

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

**Eighty-First Session
March 22, 2021**

The Committee on Commerce and Labor was called to order by Chair Sandra Jauregui at 1:15 p.m. on Monday, March 22, 2021, Online. 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 Edgar Flores
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:

None

GUEST LEGISLATORS PRESENT:

Assemblyman Steve Yeager, Assembly District No. 9
Assemblywoman Shannon Bilbray-Axelrod, Assembly District No. 34
Assemblyman John Ellison, Assembly District No. 33

STAFF MEMBERS PRESENT:

Marjorie Paslov-Thomas, Committee Policy Analyst
Terri McBride, Committee Manager
Louis Magriel, Committee Secretary
Cheryl Williams, Committee Assistant



OTHERS PRESENT:

Margaret Colucci, D.C., President, Chiropractic Physicians' Board of Nevada
Julie Strandberg, Executive Director, Chiropractic Physicians' Board of Nevada
Nick Vander Poel, representing Nevada Chiropractic Association
David Rovetti, D.C., Northern Nevada Director, Nevada Chiropractic Association
John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office
Alisa Nave-Worth, representing Nevada Veterinary Medical Association
Tessa Morgan, D.V.M., Elko Veterinary Clinic, Elko, Nevada
Susan Costa, D.V.M., Medical Director, Spencer Springs Animal Hospital, Las Vegas, Nevada
Jon Pennell, D.V.M., Sahara Pines Animal Hospital, Las Vegas, Nevada
Danny Thompson, Private Citizen, Las Vegas, Nevada; and representing International Brotherhood of Electrical Workers Local No. 396; and Local No. 1245
Rebecca Goff, Clinic Manager, Nevada Humane Society
Jennifer Pedigo, Executive Director, Nevada State Board of Veterinary Medical Examiners
William H. Stanley, Executive Secretary-Treasurer, Southern Nevada Building Trades Unions
Wendi Newman, Executive Director, Unified Construction Industry Council
Jeffrey Waddoups, Director, Institute for Construction Economics Research
Jeffrey Proffitt, Business Manager, International Association of Sheet Metal, Air, Rail and Transportation Workers Local No. 88
Brandon Morris, representing Southwest Regional Council of Carpenters Local No. 1977
James Halsey, Business Manager and Financial Secretary, International Brotherhood of Electrical Workers Local No. 357
Michael West, representing International Union of Painters and Allied Trades
Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO
Don Campbell, Executive Director, Southern Nevada Chapter, National Electrical Contractors Association
Vince Saavedra, Sergeant-at-Arms, District Council of the State of California and Vicinity, International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers Union, AFL-CIO
Alfonso Lopez, Private Citizen, Las Vegas, Nevada
Richard "Skip" Daly, Business Manager and Secretary-Treasurer, Laborers' International Union of North America Local No. 169
Rob Benner, Secretary-Treasurer, Building and Construction Trades Council of Northern Nevada
Robert Conway, Business Agent, International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers Union, AFL-CIO Local No. 433
Joshua Hicks, representing American Staffing Association
Johnny Skowronek, Vice President of Operations, Square One Solutions, Reno, Nevada

Matthew Nguyen, Business Manager, PeopleReady, Las Vegas, Nevada
Linda Alvarez, Staffing Coordinator, Contractors and Builders Division, Eastridge Workforce Solutions, Las Vegas, Nevada
Victor Aldana, Area Account Manager and Operations Manager, Eastridge Workforce Solutions, Las Vegas, Nevada
Mac Bybee, President/CEO, Nevada Chapter, Associated Builders and Contractors
Alexis Motarex, Government Affairs Manager, Nevada Chapter, Associated General Contractors of America
Margi A. Grein, Executive Officer, State Contractors' Board
Elliot Malin, Private Citizen, Reno, Nevada
Dylan Keith, Policy Analyst, Government Affairs, Vegas Chamber
Peter Krueger, representing Greater Sacramento Chapter, National Electrical Contractors Association

Chair Jauregui:

[Roll was called. Committee protocol and virtual rules were discussed.] I want to note that we will also be starting at 1 p.m. on Wednesday and we will have an earlier start time on Friday. I plan to follow this schedule into next week as well since we will have heavier agendas. Make sure to note the start times on the agendas as they are posted since they will be changed from our regularly scheduled 1:30 p.m. afternoon meetings.

We have four bills on the agenda today: Assembly Bill 200, Assembly Bill 210, Assembly Bill 227, and Assembly Bill 330. I will be taking the items out of order, starting with Assembly Bill 210. I will now open the hearing on Assembly Bill 210, and I believe that we have Assemblyman Steve Yeager here to present the bill.

Assembly Bill 210: Revises provisions governing the practice of chiropractic. (BDR 54-140)

Assemblyman Steve Yeager, Assembly District No. 9:

It is my pleasure this afternoon to make brief introductory remarks for Assembly Bill 210 before handing it over to two experts who are here with us. They will take you through the bill and then answer any questions that you may have.

Assembly Bill 210 seeks to put the Chiropractic Physicians' Board of Nevada in a position to be proactive and ensure public safety, as well as to reduce unnecessary hurdles for licensure. That is my brief remark; I would love to hand it over to Dr. Margaret Colucci, President of the Chiropractic Physicians' Board of Nevada, and Julie Strandberg, Executive Director of that same Board. They will have a chance to review the bill, and then we would be happy to answer any questions.

Margaret Colucci, D.C., President, Chiropractic Physicians' Board of Nevada:

I am a chiropractic physician practicing in Las Vegas and the President and legislative liaison for the Chiropractic Physicians' Board of Nevada. The general intent of our bill addresses four issues. First, we seek to authorize the Board to register, inspect, and regulate

chiropractic practices that are not wholly owned by Nevada-licensed chiropractic physicians. Second, we seek to harmonize language throughout our practice act to use the current and modern term "chiropractic physician" and replace the older term "chiropractor." Third, we seek to update our licensing statutes to lessen barriers to licensing in the hope of encouraging retention and recruitment of more chiropractic physicians in Nevada. Fourth, we seek to authorize chiropractic physicians to recommend, dispense, or administer lawful, over-the-counter products.

That was a brief highlight of what the Board is seeking. Would you like me to go through each of the changes section by section, or would you prefer that we are available for questions?

Chair Jauregui:

If you could walk us through the bill section by section, Dr. Colucci, I think that would be helpful for us on the Committee.

Margaret Colucci:

We will start with section 2. Section 2 of this bill defines "business entity" and is new language to the Board's practice act. The Board's intent for this section is to authorize the Board to register, inspect, and regulate chiropractic practices that are not wholly owned by Nevada-licensed chiropractic physicians or that are not otherwise already regulated, such as medical facilities or practices owned by medical doctors or doctors of osteopathy.

Recent investigations have demonstrated the need for this limited authority. The Board can effectuate positive remediation against licensees and practices wholly owned by licensees, but the Board has no similar authority to effectuate positive remediation when the practices are not owned by Nevada-licensed chiropractic physicians. Our experience has been that practices not owned by Nevada licensees are presently beyond the Board's reach, and thus are allowed to practice unregulated and can compete unfairly. The Board sees this section as leveling the playing field for all chiropractic practices.

In section 3, there is new language which does four things. First, it establishes the requirement of registration of business entities with the Board. Second, it establishes that the business entity registration is annual and expires on June 1. Third, it allows the Board to approve a late renewal accompanied by a renewal fee and an additional late fee. Fourth, it requires the Board be notified in writing of substantive changes to the business entity within 30 days after the change.

In section 4, there is new language which does three things. Section 4, subsection 1, makes the business entity responsible for ensuring that its chiropractic physicians and chiropractic assistants comply with Nevada's statutes and regulations. Section 4, subsection 2, requires the establishment of policies and procedures related to patient records and how patients may obtain copies if the business entity ceases operations. Section 4, subsection 3, requires that the business entity notify the Board no later than 30 days after its dissolution.

