescribes certain requirements that must be included in the written guidelines and protocols developed by a registered pharmacist and in collaboration with a practitioner who authorizes collaborative drug therapy management. Further, the bill prescribes certain situations where a practitioner is prohibited from entering into a collaborative practice agreement with a collaborating pharmacist.

In addition, the bill expands the definition of a provider of health care to require a pharmacist to report certain information to an applicable health authority and cooperate with an investigation concerning a communicable disease, infectious disease, or exposure to a biological, radiological, or chemical agent.

There is one proposed amendment by the sponsor, and there is a mock-up attached. The amendment is to:

- Amend section 2 of the bill to: (1) retain provisions requiring a practitioner, in order to enter into a collaborative practice agreement, to agree to obtain the informed, written consent from a patient who is referred by the practitioner to a pharmacist pursuant to a collaborative practice agreement; (2) provide that such provisions do not require a patient to obtain a referral from a practitioner before a pharmacist may engage in the collaborative practice of pharmacy or collaborative drug therapy management; and (3) retain provisions requiring a pharmacist to obtain the informed, written consent of a patient before engaging in the collaborative practice of pharmacy on behalf of the patient. Amend section 3 of the bill to make conforming changes to account for the amendments to section 2.

Chair Jauregui:

Is there any discussion on the bill or amendment before you?

Assemblywoman Carlton:

I appreciate the sponsor hearing my concerns and addressing them. I think it is very important that the patient have information. It may not be something that deep, but they at least need to understand what the relationship is as they move through the health care system. We have done a lot in this building for transparency's sake, and I believe we need to keep this provision in. I just want to thank Senator Ratti for hearing our concerns and addressing them in the amendment.

Chair Jauregui:

Is there any more discussion? [There was none.] I will accept a motion to amend and do pass S.B. 229 (R1).

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS
SENATE BILL 229 (1ST REPRINT).

ASSEMBLYWOMAN MARZOLA SECONDED THE MOTION.

Is there any discussion on the motion?

THE MOTION PASSED. (ASSEMBLYMAN FLORES WAS ABSENT
FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Marzola. The next item on our work session is Senate Bill 293 (1st Reprint).

Senate Bill 293 (1st Reprint): Revises provisions relating to employment. (BDR 53-907)

Marjorie Paslov-Thomas, Committee Policy Analyst:

Senate Bill 293 (1st Reprint) revises provisions relating to employment. It was sponsored by Senator Cannizzaro and was heard on April 28, 2021 [[Exhibit K](#)]. Senate Bill 293 (1st Reprint) prohibits certain private and public employers from inquiring about an applicant's wage or salary history or discriminating against an applicant who refuses to provide such information. The bill requires employers to disclose the salary range or wage rate to an applicant under certain circumstances. The bill provides that an employer who violates the prohibitions of this bill may be subject to an administrative penalty of not more than \$5,000 for each violation. The bill also authorizes a person who believes he or she has been discriminated against by an employer's inquiry of his or her wage or salary history to file a complaint and request a right to sue notice from the labor commissioner.

There is one proposed amendment by the sponsor, and that is to amend the bill to add Assemblywoman Duran as a joint sponsor. As a sidenote, there was discussion to also add Senator Neal as a joint sponsor [[Exhibit L](#)]. The Legal Division of the Legislative Counsel Bureau looked into this, and it was already done in the Senate, but it was a timing issue in terms of printing the additional sponsors on the face of the bill. They are already included on the first reprint of the bill.

Chair Jauregui:

Just to clarify, Senator Neal was already amended on the Senate side but omitted from the first reprint, and the amendment is to add Assemblywoman Duran. Is there any discussion on the bill or amendment before you?

Assemblywoman Tolles:

I appreciate when talking to stakeholders this confirms that this puts us in line with case law, *Rizo v. Yovino*, No. 16-15372 (9th Cir. Apr. 9, 2018), which aligns us with federal law. As a personal note, I remember speaking at a professional women's panel about ten years ago when a report had just come out about minding the gap. I talked about how this impacts the long-term trajectory of wage earnings for women. I am very supportive of this bill and thank the sponsor for bringing it forward.

Chair Jauregui:

Is there any more discussion? [There was none.] I will accept a motion to amend and do pass S.B. 293 (R1).

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS
SENATE BILL 293 (1ST REPRINT).

ASSEMBLYWOMAN TOLLES SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblywoman Carlton:

I totally understand where folks are coming from with this. I have been extremely lucky in my life that I have always had a collective bargaining agreement, so I did not have to worry about this level of discrimination.

Chair Jauregui:

Is there any more discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMAN FLORES WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Duran. The next item on our work session is Senate Bill 327 (1st Reprint).

Senate Bill 327 (1st Reprint): Revises provisions relating to discriminatory practices. (BDR 53-574)

Marjorie Paslov-Thomas, Committee Policy Analyst:

Senate Bill 327 (1st Reprint) revises provisions relating to discriminatory practices. It was sponsored by Senators Neal and Harris and was heard on April 28, 2021 [[Exhibit M](#)]. Senate Bill 327 (1st Reprint) provides that race, for the purposes of prohibited discrimination, includes traits associated with race, including hair texture and protective hairstyles. The bill also sets forth certain requirements governing testing used by a city, county, or school district for a decision regarding the promotion of an employee and makes it a category E felony to tamper with the test score of an employee. Finally, S.B. 327 (R1) requires the Nevada Equal Rights Commission to provide complainants with certain information.

There is one proposed amendment by the sponsors:

- Amend section 8 of the bill to provide that the provisions of the section do not apply to a city if: (1) the city has a civil service commission that appoints a chief examiner; and (2) the chief examiner serves at the pleasure of the commission, is not answerable to any officer or body of the city other than the commission, and is not a human resources director.

Chair Jauregui:

Is there any discussion on the bill or amendment before you? [There was none.] I will accept a motion to amend and do pass S.B. 327 (R1).

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS SENATE BILL 327 (1ST REPRINT).