Sections 5 and 6 harmonize language pertaining to business entities. Section 7 amends *Nevada Revised Statutes* (NRS) 634.090 to reflect the Board's intent to increase the potential pool of chiropractic physicians who might be interested in coming to Nevada. This intent is shown in the three subsections that the Board seeks to amend.

First, the changes to section 7, subsection 1, strike old language which attempted to dictate the subject matter of colleges of chiropractic. The existing language precedes the nationwide scope of accreditation by The Council on Chiropractic Education (CCE). That language and approach is now outdated. Almost all chiropractic schools are now CCE-accredited. The new language is slightly broader to also authorize the acceptance of colleges of chiropractic that are not CCE-accredited but are accredited by federal or Nevada-accredited bodies. This might broaden the pool of potential candidates who may apply to Nevada.

Second, the new language in section 7, subsection 2, authorizes an experienced chiropractic physician to work if he or she was working for at least 7 of the 10 preceding years and passed his or her examinations and became licensed at a time when parts three and four of the National Board of Chiropractic Examiners did not exist. This language makes it easier for older and more experienced chiropractic physicians to become licensed in Nevada. The Board hopes this will bring more licensees to the state of Nevada who are in good standing and seasoned in the practice of chiropractic.

Third, the change in section 7, subsection 6, adds language to ensure that a foreign graduate who has taken a course of study consisting of at least 4,000 hours of instruction and which produced a degree of doctor of chiropractic can seek licensure. By this language, the Board seeks to ensure that the education of foreign graduates is consistent and equivalent with the U.S. graduates whose schools are CCE-accredited.

Sections 8 through 15, 17 through 19, and section 21 all harmonize the language pertaining to business entities. Section 16 amends NRS 634.220 to authorize chiropractic physicians to recommend, dispense, and administer over-the-counter drugs and devices. While this practice has long been engaged in by Nevada's chiropractic physicians, the Board wanted to clarify the authority by making it explicit in statute.

Section 20 amends NRS 49.215 to include chiropractic physicians within the definition of "doctor" for the purposes of privileging and protecting communications and legal proceedings between the chiropractic physician and his or her patients. Section 22 has directive language requiring that all references to "chiropractor" throughout the NRS and *Nevada Administrative Code* (NAC) be changed to "chiropractic physician," and all references to "chiropractor's assistant" be changed to "chiropractic assistant" throughout the NRS and NAC. Ms. Strandberg, do you have anything to add?

Julie Strandberg, Executive Director, Chiropractic Physicians' Board of Nevada:

That was the end of our presentation for A.B. 210. I would be glad to answer any questions that the Chair or the Committee members might have. Thank you for your time and consideration of our bill.

Chair Jauregui:

Committee members, are there any questions?

Assemblywoman Kasama:

I was just curious if you were going to address the amendment that was included in the exhibits [[Exhibit C](#)]?

Chair Jauregui:

I believe that the entity that proposed that amendment will be testifying in support and will walk through it when we get to testimony.

Assemblywoman Kasama:

Wonderful, thank you.

Chair Jauregui:

Committee members, are there any other questions?

Assemblywoman Carlton:

I want to really understand the problem that we are trying to fix when it comes to businesses that are not totally owned by chiropractors. We have always been very careful to make sure that licensing boards do not overreach and go into areas that they should not be in. The Board has jurisdiction over chiropractors, but not other folks. If I could just get an example of what the problem is and what you are trying to fix, that might make this a little clearer.

Julie Strandberg:

The gist behind doing this is not to overstep; we do not want to overstep. We have recognized some circumstances through some complaints that the Board has received of ownership, where there is no chiropractic physician who is part of the ownership. Our concern is that the Board does not have any jurisdiction to reach out to these groups or corporations or other businesspeople that own these chiropractic practices, who may require certain things be done by chiropractors. We can only discipline the chiropractor, the chiropractic physician, for stepping outside the boundaries of chiropractic as set in NRS Chapter 634 and NAC Chapter 634.

Assemblywoman Carlton:

Would this give you jurisdiction over that business even though they are not chiropractors?

Julie Strandberg:

Correct.

Assemblywoman Carlton:

That is what I really want to understand: why we would need that. If the chiropractor works for the entity and is not an actual partial owner of the entity, you have jurisdiction over the

chiropractor. Having jurisdiction over a business is a little bit more than what your regulatory body is actually geared for. I guess I am still just trying to understand why you would want jurisdiction over this business.

Julie Strandberg:

I can give an example in which we have dealt with this situation. A chiropractic practice may or may not follow the law when it comes to completing patient records. When the Board requests those records, they are not in compliance with the Board's regulations and statutes, but the chiropractor is following the rules set by their ownership. There is a fine line there; I understand what you are saying.

Assemblywoman Carlton:

Do we do this in any other cases? Do we allow any other Boards to have jurisdiction over business entities that you know of? I do not believe that we do, but there may be one out there that I missed.

Julie Strandberg:

I have to reassess. My understanding was that the Nevada State Board of Veterinary Medical Examiners had some oversight over their practices, but maybe it is in a different manner. I could be wrong. I know that under the chiropractic language of other states, they do register entities.

Assemblywoman Carlton:

Do you have legal counsel on staff, or do you use a Deputy Attorney General (DAG)?

Julie Strandberg:

We have legal counsel on staff.

Assemblywoman Carlton:

And this came from your legal counsel?

Julie Strandberg:

This recommendation?

Assemblywoman Carlton:

Yes.

Julie Strandberg:

Actually, it came from a previous Board member.

Assemblywoman Carlton:

Okay. And may I ask who your legal counsel currently is?

Julie Strandberg:

Louis Ling.

Assemblywoman Carlton:

Thank you very much, I appreciate that.

Chair Jauregui:

Committee members, are there any other questions?

Assemblywoman Duran:

Under section 3, subsection 5, it says that "The Board shall impose an administrative fine in an amount prescribed by regulation of the Board against a registrant that does not comply with the requirements of subsection 4." Do we have a set amount, or is that based on what they violate?

Julie Strandberg:

I am sorry, are you referring to the registration fee?

Assemblywoman Duran:

It is on page 3, line 32, in section 3, subsection 5. It says that "The Board shall impose an administrative fine in an amount prescribed by regulation of the Board against a registrant that does not comply with the requirements of subsection 4."

Julie Strandberg:

We would have to come back to the legislative committee to address that fee in our regulations.

Assemblywoman Duran:

So, we do not have anything right now which would have a requirement? We would have to wait until next session to come back to that, correct?

Julie Strandberg:

I believe we would set that in our administrative code, so it would be up to the legislative committee during the interim. We would have to come back and visit that to set those fees.

Chair Jauregui:

I believe, Ms. Strandberg, you mean that you would have to come during the interim to the Legislative Commission's Subcommittee to Review Regulations before the next legislative session. Assemblywoman Carlton, I was just notified that the legal counsel, Mr. Ling, is actually on with us. Did you want him to address your questions, Assemblywoman Carlton?

Assemblywoman Carlton:

No, thank you. I was just curious as to whether they had a DAG or legal counsel on. If I could expand on the previous question, I am very concerned about setting fees in regulation and not setting them in statute. We typically set the top amount, and then they work up to that certain amount. Allowing a Board to set a fee in regulation is contradictory

to how we have done it in the past. I would hate to open that door and have every Board start setting their fees in regulation. I think we would lose control of the scheme of how the Boards are supposed to operate. I would be cautious on that front.

Chair Jauregui:

Committee members, any other questions? [There were none.] Assemblyman Yeager, did you have something to add to the presentation?

Assemblyman Yeager:

Before we move on to testimony, I did just want to address Assemblywoman Kasama's question about the proposed amendment [[Exhibit C](#)]. At this time, we are viewing that as friendly, but to be candid with the Committee, I believe that we are still trying to work through some of the nuances in that amendment. We do have Nick Vander Poel with us who I think will address that amendment.

I also wanted to let the Committee members know that you will be receiving a second amendment as well [[Exhibit D](#)]. We were pretty late to the game, but I just want to explain it quickly, because I think it is pretty straightforward. I was reached out to by members of the Clark County Public Defender's Office, and they had some concerns about section 18, subsection 4, paragraph (b), which is on page 13, line 16, of the bill. There is a creation of a new felony offense, a category B felony. They had requested that we consider making it a category D felony rather than a category B. That was something that I was receptive to, and I believe the other individuals who spoke are as well.

I anticipate that, if this gets to a work session, you will see that amendment as well [[Exhibit D](#)]. Unfortunately, we were not timely in submitting it to the Committee, but we wanted to flag it. John Piro may also be on the phone to provide any additional clarification or testimony on that.

Chair Jauregui:

Committee, last call for questions. [There were none.] I am going to move on to testimony in support. I am going to start with Mr. Vander Poel, who can address the amendment that you all saw on the Nevada Electronic Legislative Information System [[Exhibit C](#)].

Nick Vander Poel, representing Nevada Chiropractic Association:

We are in support of Assembly Bill 210 and actually worked with the Chiropractic Physicians' Board of Nevada before the bill went to draft. The Nevada Chiropractic Association had a chance to review the bill and support it as written. We respect Assemblyman Yeager's amendment that he is bringing forward with the Clark County Public Defender's Office [[Exhibit D](#)].

The amendment that we are bringing forward [[Exhibit C](#)] is what we consider a fix that we could not fix in 2019 with Assembly Bill 147 of the 80th Session. It basically allows various qualified medical specialists to treat children who sustained a head injury. During that time in 2019, the Legislature gave physician assistants and advanced practice registered nurses

that authority. We attempted to get NRS Chapter 634 added as well, but it was late to the game, so we were told to wait until this session to make this fix. We have been working with the Board during the interim to let them know that we would like to bring this forward. We have thought about bringing this forward as a separate bill, but in the end, it was of the best intent to just bring a friendly amendment.

I do have on the phone Dr. David Rovetti, who is with the Nevada Chiropractic Association. He can speak to the technical terms of a chiropractor's education as it relates to this specific request.

Chair Jauregui:

Assemblywoman Kasama, I know that you had a question regarding the amendment, and I told you that we would be hearing about it in testimony. I do want to give you the opportunity to ask any questions you had regarding the amendment.

Assemblywoman Kasama:

I would like to hear the doctor's explanation because the amendment regarding head injuries just seems so different from the main bill. I would certainly like to hear his testimony.

David Rovetti, D.C., Northern Nevada Director, Nevada Chiropractic Association:

The amendment basically states that we are allowed to return injured sports participants back to the game, whether it is right away, after a couple of days, after a couple of weeks, or potentially never [[Exhibit C](#)]. We feel that the chiropractors are qualified for that.

There are two specific classes in almost every chiropractic college that speaks to the area of concussion diagnosis, treatment, and prognosis. Those would be a neuroanatomy class, and there is also a cervical spine anatomy and pathology class. The last one is more of a hands-on course that teaches when you can return someone to play, when you cannot, and when you refer them to a specialist.

As well, all chiropractors are tested on this through our national boards. There are four parts to our national boards. Part two, which uses multiple-choice questions, talks about that. As well, in part three there are more multiple-choice questions, but there is also a clinically oriented intent to them. Those questions are made according to the director of testing for the national board. It has been so long since I have taken those, I cannot remember exactly what parts test it.

We feel that we are very well trained for it. We have the education; we are very well tested for that duty. I think it should be a shoo-in that we are included in the list of medical providers that have that privilege.

Chair Jauregui:

Thank you, Dr. Rovetti, we appreciate your being here to help answer questions on the amendment. Assemblywoman Carlton, did you have a question for Dr. Rovetti?

Assemblywoman Carlton:

I think there is some confusion out there about the actual terms of "doctor" and "chiropractor." Some folks in chiropractic do have a medical degree, and some do not. This may be more of a question for the Board. Do all the chiropractors in this state have medical degrees, or did they just graduate from a chiropractic college? Does graduating from a chiropractic college give them a medical degree?

Margaret Colucci:

We do not have medical degrees. We have doctor of chiropractic degrees. There is additional training that chiropractors can do to become certified as a chiropractic sports physician. That requires extra training in specialty programs. Coming out with a doctor of chiropractic degree, we have the knowledge to treat musculoskeletal injuries, but in regard to sporting events and additional training for emergency purposes, that is an additional type of certification or diploma that the chiropractor can receive.

Assemblywoman Carlton:

Just to clarify, it is not an actual medical degree. It is considered a doctorate in chiropractic, correct?

Margaret Colucci:

It is a doctor of chiropractic degree. We go to school for four years of premed just like a medical doctor, and then we go an additional five years, or three and a half years all year round, for the doctor of chiropractic degree. We study the same materials as the medical doctors. We are trained in X-ray, diagnosis, and examinations. We just do not prescribe medications.

Assemblywoman Carlton:

I just think it is good to clarify. In using the same terminology, people can get confused. I am glad you were able to clarify that for the Committee.

Chair Jauregui:

Let us go to the telephone line for those wishing to testify in support.

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

At this time, we are in support because we understand that Assemblyman Yeager is going to accept our friendly amendment [[Exhibit D](#)]. We did submit it late, so I apologize for that. It would change section 18, subsection 4, paragraph (b), of the bill from a category B felony back down to a category D felony, which matches the penalty structure for other crimes related to this area. We are grateful to Assemblyman Yeager for accepting that amendment.

Chair Jauregui:

Can we go to the next caller in support? [There was no one.] Next, we will hear testimony in opposition. Can we go to the telephone line for anyone wishing to testify in opposition to

Assembly Bill 210? [There was no one.] Can we check the telephone line for anyone wishing to testify in neutral? [There was no one.] Assemblyman Yeager, would you like to give any closing remarks?

Assemblyman Yeager:

I want to thank you for hearing this bill and for accommodating me by taking the bill out of order. We will continue to work on some of these issues, and we would certainly encourage any Committee members to reach out to me or to my copresenters if you have any questions when you have a chance to look at the bill a second time.

Chair Jauregui:

I will now close the hearing on Assembly Bill 210. Next, we will go to Assembly Bill 200, and we will be taking the bills in order from here on out. I will open the hearing on Assembly Bill 200, which revises provisions governing veterinary medicine. We have Assemblywoman Bilbray-Axelrod with us here this afternoon to present Assembly Bill 200.

Assembly Bill 200: Revises provisions governing veterinary medicine. (BDR 54-168)

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

I am here to present Assembly Bill 200 for your consideration. In the digital age, telemedicine has emerged as one of the greatest opportunities and challenges facing medicine, both human and veterinary. When properly implemented and regulated, telemedicine facilitates consultation, patient monitoring, and the delivery of consumer information, and provides patient care in underserved and remote areas. In this critical time when Nevadans are more reliant on technology than ever, Nevada has an opportunity to shape the direction of telemedicine for optimal animal health and animal welfare benefits.

Today, Nevada law and regulations are silent regarding telemedicine. To ensure that Nevadan consumers can access the resources and benefits of telemedicine without sacrificing quality of care, Assembly Bill 200 clearly authorizes the use of telemedicine in Nevada for the continued care of an animal that has previously been seen by a licensed Nevadan veterinarian. Assembly Bill 200 formally establishes and allows for telemedicine as part of the veterinary practice act in Nevada. The intent of A.B. 200 is to provide clarity for both the consumer and the veterinarian as to the appropriate use of telemedicine to treat Nevada animals.