ASSEMBLYWOMAN MARZOLA SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman O'Neill:

I really appreciate Senator Neal's working on this. The first part of the bill dealing with the discriminating practices related to hair was very enlightening to me, and I would like to support this. However, it is the second part, even with the amendment that Senator Neal proposed on the testing, that I need to hear more from the rurals. I think it really impacts them when they cannot afford it currently. I will be a no on this until I hear more from the rural counties and governments on their impact.

Assemblywoman Kasama:

I am completely in favor of the no discrimination on the hair styles, but not the testing, particularly in section 7, subsection 3, where it is still a category E felony when we are trying to decriminalize things. I thought that was too extreme and, unfortunately, I have to vote no because of that.

Chair Jauregui:

Is there any more discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN DICKMAN, KASAMA, AND O'NEILL VOTED NO. ASSEMBLYMAN FLORES WAS ABSENT FOR THE VOTE.)

I will take that floor statement.

[[Exhibit N](#) was submitted but not discussed and will become part of the record.]

Last on our work session is Senate Bill 408 (1st Reprint).

Senate Bill 408 (1st Reprint): Revises provisions relating to the State Board of Pharmacy. (BDR 54-1098)

Marjorie Paslov-Thomas, Committee Policy Analyst:

Senate Bill 408 (1st Reprint) revises provisions relating to the State Board of Pharmacy. It was sponsored by the Senate Committee on Finance (On Behalf of the Office of Finance in the Office of the Governor). It was heard on April 26, 2021 [[Exhibit O](#)]. Senate Bill 408 (1st Reprint) makes various changes to provisions governing the State Board of Pharmacy. Among other things, the bill:

- Authorizes the Board to enter into certain written agreements and contracts;
- Revises the credentials authorizing a person to manufacture, engage in wholesale distribution of, compound, sell, or dispense any drug, poison, medicine, or chemical;
- Increases from \$500 to \$1,000 the maximum fee that may be charged for the investigation, issuance, or renewal of a license to a manufacturer or wholesaler;

- Requires an applicant for registration as a pharmacist or pharmaceutical technician to undergo a criminal background check; and
- Makes it a misdemeanor to: (1) secure or attempt to secure any certificate, license, or permit issued by the Board through false representation; or (2) fraudulently represent oneself to be the holder of such a certificate, license, or permit.

There are no proposed amendments.

Chair Jauregui:

Is there any discussion on the bill before you?

Assemblywoman Carlton:

My notes are not complete. Was there an amendment proposed to this, or did I make the wrong notation on the wrong bill?

Chair Jauregui:

There are no amendments on the bill. Is there any more discussion? [There was none.] I will accept a motion to do pass S.B. 408 (R1).

ASSEMBLYWOMAN CARLTON MADE A MOTION TO DO PASS
SENATE BILL 408 (1ST REPRINT).

ASSEMBLYWOMAN MARZOLA SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMEN DICKMAN AND
KASAMA VOTED NO. ASSEMBLYMAN FLORES WAS ABSENT FOR
THE VOTE.)

I will assign the floor statement to Assemblywoman Hardy. That brings us to the end of our work session. We are going to move into the bill hearing portion of our agenda. We have two bills today. I will be taking those out of order. We have some guests with us today for Senate Bill 179 (1st Reprint). I will open the hearing on Senate Bill 179 (1st Reprint). I believe we have Ms. Adrienne Navarro on Zoom with us to present.

Senate Bill 179 (1st Reprint): Revises provisions relating to sign language interpreting and realtime captioning. (BDR 54-386)

**Adrienne Navarro, Social Services Chief, Aging and Disability Services Division,
Department of Health and Human Services:**

We would like to thank you for the opportunity to introduce Senate Bill 179 (1st Reprint) on behalf of the Interim Committee on Senior Citizens, Veterans and Adults With Special Needs. I will be copresenting with Jennifer Montoya who is the Social Services Program Specialist. As Ms. Montoya is an individual who is deaf, we do have a sign language

interpreter with us today. I would like to take a moment to ensure that both Ms. Montoya and the interpreter are pinned, and those who rely on sign language have access prior to starting the presentation. Ms. Montoya, are we set and ready to go?

Jennifer Montoya, Social Services Program Specialist II, Aging and Disability Services Division, Department of Health and Human Services:

[Used a sign language interpreter.] Yes, I can see.

Adrienne Navarro:

The intent of this bill is to increase the quality of sign language interpreting services statewide, provide a pathway for interpreters to achieve required credentialing standards, remove classification-specific language to align with other *Nevada Revised Statutes* (NRS) language, establish specific classifications and requirements by regulation, and provide standard qualifications for mentors.

Established in 2001, NRS Chapter 656A requires sign language interpreters to hold certain professional credentials to practice in the state. The original bill provided credential requirements that were in alignment with national standards for both K-12 educational interpreters and also community interpreters. In 2007, revisions to NRS Chapter 656A lowered the credentialing requirements for K-12 educational and community interpreters due to the lack of qualified interpreters to meet the demand. We now have structures in place in the state to support interpreters and interpreter development.

I will now turn the presentation over to Jennifer Montoya, who will go through the sections of the bill and explain the changes throughout the bill. As I mentioned earlier, Ms. Montoya is an individual who is deaf, so I would like to emphasize the importance for anyone speaking to please state your name prior to speaking. Also, when Ms. Montoya is speaking, please engage by viewing her and not the interpreter. Although her voicing will be through the interpreter, Ms. Montoya is the one speaking to the Committee.

Jennifer Montoya:

Before I go ahead and give you some in-depth information about this bill, I wanted to take the time to explain to you the interpreting process and how having a qualified interpreter impacts those who are using the sign language interpreter. Interpreting involves several different processes: interaction, linguistics, the environment they are in, and the goal of what the interpreter is there to do, and that is to facilitate communication so there is equal access to information and understanding. A qualified interpretation will vary depending on the interpreter's knowledge, skills, and experience. The minimum certification requirement impacts deaf children and the education they have access to, as well as adults having access to communication. *Nevada Revised Statutes* Chapter 656A has not been changed for 14 years; it has had no refinement, and we feel like it is very important to have a state credential that aligns with the national requirement.