I want to briefly run through what the bill does. Assembly Bill 200 firmly allows licensed Nevadan veterinarians to practice veterinary telemedicine in Nevada on animals that have been previously examined. The legislation affirms that the Nevada State Board of Veterinary Medical Examiners has clear authority to oversee the governance and acts of veterinary telemedicine. This is of critical importance. Not all telemedicine is good telemedicine. By empowering the Board with clear authority over telemedicine practices, this legislation guarantees that, in this modern age, we are ensuring the highest level of consumer protection.

This legislation will expand access to veterinary care. The legislation enables both clinical and educational assistance to underserved and remote populations. In addition, passage of this legislation will ensure that Nevadan animals receive veterinary medicine in the highest level of care while following the best practices on social distancing. This legislation also codifies in statute the existing regulations that require a physical examination of an animal to establish what is known as a veterinarian-client-patient relationship (VCPR).

Telemedicine does not alone fulfill a veterinarian's professional obligation for a thorough, in-person examination which employs all of the veterinarian's senses and expertise and elicits animal responses, all of which are imperative because veterinary patients cannot verbally convey their histories or symptoms. To speak plainly, Nevada's pets and agricultural animals cannot speak for themselves, and Nevadan pet owners are not professionally trained to assess the status of their pets and communicate that to veterinarians. Accordingly, Nevada must adopt a responsible telemedicine policy in the state that takes account of the importance of the physical exams necessary to appropriately take care of Nevada's animals.

In requiring a physical exam in combination with the tools available through telemedicine, this legislation aligns Nevada law with federal law. Under federal law, an in-person physical exam of an animal and timely visits to the premises are required to establish a veterinarian-client-patient relationship. Because it is the federal requirement, it applies to all states. This federal requirement of the veterinarian-client-patient relationship applies to any extra-label drug use and the writing of the veterinarian feed directives.

With the passage of Assembly Bill 200, Nevada will be a nationwide leader, establishing telemedicine as a tool for veterinary professionals while allowing the highest quality of consumer protection. With that, I would like to introduce Alisa Nave-Worth, who will go through the sections of the bill, as well as Dr. Susan Costa and Dr. Tessa Morgan, who will join me with any further explanations of the need for Assembly Bill 200. For the record, I will also have Jennifer Pedigo, Dr. Jon Pennell, and Michelle Wagner available by phone if there are any technical questions that we are unable to answer. Thank you, Committee, for your consideration, and I will turn it over to Ms. Nave-Worth.

Alisa Nave-Worth, representing Nevada Veterinary Medical Association:

As Assemblywoman Bilbray-Axelrod just mentioned, Michelle Wagner and Dr. Jon Pennell from the Nevada Veterinary Medical Association are also here with me should I not be able to answer technical questions that you have regarding section-by-section analysis of the bill. I have been asked to walk through the legislation section by section, incorporating the conceptual amendment which has been placed on the Nevada Electronic Legislative Information System [[Exhibit E](#)].

I will start with section 2. Section 2 of the proposed legislation defines "veterinary telemedicine" for the first time to include communications via telephone, video, mobile application, or online platform. In the conceptual amendment, we have proposed adding the

term "group of animals" to accommodate large animal and mixed animal agricultural practices [page 1, [Exhibit E](#)]. This will help ensure that all veterinarians in the state are able to access the tools of veterinary telemedicine.

Section 3 of the proposed legislation places limitations on practice associated with telemedicine. When read in combination with the proposed conceptual amendment, the legislation provides that the veterinarian may use telemedicine as an ongoing tool for treatment only once the veterinarian has established the "veterinarian-client-patient relationship," which, as Assemblywoman Bilbray-Axelrod so aptly explained, is a technical tool we use when governing veterinary medicine and its implementation. To establish this relationship, you must perform a timely physical examination of the animal.

In the conceptual amendment, we proposed the following: In section 3, subsection 3, paragraph (d), we replaced the draft language with language drawn from the American Veterinary Medical Association practice act regarding emergency and urgent care, to ensure that you can still do emergency and urgent care in these circumstances [page 2, [Exhibit E](#)]. It also strikes section 3, subsection 3, paragraph (f), because in conversations with the Nevada State Board of Veterinary Medical Examiners, we came to believe that this was not necessary for the creation of the VCPR and therefore should be removed [page 2, [Exhibit E](#)]. This also brings the definition of the creation of the veterinarian-client-patient relationship in line with the federal definition of the VCPR.

Section 4 of the proposed legislation allows for a licensed Nevada veterinarian who has established a VCPR to oversee a licensed veterinary technician via telemedicine. Section 6 revises the definition of the practice of veterinary medicine to include telemedicine. Section 7, as revised by the proposed conceptual amendment, clarifies that a person practicing telemedicine in Nevada must be licensed by the State of Nevada [page 3, [Exhibit E](#)].

I want to thank Assemblywoman Bilbray-Axelrod for her leadership on this issue. With that, I stand open for questions, or we can turn this over to the two practitioners who are with us, Dr. Morgan and Dr. Costa.

Chair Jauregui:

Assemblywoman Bilbray-Axelrod, would you like to turn it over to Dr. Morgan or Dr. Costa for the presentation?

Assemblywoman Bilbray-Axelrod:

That would be great because I think they can briefly speak to the need for this bill.

Tessa Morgan, D.V.M., Elko Veterinary Clinic, Elko, Nevada:

I am a native Nevadan. I did my undergraduate at the University of Nevada, Reno on the Governor Guinn Millennium Scholarship Program and I went on as a Western Undergraduate Exchange student to Washington State University for my doctor of veterinary medicine

degree. Since graduation, I have practiced at Elko Veterinary Clinic. We are the largest clinic in northeastern Nevada. We are a mixed practice serving all species, and ours is the only practice that does after-hours emergency care for northeastern Nevada.

The other doctors at my practice and I fully support A.B. 200 for a number of reasons, primarily because as was already stated, our patients cannot speak for themselves. We all try to be the best Dr. Dolittle that we can be, but we have not yet mastered animal language. The physical examination is critical and invaluable for providing us insight as to the health of our patients, both large animals and small.

For many humans, a physical exam might not be as important. In fact, I have been to a physician many times and never had an actual exam performed on me. This is because I can explain what is wrong with me and have a conversation with my doctor. However, I would never be able to see an animal patient without actually performing a physical exam to diagnose or treat that animal, or any animal.

Animals cannot verbalize where the pain lies. Veterinarians really rely on silent clues to unveil what is ailing our patients. Many animals, although domesticated, are still masters at hiding signs of illness or injury. Therefore, regular checkups and physical exams where we can palpate, auscultate, and observe body language and the behavior of patients is critical to really reveal the health status of any animal.

There are also unique and important aspects of the physical exam of individual species, such as gut sounds in horses, rumen contractions in cows or small ruminants, ambulation or flight in exotic animals—these are just a few examples. These are things that veterinarians have had years of training to assess, and which cannot really be assessed through telemedicine.

Since COVID-19, our practice has utilized telemedicine for established clients, especially in an after-hours situation, so we can advise whether something needs to be seen immediately on an emergency basis or if it can possibly be brought in the next day. Our clients appreciate this additional form of communication, and it helps prevent them from paying an emergency fee if the issue does not require them to come in, but can wait until the next day. Ultimately though, this is only an adjunct to what we already do and does not replace the physical examinations of our patients, which still need to happen. Again, there are just things that veterinarians are trained to pick up on that owners cannot accurately convey.

For large animals and rural clients especially, the VCPR goes well beyond the physical exam to things such as proper storage, handling, management of medications, and assurance of quality of medications, especially with antibiotics and vaccines. We cannot use telemedicine to evaluate herd health, feed quality, animal handling, medication storage, et cetera. The list is really endless. These are things that we need boots on the ground for at a facility or ranch to evaluate in person in order to prevent misuse of medication in a food animal species, which is critical in ensuring a safe food supply and a high standard of animal welfare.

In summary, the veterinarian-client-patient relationship is critical in protecting our patients, and the cornerstone of that is the veterinary physical exam. We believe that telemedicine is a valuable tool, and we support this bill because it helps to give us guidelines to operate within which are currently missing. In this fast-changing environment of medicine, we want to provide the best care while utilizing the newest and fanciest technology. However, we want to make sure we do not do so to the detriment of our patients.