Aligning certification requirements for sign language interpreters not only increases the quality for access to education for deaf and hard of hearing children and adults, but it also allows the state of Nevada to be able to bring in more qualified interpreters from all over the United States. This bill has a three-year grace period that allows the current registered interpreters time to meet the requirements that would be instituted by passing this bill.

Here in the state of Nevada, we have deaf and hard of hearing children who are not receiving the appropriate education they deserve, and that is because they are mainstreamed with sign language interpreters who are underqualified or not qualified at all. The interpreters do not have the interpreting skills needed in order to work in the educational setting to provide the support so they can develop as they need to. It is really unfortunate that the students are learning sign language and communicating through a sign language interpreter, and the reason for that is because they do not have any role models or peers who are deaf and hard of hearing that they can learn from or family members at home who use sign language as their mode of communication. This can be very dangerous because it affects their ability to have relationships and to become independent later in life. In order to help our deaf and hard of hearing children receive the educational opportunities they deserve, we want to give the state credential requirement a higher level so the deaf and hard of hearing students can have appropriate accommodations to succeed.

I will go ahead and take a moment to explain this bill and the different parts that we want changed. Starting with section 1, we want to have new language to explain that the postsecondary educational setting should have changes that include new definitions, and we want to add that to section 1.

In section 7, we want to waive sign language interpreters or CART [computer assisted real-time translation] providers who are nonprofit. Section 9 includes the largest change for this bill. In section 9, we would like to increase the minimum certification requirement for K-12 educational interpreters and community interpreters to align with the national standard as it was in 2001. Section 9 gives a temporary registration for interpreters to have a limited amount of time to improve their skills and knowledge in order to meet that national standard. We want to remove the language in section 9 following the changes to remove the classifications, so the language is in line with removal of that.

Section 10 allows the Aging and Disability Services Division of the Department of Health and Human Services to establish qualified, professional mentoring and additional professional classifications for sign language interpreters.

Section 18 gives the grandfathering allowance a limited time for currently registered interpreters, and this would only impact 20 interpreters who are currently registered if these changes were to be made. In sections 3, 4, 6, 10, 11, 12, 14, 15, 16, 17, and 20, we propose the language be refined to align with the standard language and registration requirements.

We do want you to know that the amendments to this bill on the Senate side are to clarify the definition of "sign language interpreter" specifically in a K-12 setting as educational interpreters—all communication with students in an educational setting, or other activities, provided by the public school system, whether it be the school district or private schools within the state of Nevada. This amendment has already been removed and has had a fiscal impact on the school district. Does anyone have any questions?

Chair Jauregui:

Are there any questions?

Assemblywoman Kasama:

In the primary schools or universities, is it a request that a student in a class needs an interpreter? Obviously, this bill is to make sure interpreters have the proper credentials. The request is made by a teacher or parent to have the interpreter come into the classroom. Is that the process now? Have we ever had a time when we have not had enough interpreters if there is a great need in one school versus another? How might that work, for better understanding of the current process?

Jennifer Montoya:

To your first question about the process of how you request a sign language interpreter, it is within the student's IEP [Individualized Education Plan], and the accommodations are outlined there. That is where the interpreter request would be, and the school district would follow through. Deaf adults who are attending any postsecondary institution would request their interpreters when they have classes, school events, meetings with their teachers, and so forth. Hopefully, that answers your first question.

The second question you had was in regard to there being a need. Would you mind repeating the second portion of your question?

Assemblywoman Kasama:

I do not know how many interpreters are hired or available. At any one time, have we ever had an issue where we do not have enough interpreters, or do we always make sure we have enough for everybody?

Jennifer Montoya:

The answer to that is yes. Unfortunately, we have a need. We have need even at a national level. It is something that every state faces, but in the state of Nevada, we have gaps because of the fact that we do not have enough qualified interpreters. We have people who know sign language, but they are not trained in the process of providing sign language interpretation. They use people who can just sign to interpret, but they are not qualified and do not have the knowledge of the process of how it works. They are using that to "cover" the gap. We have a lot of gaps here in the state of Nevada, and that is what we are trying to fix by making sure we are providing qualified sign language interpreters, specifically for students in K-12 settings, so they have access to that education.

Assemblywoman Kasama:

Obviously, the goal is to make sure they are all qualified. If we have a shortage, would you still allow some people who do not meet the higher levels of credentialing so we could attempt, maybe not in an ideal way, to meet the needs?

Jennifer Montoya:

These proposed changes where we have temporary grace periods—in this case for three years—are in order to give them the time to improve their skills, to get that knowledge, and to take the exams they need in order to get the results to make them qualified interpreters. We do have those temporary provisions in order to cover the gaps if there are needs that cannot be met.

Assemblywoman Dickman:

My question has to do with the fiscal note. I see a lot of them went away with the first reprint, but Clark County seems to still have quite a large fiscal note. Will that go away?

**Rique Robb, Deputy Administrator, Aging and Disability Services Division,
Department of Health and Human Services:**

When we were presented with the amendment, all counties stated that they would be removing their fiscal notes. Unfortunately, we have not been able to have direct communication with Clark County, but our understanding is yes, they are to be removed as the amendment is accepted.

Assemblywoman Dickman:

That sounds good. I do not understand why there were such huge fiscal notes to begin with.

Chair Jauregui:

Are there any other questions? [There were none.] We will move to testimony in support. Is there anyone wishing to testify in support of S.B. 179 (R1)? [There was no one.] Is there anyone in opposition? [There was no one.] Is there anyone neutral? [There was no one.] Ms. Montoya or Ms. Navarro, would you like to give any closing remarks?

Adrienne Navarro:

We appreciate the Committee's time and interest in hearing this bill, as well as all the questions from the Committee members. This bill highlights the importance of quality interpreting for individuals who are deaf and hard of hearing as it relates to their access to communication in all areas of their lives. Children who utilize American Sign Language as their primary language need qualified, quality interpreters throughout their education in order to access the same information in the classroom that hearing children do. A sign language interpreter who is qualified to provide these services results in an individual who has access to quality and effective communication.

Jennifer Montoya:

I do not have any closing remarks at this time.