Susan Costa, D.V.M., Medical Director, Spencer Springs Animal Hospital, Las Vegas, Nevada:

I am definitely going to say a lot of the same things that Dr. Morgan did. I am a native Nevadan as well. I really appreciate you guys being here today to listen to our comments about Assembly Bill 200. Our goal is to establish clear guidelines in Nevada for the use of telemedicine in the field of veterinary medicine.

I was the owner of Spencer Springs Animal Hospital in Las Vegas for about six years, and I am currently the medical director of that hospital. I have built my practice on basic core values such as trust; reliability; hard work; communication with our employees, patients, and clients; and a working relationship with our clients. We try to do the absolute best in patient care here.

As you all know, so much has changed over the past year with COVID-19. It has really changed for veterinarians. In our efforts to decrease the negative effects of the COVID-19 virus on all of our lives by supporting social distancing and decreasing person-to-person contact, we have really tried to increase our curbside service and our virtual visits with telemedicine, thereby eliminating the person-to-person contact to ensure a safe environment.

I also feel that telemedicine, even before COVID-19, was becoming a more common phenomenon in human medicine. It is a way to make health care more accessible and more convenient, since that is what everyone wants these days: convenience and accessibility. There have been countless advertisements for new telemedicine software and programs to incorporate into our veterinary practices. When these are not regulated by a governing body, they really have the potential to harm both the consumers and their pets.

Nothing can replace a thorough physical exam of our veterinary patients. It is a foundation of veterinary medicine. Without this, we accomplish nothing. We need to listen to our clients as they tell us how the patient has been doing, we need to auscultate our patients, and we need to listen to their hearts and lungs for indications of illnesses. We need to look at our patients. We need to use our hands to evaluate their skin, body, joints, and feet. We need to watch them breathe. We need to look at the color of their mucus membranes and make sure that the insides of their ears are okay, that their teeth and abdomens are okay.

This is the basis of our veterinarian-client-patient relationship: communication between the veterinarian and the owner, and the physical exam of the patient. This is the cornerstone of what we do and of building proper telemedicine guidelines. After the initial exam, the relationship is established, but only after the veterinarian-client-patient relationship has been

completed should it be possible for a telemedicine visit to be initiated. Questions about bloodwork, medication, progress, or declines in health can now be answered safely and effectively via video or phone.

Please, do not misunderstand me; there are great things about telemedicine. It allows us to help those who do not have access to transportation at the time, or those who have limited funding. It helps eliminate exposure for those with weakened immune systems. It is a tool that we need to incorporate into our practice only after we have established that relationship for follow-up visits and after an initial in-person visit to the practice has been done with the veterinarian and their patient and client.

In my opinion as a veterinarian, it is absolutely unsettling and unethical to diagnose or treat via telemedicine a patient that you have never touched or seen in person, or one that is owned by a client that you have never met. It is absolutely critical that we introduce veterinary telemedicine guidelines into Nevada's veterinary practice act and give the authority to the Nevada State Board of Veterinary Medical Examiners to oversee telemedicine in Nevada. The implementation of these guidelines will help to ensure the highest level of protection for our patients, clients, and our veterinarians. Thank you for listening, and let us please pass this bill.

Assemblywoman Bilbray-Axelrod:

That is our presentation. We are here for questions.

Chair Jauregui:

Committee members, please send me a message if you have any questions for our presenters. I am going to go to Assemblyman Flores to start us off.

Assemblyman Flores:

I am going back and forth between the amendment and the original text of the bill. Specifically, I am looking at the original text in section 3, subsection 3, paragraph (d), subparagraph (1), and in the proposed amendment on page 2 [[Exhibit E](#)], where it refers to section 3, subsection 3. Is there a definition for the phrase "emergency or urgent care," and/or is that just customary of the industry where you have certain situations and it is up to the veterinarian to make that determination? I want to understand that first.

Assemblywoman Bilbray-Axelrod:

I would turn it over to one of the veterinarians to answer that question.

Jon Pennell, D.V.M., Sahara Pines Animal Hospital, Las Vegas, Nevada:

If I understand the question, the question was on the definition of emergency or urgent care. I believe that is defined, but I am sorry, I do not have it in front of me.

Alisa Nave-Worth:

I believe that it is defined in the larger practice act. We can certainly follow up with that information for you.

Tessa Morgan:

It may depend. I am sure there is a definition in the practice act, but within our practice itself, urgent care and emergency care can vary a little bit depending on the practice. For us, sometimes an urgent care situation is something that the client needs a same-day appointment for, such as a laceration or something that needs to be seen the same day that they call. That can be compared to something like a vaccine, which can be scheduled on a different day. It is something that varies because not all practices see urgent or emergency cases. It kind of depends on the individual practice.

Assemblyman Flores:

The only reason I ask this question is because I very much understand the intent. I understand that right now, there is telemedicine happening where there is not always an in-person relationship established between the animal itself and the veterinarian.

I am asking about it because I am concerned that if the intent is to establish that relationship, then emergency or urgent care could be defined in such a broad way that anything could be deemed to fall under that category. We would continue to have a scenario where there are folks who strictly go to the telemedicine and bypass the requirement that we are establishing now because they are saying it is an emergency or an urgent care situation, and then we still fall into the same problem. You may say that is impossible because of certain situations. That is what I am trying to get at with that question. By no means was I trying to do anything else. Maybe there is a response to that.

I also see that in the amendment, on page 1 for inclusion within section 2, we added "or group of animals" [[Exhibit E](#)]. I just want to understand how that would work when we are talking about having some type of electronic communication with a group of animals. In what scenarios would that apply, and how do we see that working out? I am assuming there is a series of specific scenarios where you realize that you need to allow telemedicine to occur for groups of animals. I am trying to understand it better.

Assemblywoman Bilbray-Axelrod:

I would like to go to Ms. Nave-Worth for the first part of the clarification, and then go to one of the veterinarians for the second part.

Alisa Nave-Worth:

As to your first question, I understand your concern that we do not want people using the emergency care exception as a reason to bypass the veterinarian-client-patient relationship. I believe that if you read the language in tandem with section 3, subsection 2 of the bill, it does allow a veterinarian to, in good faith and without establishing the VCPR, provide emergency or urgent care.

However, in general what it says is that all of that care is now incorporated under the practice act and is subject to the purview, oversight, and regulation of the Nevada State Board of Veterinary Medical Examiners. This would not be the case if we did not pass Assembly Bill 200. What this does is create regulation and oversight where regulation and

oversight does not currently exist. We would defer to the leadership of the Board to work through those issues when someone abuses that emergency care exception. That would be my answer to your first question.

As to your second question, if I may, regarding section 2 of the amendment on "group of animals" [page 1, [Exhibit E](#)], we were very cognizant that we did not want to exclude the use of veterinary telemedicine for agriculture and the large, rural practices such as those that Dr. Morgan and others work with across the state. The amendment which allows "or group of animals" would allow for the treatment of large herds and agricultural practices. I would also look to Dr. Pennell or Dr. Morgan to speak to this.

Tessa Morgan:

I can give an example of how that would be used. For example, I have some owners and clients who work with honeybees. When I go to treat their honeybees, I am treating hives of thousands of bees at one time. They may call about a mite issue in that group of bees, and so it would be a group of animals.

In another example, I have a client who has dairy goats. She has a herd of 35 dairy goats; I have a relationship with her where I have been to her operation, I know how she operates, and I go out there at least twice a year, sometimes more often if there is an issue. I am treating her entire herd of dairy goats as a herd and a group of animals.

Assemblyman Flores:

Might there be a scenario where, say, I sell puppies for a living, and I indicated that this group of puppies have all been seen by a veterinarian 14 times? I assume a buyer would care about that. Could I do that?

I am curious to understand the business side of this. If you had a bunch of puppies in front of a camera, obviously that would never count as you, the veterinarian, doing anything. I am assuming in that scenario that you would want to have a one-on-one conversation about each animal. That is what I am trying to understand: whether something can be said that is misleading through a business lens, rather than from the perspective of me, the owner, simply taking care of all my animals. I was just curious to understand that.

Assemblywoman Bilbray-Axelrod:

I think that actually highlights what Ms. Nave-Worth discussed. One of the most important parts of this bill is allowing the Nevada State Board of Veterinary Medical Examiners to see those scenarios. If it came forward that someone was trying to use telemedicine to have a litter of puppies looked at over and over again, or if they were calling it an emergency, the Board would currently not have any oversight over it. Right now, that would be the end of it. With this bill, the Board could come in and actually deal with that situation which obviously should not be happening.

Assemblywoman Carlton:

What I would like to understand is that we have a lot of folks that live right on the state border. Let us say that I am in a section of the state where it is easier for me to see a veterinarian in another state. Once I have a relationship with that veterinarian in another state, would this law prohibit me from being able to do telemedicine visits with that particular veterinarian, since I and my animal are in the state of Nevada?

Assemblywoman Bilbray-Axelrod:

I would defer to either Ms. Nave-Worth or legal counsel for that.

Alisa Nave-Worth:

That is a scenario that we have not contemplated, which means we will need to go back and get a precise answer for you. The intent is that if they bordered with Arizona, and the veterinarian was licensed in Arizona, that veterinarian would be governed by the practice laws of Arizona because they are a licensee of that state. However, there is also the intent that if someone is practicing telemedicine from across other borders and is taking care of Nevada pets, that they should be captured and governed by the Nevada State Board of Veterinary Medical Examiners. We probably need to contemplate that exact scenario for you.

Assemblywoman Carlton:

That is my concern: if the physical relationship that you are predicating this legislation on is across borders. Let us consider a scenario where I drive the pet to Arizona and I have that relationship with a veterinarian there, but I am a snowbird and I go to another state and I hope to keep that relationship. Or even the other way around—a scenario where I have the relationship with a veterinarian in Nevada but I decide to take off in July when it is 120 degrees out and go to Idaho, yet I would like to keep that relationship. I want to understand how we work all those things out.

Is this legislation going to disrupt the folks who have a relationship with a veterinarian who they have been working with for a while and make them go find a new veterinarian? I want to make sure that we do not have folks lose the person that they trust by working with this. By adding that physical contact, once you have had that in person visit, where does it go from there? That is what I want to figure out.

Assemblywoman Bilbray-Axelrod:

That is an excellent scenario that, I have to be honest, I did not think of either. You could absolutely see someone down in Laughlin, Nevada, go across the river to where, I am sure, a majority of people see their veterinarians. Ms. Nave-Worth, feel free if you want to say anything else, but we will definitely take that into account and try to figure out the answer to that as soon as possible.

Alisa Nave-Worth:

We will absolutely get a written answer for you. The intent is not to eliminate care. It is to ensure that we preserve the veterinarian-client-patient relationship while also giving

jurisdiction to the Board over those folks who are practicing telemedicine. We want to make sure that they are compliant with not only the federal laws associated with telemedicine, but also to ensure that if they are violating the principles behind telemedicine, they are accountable to the Board.

One thing I will say is that the VCPR is currently already in regulation, although I do not know if that answers your question. It is currently required that you establish a timely veterinarian-client-patient relationship; it is just under the Board's regulations of the practice act and is now being brought into statute. I do not know if that is the beginning of the answer, but I will absolutely circle back with more of a prepared written response.

Chair Jauregui:

Committee members, are there any other questions?

Susan Costa:

I have a comment if that is okay.

Chair Jauregui:

Let me first check to make sure that there are no questions from the Committee members before we go back to you. [There were none.] I actually have a quick question. Assemblywoman Bilbray-Axelrod, are there doctors currently practicing right now without that relationship? Are there doctors from out of state seeing Nevadan animal patients, or doctors within the state seeing animal patients via telemedicine who have not established that VCPR? Is that a big issue here?

Assemblywoman Bilbray-Axelrod:

I would say two things. We do not 100 percent know because we do not really have the teeth to go after them. They should not be, because as Ms. Nave-Worth mentioned, the VCPR is in the regulations. However, I think it would really be hard to know since we do not have the teeth to be the oversight.

Alisa Nave-Worth:

That is correct. Telemedicine is not governed by the Nevada State Board of Veterinary Medical Examiners. In fact, the genesis of this legislation came from discussions that occurred during COVID-19 about adopting regulations regarding telemedicine. It was decided that it was a decision that should be made by the Legislature. It should be the policy of the State of Nevada to say that we are going to allow telemedicine as a valid medical tool in the veterinary profession. That is a decision the Legislature needs to make, and then give the Board the authority to enact the regulations in order to address the scenarios that have been raised by Assemblywoman Carlton and Assemblyman Flores.

Chair Jauregui:

Committee members, are there any other questions? [There were none.] Dr. Costa, I wanted to make sure we got all of the members' questions in before we came back. Were there some remarks that you wanted to make?

Susan Costa:

I just wanted to address Assemblywoman Carlton's concern. If you previously had a VCPR with your veterinarian in Idaho, or in Las Vegas and you are escaping to Idaho for the summer, and you had an issue or question about medicines that your pet was taking or medicines that were needed, then that veterinarian would be absolutely okay to give you that recommendation.

If you presented a situation to your veterinarian in Nevada while you were in Idaho for the summer where your pet was in need of something more serious, then that veterinarian would absolutely recommend you to somebody else who is in Idaho. I do not think any of us would feel comfortable giving you a diagnosis over the phone or with telemedicine. We would absolutely say that you need to go to a veterinarian in Idaho. The relationship is still established, but we would use that to give you a recommendation to see somebody close to you.

I think that has to do with Assemblyman Flores' questions as well regarding emergency care and urgent care. There are so many things that people think are emergency or urgent care situations, but we are not going to give a diagnosis via telemedicine for an emergency. We are not going to give a diagnosis over the phone if we have never seen that pet. We will instead tell them to go their nearest emergency center to get appropriate medical care. The same is true with an urgent care visit. I do not know if that helps or not, but those are the things I was thinking about your questions.

Chair Jauregui:

Committee members, are there any other questions? [There were none.] We will move on to testimony in support. Can we please check the telephone line for those wishing to testify in support of Assembly Bill 200?

Danny Thompson, Private Citizen, Las Vegas, Nevada:

I want to speak in favor of A.B. 200. I do not think you can understate the importance of the veterinarian-client-patient relationship, not only because animals cannot speak and tell you where they are hurt, but animals also tend to hide injuries. In the wild, an injured animal invites a predator, and all animals come from the wild, so they maintain that.

I am a dog owner, and I have a bunch of them. I have an 11-year-old German wirehaired pointer named Cletus, who is a bird dog, and he will do anything to get into the swimming pool, including hiding an ear infection which ended up requiring surgery on his ear. He will do anything to go to the desert to chase birds, including having a cactus sticking out of the side of his foot and walking around like there is nothing wrong.

Having that hands-on look by a veterinarian who is trained to not only feel and touch the animal, but literally smell the animal, cannot be understated. I think it is a critical part of this bill that I wholeheartedly support, and I urge your support.

Rebecca Goff, Clinic Manager, Nevada Humane Society:

I am testifying on behalf of the Nevada Humane Society in support of this bill. It will help us better serve the medical demands of our shelter, specifically section 4, which allows the supervising veterinarian to have supervision over the veterinary technician, even if they are not located at the same site. As the shelter pets are our patients, we do have quite a relationship already with them. It would allow our technicians to provide emergency after-hours care as needed, without having to have the veterinarian on-site. We would appreciate the passing of this bill.