Chair Jauregui:

We will now close the hearing on S.B. 179 (R1). That brings us to our last bill hearing on the agenda today, which is Senate Bill 75 (1st Reprint). I believe we have our presenters on Zoom with us. I will now open the hearing on Senate Bill 75 (1st Reprint).

Senate Bill 75 (1st Reprint): Revises provisions relating to unemployment compensation. (BDR 53-349)

Elisa P. Cafferata, Director, Department of Employment, Training and Rehabilitation:

I am joined by our leadership team, Christopher Sewell, Jeffrey Frischmann, Jenny Casselman, Troy Jordan, David Schmidt, and Lynda Parven. We are presenting Senate Bill 75 (1st Reprint) as amended on the Senate side. Before we get started, I just wanted to briefly give you a short rundown on what S.B. 75 (R1) is not. I want to make sure the Committee is aware that this is not the only legislation addressing the issues that the Department of Employment, Training and Rehabilitation (DETR) has been working through the last year.

To give you an update, I wanted to be sure you were aware we have implemented most of the recommendations from the Special Master's Report and the Governor's Rapid Response Strike Force report. Our budget closed last week, which had several improvements and allocations that will address specific issues the agency has been dealing with. We are working with the Office of the Governor to fund modernization of our program as outlined in Every Nevadan Recovery Framework. There are several other bills making their way through the process that make adjustments and changes to DETR's operations that you may be seeing before you in the next few weeks. We have several programs and budget items that are offering support and assistance to the agency as well as employers and claimants.

Senate Bill 75 (1st Reprint) is a bill that makes changes in state law that will streamline our operations when we are faced with future economic disruptions. Several of these changes are needed to bring our statute into conformance with federal law or regulations or updated court cases or guidelines. There are two proposed amendments [[Exhibit P](#) and [Exhibit Q](#)] today that we will go over at the end for your consideration.

I know there has been a lot of discussion of our programs this session. I will give you a high-level overview, and then we are happy to answer any questions. Again, this bill provides changes that are needed for us to more effectively do our work.

One of the first provisions that DETR was approved for is an additional attorney position. This bill would make that an unclassified position, which is consistent with all the attorney positions in the state. There is a provision in the bill that brings our confidentiality requirements into alignment with federal law and streamlines our data-sharing operations. This will not change any of the existing data sharing agreements we have in place, but it will make it easier for us to set these up with various local state agencies and the federal government.

There is a provision that corrects a math error that was created in Senate Bill 3 of the 32nd Special Session. There is a provision that allows DETR to provide electronic notices for any decisions or updates on a claim in addition to mailing a letter to a claimant or employer, and one that also allows DETR to operate off of state expanded benefits whenever those are approved by the U.S. Department of Labor. There are provisions clarifying the definitions of educational professionals so it is more clear for folks who are not eligible for unemployment benefits under federal guidelines.

There is a provision that requires all legal filings to be made at the state administrative office in Carson City to ensure we can respond to any legal actions in a timely manner, and another provision that would allow employers to request refunds of contributions and overpayments for a period greater than three years to respond to a review that we have. Another provision prohibits charging fees to the state or the claimant in any appeal hearing that happens. There are provisions codifying the charging relief that we gave to employers in the emergency regulations so they will not be charged additional amounts in any future quarters or years because we are codifying that relief.

As I noted, there is an amendment from DETR [[Exhibit P](#)]. Basically, what that does is follow the language that was approved by the U.S. Department of Labor when it came to the provisions regarding state extended benefits and charging relief. That brings it into compliance with what the U.S. Department of Labor said it would approve. There is also a friendly amendment from the Public Defender's Offices [[Exhibit Q](#)] regarding using DETR lists for jury selection. That is the super high-level overview. I would be happy to answer any questions and provide additional information.

Chair Jauregui:

Are there any questions?

Assemblywoman Carlton:

I will start with one of the last comments that was made from the amendment for jury selection [[Exhibit Q](#)]. I had thought a couple of years ago or sessions ago that we had already addressed that. I believe there has been an issue of DETR not sharing the list. If you could expand upon that because I thought we had already said that the list should be part of the jury pool.

Troy Jordan, Senior Legal Counsel, Employment Security Division, Department of Employment, Training and Rehabilitation:

In the fall of 2019, we were attempting to promulgate regulations to make that jury list provision conform with the federal regulation 20 CFR 603. At that point, the U.S. Department of Labor said the way we were doing it was not conforming with that law. They told us we needed to cease the program until we came into conformity with that law. We have been working on a solution since that time. The public defenders who are here who proposed this amendment gave us a lot of help in drafting that solution. This solution in the proposed amendment by the public defenders [[Exhibit Q](#)] has been approved by DETR and allows a conformity.

If Assemblywoman Carlton would like, I can get into the intimate details of that, but basically what it amounted to was the U.S. Department of Labor ruled that a jury commissioner does not meet the definition of a public official as laid out in 20 CFR 603.2. Specifically, that definition requires that a person who is to receive the data is either an elected official themselves, an agency member or a person in the Executive Branch, or a member of an educational institution that comes with several definitions. In this state, we have several jury commissioners who are actually employees of the judiciary and not of the Executive Branch, such as under the county clerk, and that is what created the problem. The solution we have proposed with the amendment [[Exhibit Q](#)] to S.B. 75 (R1) allows an administrative subpoena to be issued by a judicial person with subpoena authority, which is also an exception to the confidentiality provision and is able to subpoena that jury list, at which time provide it directly to that subpoenaing authority, which in this state would at least be judges of the individual judicial districts.

The U.S. Department of Labor has recently signed off on that and has actually made edits to the language in the amendment sent over by the public defenders [[Exhibit Q](#)].

Assemblywoman Carlton:

I wanted to make sure we had the record clear. I thought we had fixed this, but apparently there was a glitch someplace, so we have to jump through a few more hoops to make the feds happy. That explains that one.

My next question is on section 6, page 12 of the bill. Earlier this session, the Legislative Commission passed a regulation that dealt with the issue of school district support staff not being able to get unemployment. They were put in a catch-22. They were not working, they were not told they were laid off, but they were never given a guarantee of a job coming back. When I read section 6, I am wondering, how does this affect support employees in the school district being able to access unemployment benefits?