[Additional letters in support of Assembly Bill 200 were submitted, [Exhibit F](#).]

Chair Jauregui:

Next, we will hear testimony in opposition. Can we go to the phone line and see if there is anyone signed up to testify in opposition? [There was no one.] Can we check the phone line to see if there is anyone wishing to testify in neutral?

Jennifer Pedigo, Executive Director, Nevada State Board of Veterinary Medical Examiners:

I am testifying in neutral today on A.B. 200. I would just like to convey my thanks to the bill's sponsor and the presenters that you have heard from today for working with us on this language and for giving feedback regarding the conceptual amendment [[Exhibit E](#)].

Chair Jauregui:

Assemblywoman Bilbray-Axelrod, would you like to give any closing remarks?

Assemblywoman Bilbray-Axelrod:

We will make sure to circle back with the two excellent questions that came up. Thank you very much for your consideration.

[[Exhibit G](#) is a booklet on veterinary telemedicine that was submitted but not discussed and is included as an exhibit of the hearing.]

Chair Jauregui:

I will now close the hearing on Assembly Bill 200. Thank you, Assemblywoman Bilbray-Axelrod, to you and your presenters for being with us. The next item on our agenda is Assembly Bill 227. I will now open the hearing on Assembly Bill 227, which revises provisions relating to contractors. We have our own Assemblywoman Carlton here with us to present the bill, along with a few copresenters.

Assembly Bill 227: Revises provisions relating to contractors. (BDR 54-720)

[There were technical difficulties with Zoom.]

Assemblywoman Maggie Carlton, Assembly District No. 14:

Assembly Bill 227 is an act relating to contractors which talks about the process of who may perform certain types of work for a contractor as well as revises the grounds for disciplinary action against a licensee by the State Contractors' Board. The reason that I am bringing this bill is because this issue has great importance to me. In the time that I have been here in the Legislature, we have had a lot of discussions about lost wages, workers' compensation, and losses in revenue. I am bringing this bill in order to address some of the issues that I believe will be discussed by the presenters today.

When I hear that hardworking Nevadans are losing wages in the scheme of how they are paid, it gives me concern. The fact that workers' compensation is not being paid appropriately and that we might possibly have workers get hurt and then not be able to access care, gives me some concern. On the revenue side, taxes are not on the honor system in this state. We expect everyone to pay their taxes and pay them appropriately. If there is a way that folks are working and they are not being taken care of, I believe it should be addressed.

We have had conversations about misclassification and independent contractors in this building for over a decade. Here is another issue that has been brought to light on how folks are being paid and the consequences to the state because of it. With that, I would be happy to turn over the presentation and conversation around this issue to the folks who know it very well: William Stanley, Wendi Newman from the Unified Construction Industry Council, and Dr. Jeffrey Waddoups, who wrote the research paper that is referenced. We can go to Mr. Stanley first and then work our way through the list.

[There were technical difficulties with Zoom.]

William H. Stanley, Executive Secretary-Treasurer, Southern Nevada Building Trades Unions:

Assembly Bill 227 was introduced by Assemblywoman Carlton, as we heard, at the request of the southern and northern Nevada building trades unions, along with other nonaffiliated building trades that you will hear from later, as well as the Unified Construction Industry Council. We thank Assemblywoman Carlton for her leadership on these issues throughout her career in the Nevada Legislature.

We have worked with the stakeholders for the past two years and are seeking the passage of A.B. 227 to ensure the following: that contractors are the only employees on a project who are employed by a contractor and who perform the scope of work that requires a contractor's license. An employee of the contractor must be an employee who completes an Internal Revenue Service (IRS) Form W-4 and receives an IRS Form W-2 from that contractor. The bill is that simple and straightforward.

This language is very important for two reasons. First, recent court decisions have determined that for a contractor to be held responsible for the actions of those working under his direction, they must perform work either by "himself, herself or itself; or by or through an

employee or employees of the contractor or of another contractor" [section 1, subsection 1, of Assembly Bill 227]. I will quote from the judge in the decision of the court case of *Legacy Specialties, Inc., et al. v. Nevada State Contractors' Board*, Second Judicial Court, Washoe County, No. CV20-00404 (Nev.), which is uploaded to the Nevada Electronic Legislative Information System (NELIS) for the Committee's review [page 2, [Exhibit H](#)]:

This Court concludes it is fundamentally unfair for the Board to discipline a contractor for conduct that is widespread within the construction industry without notice of what is allowed and disallowed. This is particularly true when the Board relies upon an uncertain statute and multiple private conversations with "sitting Legislators" and others, and when there are no rules promulgated to guide the contractor and those who impose discipline. The inclusion of employee leasing companies within the definition of contractors may be a wise policy, but it should be codified by statute or promulgated by administrative rule so contractors can anticipate their affairs and adjust their business practices.

We agree. Users of construction services, such as home builders and building owners, must have the protection of the State Contractors' Board to ensure that those responsible for the construction project, including the construction defects and employee-employer relationships, can be held accountable by the State Contractors' Board. This is a public policy which was first codified in Nevada statutes in 1941.

The second reason that this language is important is because misclassification of employees in the construction industry costs Nevadans millions of dollars in lost construction activity. When a contractor misclassifies an employee as either an independent contractor, a cash employee, or a leased employee, the employee is often made responsible for all payroll liabilities, both state and federal.

Additionally, as determined in "Bulletin No. 11-07: Employee Misclassification," a 2011 Legislative Counsel Bureau study, which is also uploaded to NELIS for the Committee's review, misclassification of employees in the state of Nevada in 2011 cost Nevada's unemployment trust fund \$8.2 million in lost revenue [page 13, [Exhibit I](#)]. Lost revenue to Nevada's workers' compensation fund and payment for the modified business tax are also underreported.

The Unified Construction Industry Council (UCIC) commissioned a study to review these issues within the construction industry in Nevada [[Exhibit J](#)]. At this time, I would like to turn my time over to Wendi Newman, Executive Director of the UCIC, to discuss the Council's study. After Ms. Newman and Dr. Waddoups complete their testimony, we would be happy to answer any questions that the Committee may have.

Wendi Newman, Executive Director, Unified Construction Industry Council:

The UCIC is a labor-management cooperative committee composed of 14 affiliated skilled craft trade unions and over 200 contractors who employ over 20,000 skilled trade workers.

Our study, "Payroll Fraud in Nevada's Construction Industry: Extent and Fiscal Impact," revealed that illegal labor practices by offending contractors took \$90 million in economic activity out of Nevada's economy in 2018 through the misclassification of employees and wage theft [page 4, [Exhibit J](#)]. These are just two ways that offending contractors have illegally reduced their labor burden.

Using data in 2018, the cost estimates suggest that these actions led to a \$31.1 million shortfall in the state's Fund for Workers' Compensation and Safety, an \$11.8 million loss in Nevada's unemployment insurance program, and cost \$6.6 million in uncollected tax revenue via the modified business tax. This study contends that misclassification and off-the-books employment in the construction industry has likely cost taxpayers nearly \$50 million annually [pages 4 and 5, [Exhibit J](#)].

At this time, I would like to introduce you to Dr. Jeffrey Waddoups, a director of the Institute for Construction Economics Research and the chair of the Department of Economics at the University of Nevada, Las Vegas. He will provide you with a high-level overview of the study and answer any questions that you may have.

Jeffrey Waddoups, Director, Institute for Construction Economics Research:

[Mr. Waddoups read from a PowerPoint presentation submitted to the Committee, [Exhibit K](#).] I appreciate the opportunity to share some of the results of the study. The study was conducted by three of us. I am Jeff Waddoups, an economist, and I am also on the board of directors of the Institute for Construction Economics Research (ICERES), which is a nonprofit that supports high quality, nonpartisan research in the construction industry [page 2, [Exhibit K](#)]. I am also on the faculty at the University of Nevada, Las Vegas (UNLV), although I am not speaking for UNLV today.