Elisa Cafferata:

Certainly, this is a little bit confusing if you are just reading one section of the bill and do not have the whole story. As you know, the Legislative Commission did approve the regulation that we put in place here for this summer only to provide unemployment benefits to education support personnel specifically, not teachers and administrators, but all of the other folks who support our schools and classrooms—the folks who work in lunchrooms, drive the buses, and clean up the schools between sessions and days. The regulation specifically applies to those support personnel, and it takes them out of that limbo, as you say, and provides unemployment benefits to them.

The language in sections 6 and 7 applies more to our regular operations. The federal law says you cannot provide unemployment benefits to education professionals—teachers, substitutes, administrators, and professors—between terms. This language was needed to very clearly spell out those folks who are exempted and cannot receive unemployment benefits when they have a reasonable assurance that they are coming back to their jobs after breaks.

Assemblywoman Carlton:

If you could point out the education professionals part because I am just seeing in section 6, subsection 2, "If a person performs services in more than one capacity for any educational institution" Where am I missing the professionals section if this works in conjunction with another section?

Jeffrey Frischmann, Acting Deputy Administrator, Department of Employment, Training and Rehabilitation:

We were having a difficult time in the prior language in the interpretation of school wages and what school wages could or could not be used. This regulation is simply clarifying that language to ensure we do not have different interpretations within our own program. Basically, the appeals referees were interpreting differently than the adjudicators. It was a different set of interpretations, and this cleans up the language in which it will be interpreted and how the wages can be applied moving forward. It brings consistency and ensures consistency in how we are issuing determinations and decisions.

Assemblywoman Carlton:

My question was where does it say it is professionals and not for everyone?

Elisa Cafferata:

If you look at section 6, subsection 1, it starts out with "Except as otherwise . . . benefits based on service in an instructional, research or principal administrative capacity in any educational institution" That is clearly the statute language for teachers and principals. In section 7, it is the same language, "instructional, research or principal administrative capacity" That is clearly focused on the professional educators, and the regulation specifically defines education support personnel. You would have to look at the two things together to make the distinction.

Assemblywoman Carlton:

It is basically the language in section 6, on page 12, lines 6 and 7 that makes sure this does not apply to support employees.

Elisa Cafferata:

Yes.

Assemblywoman Kasama:

My question has to do with the amendment [[Exhibit Q](#)] under section 3, subsection 10. Perhaps this is just for an education thing, but it has to do with the trial jurors. Can you inform me why it has "furnish the name, address and date of birth of persons who receive benefits in any country" Is that when you get a pension from another country outside of the U.S.? I am just curious what that really means and why it is there.

Elisa Cafferata:

I believe the public defenders are here to present their amendment [[Exhibit Q](#)] to you because it is a friendly amendment. However, I do believe that is actually a typo, and it should say county and not country.

Troy Jordan:

That is my understanding, but I will defer to the public defenders.

Elisa Cafferata:

Chair Jauregui, I do not know how you want to present the amendment.

Chair Jauregui:

Would you like to present it, or would you like the person who proposed the amendment to present it? We can actually hear it now, and that would be best.

Elisa Cafferata:

We would like to give the sponsors the opportunity to present their amendment.

Kendra Bertschy, Deputy Public Defender, Washoe County Public Defender's Office:

I am trying to pull up the law right now because we were not trying to change anything.

Chair Jauregui:

Ms. Bertschy, can you walk the Committee through the amendment first?

Kendra Bertschy:

Absolutely. I want to confirm it is on NELIS [Nevada Electronic Legislative Information System] because it is not on NELIS on my end.

Chair Jauregui:

It looks like it was not released to the public, but I do see the amendment [[Exhibit Q](#)] is posted to NELIS, so we will have our committee manager release it to the public. Members, you have to be signed into NELIS in order to see the amendment.

Kendra Bertschy:

We also provided a letter in support [[Exhibit R](#)], which does outline some of the research we undertook in order to get to the conclusion in the amendment [[Exhibit Q](#)] where they are at, which provides additional information. We did provide that, and I also do not see that letter uploaded. Please let me know if you did not receive it.

I want to start by saying that since there is pending litigation regarding this issue, we believe what is currently in statute is appropriate and is correct, and it does not need to be modified. However, we understand that DETR has additional obligations besides just the Public Defender's Office. That is why we proposed this amendment [[Exhibit Q](#)] to ensure we do have access to this information. Amendment # 1, we are simply modifying who can access and who can request the information from DETR. It has changed from instead of just the

district court judge or the jury commissioner to, "In response to a request from a court official with subpoena authority" From my understanding, those are the changes necessary from the U.S. Department of Labor in order to ensure that we can have access to that when someone has the subpoena authority. The additional portions of the bill are just ensuring that the current law is in place, so we are not attempting to change anything else from current law.

Amendment # 2 [[Exhibit Q](#)] is just deleting section 19. Section 19 had just indicated that what was in the bill was saying that DETR would not have to provide this information that could not be used, so we are deleting that section, again to ensure that it is being provided.

In the question, I believe it should be county just in reviewing the statutes. I will double check that and provide an amended proposed amendment [[Exhibit S](#)].

Chair Jauregui:

Are there any questions for Ms. Bertschy? [There were none.] Assemblywoman Kasama, do you have any follow-up for DETR or Director Cafferata?

Assemblywoman Kasama:

No, I will just look forward to the clarification.

Assemblywoman Dickman:

I wanted to clarify whether or not this would apply to unemployment for teachers who are on their summer break, or whatever break, who will be coming back. They would still not be eligible for unemployment under this, correct?

Elisa Cafferata:

That is correct. Federal law specifically does not allow unemployment for teachers who are on a summer break and expect to come back. Nothing in this bill would change that.

Assemblywoman Dickman:

I did not think so, but I just wanted that clarification.

Assemblywoman Tolles:

Just a follow-up to clarify that for non-educational staff, let us say you are a bus driver and only work nine months out of the year. Does that apply the same way for them? They would not be receiving unemployment for the summer when they would not be employed otherwise?

Elisa Cafferata:

Typically, support personnel have been excluded from getting unemployment benefits. Because of the unique situation of the pandemic, we did just pass emergency regulations that would cover support personnel for the summer of 2021. That includes bus drivers, janitors, and lunchroom folks who, whether they are coming back in the fall or not, would be eligible

to apply for unemployment. They still need to follow all the other rules—if they are offered a bona fide job, if they refused, they would not be eligible, et cetera. There is a regulatory exception for this summer [2021] only for support personnel.

Assemblywoman Tolles:

I guess my other questions would be fiscally related, so we could maybe address that elsewhere.

Chair Jauregui:

I do have a couple of questions, Director Cafferata. I want to start with the first one dealing with section 2.5, subsection 1 of the bill. I know you touched on this in the beginning regarding the attorneys and the positions for attorneys. This is in statute saying, "For the purpose of ensuring the impartial selection of personnel on the basis of merit, the Administrator shall fill all positions in the Division . . . from registers prepared by the Division of Human Resource Management . . ." You then have the exception of the Administrator and Senior Attorney, but you also added in the exception for any positions for attorneys, so it has removed them from that kind of protection for an impartial selection. Can you walk me through that?

Elisa Cafferata:

Basically, what this language is discussing is that most people in state employment go through the state hiring process, which provides these impartial section protections, and they end up in what is called "classified" service; they have protections throughout their service. Section 2.5 is really just identifying the positions that are called "unclassified" positions in state service. The Administrator and Senior Attorney have always been unclassified positions. They serve at the pleasure of the Director or the Administrator in these cases.

We have never had additional attorney positions, but we did get approval in this budget for an additional attorney. All of the attorney positions in the state, whatever agency they are in, are unclassified positions, so this would make that consistent with keeping all the attorney positions unclassified. Does that answer your question?

Chair Jauregui:

Yes, it did. I now remember your mentioning at the beginning of your presentation that these were new positions added in this section.

I also have another question regarding section 4. I do not understand the purpose of the 75 percent to 66 2/3 percent. Can you walk us through that?

Elisa Cafferata:

I have cautioned my team many times on not trying to do math in front of a committee, so we are going to turn that over to our economist, David Schmidt, to explain.

David Schmidt, Chief Economist, Department of Employment, Training and Rehabilitation:

In effect, S.B. 3 of the 32nd Special Session changed the provisions where someone who has some earnings during a week of benefits is allowed to receive those benefits, and it raised a limit. Previously, if you earned more than your weekly benefit amount, you were no longer eligible for benefits. Senate Bill 3 of the 32nd Special Session raised that to if you earn less than one and one-half times your weekly benefit amount, then you could still be eligible for benefit payments. However, with the 75 percent provision, what effectively happens is someone's weekly benefit is reduced for any earnings that they have. By reducing benefits at 75 percent, when you get to 1.33 times your weekly benefit amount, your weekly benefits have been reduced to zero. By reducing the 75 percent to 66 2/3 percent, that earnings reduction would reduce someone's benefits to zero when they hit that 1.5 times weekly benefit cap so these two provisions can come back into alignment.

Chair Jauregui:

Is this enhancing or decreasing someone's benefit amount if they are bringing in additional wages on their own?

David Schmidt:

In practice, let us say someone has a \$400 benefit amount and they have \$100 in earnings, they are not in danger of running out of benefits. Under existing law, if you have \$100 in earnings, your weekly benefit amount would be reduced by \$75. As changed in this bill here, your benefit amount would instead only be reduced by \$66, rounded a little bit, so you would end up with slightly more benefits for people who have earnings in order to stretch the point out a little bit further at which your benefits would be reduced to zero to be in compliance with the changes that were made in S.B. 3 of the 32nd Special Session.

Elisa Cafferata:

The goal of S.B. 3 of the 32nd Special Session was to give people more options in the beginning of the pandemic to allow them to put together whatever job plus benefits they could and thus support their families in an extreme situation. This is just trying to make it consistent, so you get the full flexibility and do not run into a math problem in trying to provide that flexibility to folks in an economic emergency.

Chair Jauregui:

Thanks, that was a great explanation, and I fully understand it now. I do have one other question. It is more just expressing my comfort level with the change. Throughout the bill, it is allowing DETR to either send their notices by mail or now by electronic transmission to someone receiving benefits. I am a little uncomfortable with the fact that the only way DETR might get into contact with someone is by sending an email. Not everyone has access to email, and not everyone accesses their email every day. It would make me more comfortable if it was by mail and email as opposed to mail or email. Again, if that is a denial, there is a limitation on how much time someone has to file an appeal. If you send

a denial via email, and they do not check their email in time to appeal, would letting DETR know that be sufficient to grant them the right to appeal? I just wanted to express, not so much a question, but more of an area I am not comfortable with in the bill.

Assemblywoman Dickman:

When you talked about the section with the 75 percent going to 66 2/3 percent, I was curious as to how that affects their total number of benefit weeks.

David Schmidt:

For someone who has earnings during a week, there is no cap on the number of weeks that someone can necessarily receive benefits. Someone who has earnings and received partial unemployment benefits can stretch out the number of weeks in which they receive payment. What matters the most is how many dollars they have remaining in their entitlement. This would not, by the number of weeks, reduce the number of people who might be eligible, except that they might have slightly more benefits paid, so there could be a very marginal change on the end. Overall, there is no big impact on weeks because the most important thing is dollars.

Chair Jauregui:

I do not know if this is something our committee counsel can answer, but I know DETR is exempting themselves from being charged any fees. I am not sure if that is something that other state agencies also exempted themselves from. I am going to go to my committee counsel first to see if he has an answer on that second part of my question. Mr. Quast, do you know if it is common for state agencies to exempt themselves from being charged fees?

Sam Quast, Committee Counsel:

I am not familiar with any other provision in existing law that does that, but that is certainly something I can look into when we get back to the office.

Chair Jauregui:

Director Cafferata, maybe you can address in section 18.5 why DETR has that exemption for themselves.

Troy Jordan:

If you take a look at NRS 19.035, it actually exempts all state agencies from court fees. There have been a few—I do not want to name names—who recently have tried to charge us filing fees. I wanted to amend this section to make it abundantly clear that at least in NRS Chapter 612 cases, which are supposed to be free for both sides, that they could not charge us. If you have your committee counsel look at NRS 19.035, it clearly states that the state agencies and sections of the state, including counties and cities, are not supposed to be charged by district court.

Elisa Cafferata:

Chair, to follow up on one of your previous statements about your discomfort with email notices, I just wanted to be clear on the record that the language in this bill makes it an opt-in

additional option for claimants. Mail notices will still go out. This was strongly suggested by claimants and employers whose businesses were closed and were not receiving the mail notification. They wished they could have opted in for electronic notification, but we are in no way eliminating the mail notifications that are required under state law.

Chair Jauregui:

Thank you, Mr. Jordan, for answering that question regarding the fees. That explained it to me. And thank you, Director Cafferata. The way I read it, in section 5, subsection 2, it says an "assessment must be mailed, electronically transmitted or personally served" It sounds like it is an "or." They can either be mailed, or they can be electronically transmitted. It does not sound like it can be both. It would make me more comfortable if notices were sent to claimants both by mail and email for that same reason stated. Somebody might not be checking their mail, but they would get the email and vice versa.

Are there any other questions before we go to testimony? [There were none.] I will move us to testimony in support of S.B. 75 (R1). Is there anyone wishing to testify in support?

Kendra Bertschy:

Today, I am testifying on behalf of my office, and I believe you will also be hearing from representatives from the Nevada Attorneys for Criminal Justice (NACJ), as well as the Clark County Public Defender's Office. We all worked on this language to ensure we could get it correct. As I indicated previously, we do believe the current statute does work and is proper the way it is written. However, we understand that there may be other people who have different interpretations. I do appreciate DETR's working with us to ensure we were able to create language that does allow for us to continue to have access to this very important information.

As Assemblywoman Carlton mentioned, negotiations came out of Assembly Bill 207 of the 79th Session. I will not rehash the entire argument, but this was a lengthy hearing where it mentioned just how extremely vital it is for our criminal justice system to ensure we have a fair representation on our juries. You will hear from the other speakers as well for more information as to why it is important. I can say, as a trial attorney, it is very scary to go into a trial and have a Black, Hispanic, or minority defendant and see only white members on the jury panel. It is our goal and hope to make sure that we do whatever we can to try to get a fair and impartial jury that represents our community members.

We urge your support for these provisions. I am not here to comment on any other portion of this bill. If our amendments [[Exhibit Q](#) and [Exhibit S](#)] are not accepted, and the version of the bill that passed from the Senate is adopted, then we would be moved into opposition just because of how vital and important this is.

Deborah Westbrook, Chief Deputy Public Defender, Clark County Public Defender's Office; and representing Nevada Attorneys for Criminal Justice:

I am an appellate attorney in the Clark County Public Defender's Office testifying for NACJ. Our support of S.B. 75 (R1) is contingent on the acceptance of our proposed friendly

amendment [[Exhibit Q](#)] that was submitted to this Committee. The amendment deals with sections 3 and 19 of S.B. 75 (R1). I can confirm that the use of the word "country" in section 3 was a typo. It should say "county." Without our amendment, sections 3 and 19 will have a detrimental effect on jury trials and undermine the constitutional rights of Nevada's citizens to a jury that reflects a fair cross-section of our diverse community.

In 2017, Nevada's Legislature recognized that the best way to ensure that juries were reasonably representative of the community was to increase the number of sources from which jurors were selected. The Legislature passed a law requiring DETR to provide jury commissioners with a list of individuals receiving unemployment benefits. Unfortunately, the current version of S.B. 75 (R1), without our proposed amendment [[Exhibit Q](#)], would eliminate this important source of potential jurors, undermining our *Constitution* and making jury trials in Nevada less fair.

We reached out to DETR to find a way to fix S.B. 75 (R1). We knew that several states, including New York, Connecticut, and Rhode Island, had successfully utilized unemployment information for years to create their jury pools. We spoke with representatives of the judiciary in New York and Connecticut to confirm that it was legally permissible to do so. We gave DETR our legal analysis, which they shared with the U.S. Department of Labor, and the Department of Labor confirmed that the information could be provided to the courts when requested by a court official with subpoena authority. We believe this is true even under our existing law.

To be clear, we support S.B. 75 (R1) with our proposed friendly amendment [[Exhibit Q](#)], but if that amendment were not to be adopted, we would be in opposition because of sections 3 and 19.

Sharon Dickinson, Chief Deputy Public Defender, Clark County Public Defender's Office:

I have worked in criminal trial and appellate practice for over 30 years. On behalf of the Clark County Public Defender's Office, we believe NRS 6.045 and 612.265 as initially enacted do not create legal problems and no change is needed to be made. However, due to DETR's concerns, our office is testifying in support of the proposed friendly amendments [[Exhibit Q](#) and [Exhibit S](#)] as accepted by DETR that change sections 3 and 19. We have no opinion on the remaining sections. If the amendments are not adopted for some reason, then we oppose S.B. 75 (R1).

I first became aware of DETR's first draft of S.B. 75 (R1) after it had already passed through the Senate. I have been working on several cases in our office involving the underrepresentation of minorities on juries. I subpoenaed DETR statistics for an upcoming evidentiary hearing, and at this time, I was told by a DETR representative that S.B. 75 (R1) as currently written would eliminate DETR's obligation to provide a court with lists for the jury pools. I know firsthand that including these lists is important because for most of my career, minorities have been underrepresented. However, once the DETR list of names was incorporated in 2019, our trial attorneys began to see a difference.

I immediately contacted our office's legislative representative, John Carroll. I reviewed the law in this area and found a way to avoid the problems DETR mentioned. I worked with the NACJ legislative committee with Ms. Westbrook, and we put together some changes in the statute. We met with DETR and listened to their concerns, and they submitted the proposed amendments to sections 3 and 19 to the U.S. Department of Labor, and the Department of Labor and DETR subsequently approved. We are asking that you adopt the friendly changes we submitted.

John R. McCormick, Assistant Court Administrator, Administrative Office of the Courts:

I am calling in a limited capacity to indicate that we support S.B. 75 (R1) with the public defender amendment. Currently, we think there is an exception in federal law, and this would be possible under the existing statute as Ms. Bertschy indicated. However, in order to ensure that the courts are able to access these lists for the important activity of jury selection, we support the amendment and will be submitting those administrative subpoenas as soon as this becomes effective.

Chair Jauregui:

Is there anyone else wishing to testify in support? [There was no one.] Is there anyone wishing to testify in opposition?

Annette Magnus, Executive Director, Battle Born Progress:

We are here today in opposition to S.B. 75 (R1). During this pandemic, I have had friends and family go through the unemployment process, and I am still helping many navigate this broken system. Section 18.5 carving out that DETR can never be charged any fees is unfair, as it looks like they are trying to be above the lawsuits and accountability people have been working towards. We need to streamline DETR and make critical changes, but there needs to be access to due process in the Judicial Branch when necessary. We need to ensure we are not making it harder for people who are depending on the system in order to survive.

James Kemp, representing Nevada Justice Association:

We are in opposition to S.B. 75 (R1) as it is currently drafted. We are encouraged by the friendly amendment put forth by the public defenders. That would alleviate our concerns about the jury pool aspects of the bill. I also wanted to speak to section 13.5, which provides for the agency to designate a specific office for the service of process on petitions for judicial review that are filed by claimants or who are appealing a denial of benefits. This needs to be amended. As this is currently done, service of process like this could be deemed to be jurisdictional and mandatory and someone could have their petition for judicial review dismissed if they did not serve the right office. This should be amended so the court would have the ability to direct corrected service on the proper office if the wrong office were initially served. Many petitions for judicial review, in a number of different administrative proceedings, are filed by people pro se without attorneys, and they often make mistakes like not serving the exact correct office, and they end up getting their cases dismissed on jurisdictional grounds if they do not do that. There should be an amendment to provide for

the court to be able to order corrective service if it is not done correctly and not just dismiss the cases. For that reason, we are in opposition to S.B. 75 (R1) as currently drafted.

Chair Jauregui:

Is there anyone else wishing to testify in opposition? [There was no one.] Is there anyone wishing to testify in neutral? [There was no one.] Are there any closing remarks from our bill sponsor?

Elisa Cafferata:

I really appreciate the Committee's time and support of the Legislature throughout this process. We know there have been many challenges, and we really appreciate your support to address these issues for claimants and employers.

Chair Jauregui:

I will close the hearing on S.B. 75 (R1). Our last item on the agenda is public comment. Is there anyone wishing to give public comment? [There was no one.] Are there any other comments from members of the Committee? [There were none.] We will be meeting Friday, May 14, 2021. We will be conducting a work session, so be on the lookout for the agenda, and, as always, please note the meeting start time.

We are adjourned [at 2:50 p.m.].

RESPECTFULLY SUBMITTED:

Julie Axelson
Committee Secretary

APPROVED BY:

Assemblywoman Sandra Jauregui, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is the Work Session Document for [Senate Bill 196](#), submitted and presented by Marjorie Paslov-Thomas, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is the Work Session Document for [Senate Bill 290 \(2nd Reprint\)](#), submitted and presented by Marjorie Paslov-Thomas, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is a letter dated May 10, 2021, submitted by Laura Rich, Executive Officer, Public Employees' Benefits Program, regarding [Senate Bill 290 \(2nd Reprint\)](#).

[Exhibit F](#) is the Work Session Document for [Senate Bill 209 \(1st Reprint\)](#), submitted and presented by Marjorie Paslov-Thomas, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit G](#) is the Work Session Document for [Senate Bill 103 \(1st Reprint\)](#), submitted and presented by Marjorie Paslov-Thomas, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit H](#) is the Work Session Document for [Senate Bill 112 \(1st Reprint\)](#), submitted and presented by Marjorie Paslov-Thomas, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit I](#) is the Work Session Document for [Senate Bill 145 \(1st Reprint\)](#), submitted and presented by Marjorie Paslov-Thomas, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit J](#) is the Work Session Document for [Senate Bill 229 \(1st Reprint\)](#), submitted and presented by Marjorie Paslov-Thomas, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit K](#) is the Work Session Document for [Senate Bill 293 \(1st Reprint\)](#), submitted and presented by Marjorie Paslov-Thomas, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit L](#) is a proposed conceptual amendment to [Senate Bill 293 \(1st Reprint\)](#), dated May 12, 2021, submitted by Senator Nicole J. Cannizzaro, Senate District No. 6.

[Exhibit M](#) is the Work Session Document for [Senate Bill 327 \(1st Reprint\)](#), submitted and presented by Marjorie Paslov-Thomas, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit N](#) is a letter dated May 11, 2021, submitted by Caleb Green, representing National Bar Association, Las Vegas Chapter, in support of [Senate Bill 327 \(1st Reprint\)](#).

[Exhibit O](#) is the Work Session Document for [Senate Bill 408 \(1st Reprint\)](#), submitted and presented by Marjorie Paslov-Thomas, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit P](#) is a proposed amendment to [Senate Bill 75 \(1st Reprint\)](#), submitted by Christopher Sewell, Chief Operating Officer, Department of Employment, Training and Rehabilitation, and presented by Elisa P. Cafferata, Director, Department of Employment, Training and Rehabilitation.

[Exhibit Q](#) is a proposed amendment to [Senate Bill 75 \(1st Reprint\)](#), submitted and presented by Kendra Bertschy, Deputy Public Defender, Washoe County Public Defender's Office.

[Exhibit R](#) is a letter dated May 12, 2021, submitted by John Piro, Chief Deputy Public Defender, Clark County Public Defender's Office, in support of [Senate Bill 75 \(1st Reprint\)](#).

[Exhibit S](#) is a revised proposed amendment to [Senate Bill 75 \(1st Reprint\)](#), submitted by Kendra Bertschy, Deputy Public Defender, Washoe County Public Defender's Office.