The other coauthors of this study are Russell Ormiston, who happens to be president of ICERES, as well as Kevin Duncan, who is a research scholar for ICERES and on the faculty at Colorado State University Pueblo. The study was titled "Payroll Fraud in Nevada's Construction Industry: Extent and Fiscal Impact," and of course we wanted to investigate the extent and fiscal cost associated with misclassification of construction workers [page 3, [Exhibit K](#)].

Now, as has been alluded to, misclassification takes on three forms. The first type occurs when workers who meet the definition of an employee are misclassified as independent contractors. The second type occurs when workers who meet the definition of an employee are simply paid off the books. The third type occurs when workers on public construction projects are misclassified from high-paying skill categories to low-paying skill categories [page 3, [Exhibit K](#)]. We will not really deal with this third type; it is just the first and second types that we are concerned with here.

We looked at the question of how much employers save by misclassifying, and we found that total employment costs for a legal worker of a contractor in the construction industry averaged around \$47,486. The total employment costs of a misclassified worker, and we do

get kind of a range on this, is between \$34,331 and \$40,110. There are definitely differences. The consequence here is that there is an unlevel playing field and a competitive disadvantage for law-abiding employers [page 4, [Exhibit K](#)].

The next question concerns how we measured the amount of misclassification. It turns out that in the literature, there is a method that people have come up with to try and measure this. This is what we do: we compare what workers report about their employment to the government surveyors, such as the American Community Survey, with what employers report about their payrolls. The difference between what workers report and what employers report represents workers who report being employed in the construction industry but do not show up on payrolls [page 5, [Exhibit K](#)]. It is a nice way to get at who is being misclassified.

Based on data from 2018, we found that about 111,228 workers reported that they worked in the construction industry in Nevada, while only 91,358 workers were on construction contractors' payrolls. The difference of 19,870 represents an estimate of independent contractors and off-the-books workers in the industry. We estimated that about 64 percent of these workers, or 12,717 workers, were illegally misclassified, based on a study that was done by the IRS in 2016 [page 6, [Exhibit K](#)].

We then looked at how much Nevada loses per misclassified worker. Our estimates showed that a typical employee would have \$927 paid into the unemployment insurance system on his or her behalf. Workers' compensation insurance figures another \$2,445, and the modified business tax figures another \$518. In total, the amount of revenue that is lost by the state is roughly \$3,890 per misclassified worker [page 7, [Exhibit K](#)].

Then, what we did was multiply those per-worker figures by the 12,717 workers, and that is how we got our roughly \$49.5 million hit that the State of Nevada takes. Of course, the consequence here is an underfunded safety net and, through the modified business tax, revenue losses to the state [page 8, [Exhibit K](#)].

Our study is consistent with other research around the country on employee misclassification in construction. I have listed some places such as Texas, the southern states, and Los Angeles County where studies have been done. We estimate that roughly 12,717 construction workers were misclassified, that each misclassified worker cost the state around \$3,890, and so the total yearly cost to the state is \$49.5 million [page 9, [Exhibit K](#)]. That is a broad overview of the study. I am willing to take questions if they come up.

Chair Jauregui:

Assemblywoman Carlton, are we ready to open it up for questions?

Assemblywoman Carlton:

Yes, I am happy to have Committee members ask the presenters questions. I would ask them to be brief, knowing our workload. The study, the court case, and all the documents are

available. I think it is very telling that based on 2018—and we know that 2019 was a better year than 2018—it was a loss of \$50 million dollars. We can only extrapolate what it might have been in 2019.

I will say that one of the issues that has come to light in my nonprofit, daytime job are folks who thought they were going to have unemployment insurance because they were getting a paycheck and they thought they were employees. They went to apply for unemployment and found out that they were not getting it because they were not that type of employee. I think that is another issue that has arisen outside of all this. We need to make sure folks are educated when they work in this scheme so they know that they might not have access to that.

You know, our three major industries are mining, hospitality, and construction. The fact that this is happening in the construction industry, one of our major industries in the state, is going to cause a divot in our budget, it is going to hurt working Nevadans, and we cannot necessarily make sure that they will get the medical care that they need if they do get hurt on the job. With that, I would be happy to turn it over to my presenters to answer any of the very good questions that I know will be coming from the Committee.

Assemblywoman Tolles:

I appreciate the explanation as to the purpose of this bill and trying to address the under-the-table, off-the-grid contractors who are not paying taxes. That hurts our revenue and our state and certainly, I appreciate the value of the disciplinary aspect of being able to follow up on this.

We have heard a lot of feedback about section 1, subsection 2, specifically. We are removing the ability, as I read it, for an employment agency to utilize the services of both skilled and unskilled workers. I know that they currently play a different role under the Labor Commissioner by being able to provide flexible work on smaller projects and so forth. Could you speak to those concerns that were raised that we are removing the ability of a licensed, skilled worker to operate under an employment agency?

William Stanley:

I want to make sure that we understand what we are talking about when we talk about skilled and unskilled. Currently, in Nevada law under *Nevada Revised Statutes* (NRS) Chapter 624 in the construction industry, individuals that perform jobsite cleanup, for instance, are folks who come in to clean the windows and do the end of the job and get it tidied up for the end user to take over the building. Those services do not currently require a contractor's license.

When we were working with stakeholders over the last two years, we wanted to make sure that we were clear to those individuals who do that work and who do not currently require a contractor's license that we were not trying to expand the role of the State Contractors' Board over them. With that language that you see there, we did not want people to think that

we are talking about those folks who may be doing construction work who are called "unskilled." If you are doing construction work that requires a license, it applies to you. However, we were not trying to capture people who were not already required to have a contractor's license. That is what we were trying to address there.

Next, we really are trying to get to the root of what came up in court. The State Contractors' Board was told that, if an entity is not licensed as a contractor, even though they are on a jobsite and performing construction work, if the State Contractor's Board tries to discipline them, then they are told that they cannot discipline that contractor because he is not a contractor. These are disciplinary means that I am familiar with in the 45 years that I have been in the construction industry.

We took the judge at his word when he said that the statutes were not clear and that we would need to go back to the Legislature and clarify the statutes. That is what we are doing. We are working with the State Contractors' Board and others. In section 3, subsection 7, we tried to clear up exactly what the judge said by including the language that says:

...by which that person, either directly or through any person employed by that person, agrees to perform for the licensee any work which requires a contractor's license. In addition to any disciplinary or other action that may be taken against a licensee pursuant to this subsection, any agreement described by this subsection is void and unenforceable.

If a contractor on a construction site hires someone who is not licensed in Nevada, that contract is void; therefore, we can hold the contractor who brought them to the jobsite liable. For example, in the situation at Lake Tahoe where this court case came out of, a contractor for any other purpose did not pay his employees. There were complaints filed with the Office of the Labor Commissioner and, obviously, with the State Contractors' Board. The contractor appealed, a court decision went to the appellate court, and it was overturned. The language said that if they are not a contractor, the State Contractors' Board does not have the statutory authority to discipline them.

We think that is wrong. We think that is a bad decision and we are here to fix it because we think that the end users of construction ought to be protected, as has been the public policy in this state. Contractors in Nevada are licensed, and they are disciplined when they do something contrary to public policy. In this case, the contractor out of Texas clearly did something that was egregious. He did not pay his employees. There was other work at the jobsite that was not completed correctly. Those people need to be held accountable for that, and that is what we are trying to fix here.

Those are the two issues we are trying to get at. First, we want to make sure that we can hold contractors accountable to the State Contractors' Board. Second, we want to make sure that contractors who are not playing by the rules and are not paying their fair wages, benefits, and

taxes, thus laying that burden at the feet of their employees—unknowingly, in some cases—can be held accountable by the state's Labor Commissioner. I hope that answers your question, Assemblywoman Tolles. That is my understanding and what we are trying to get at here.

Assemblywoman Tolles:

I agree. That scenario is awful, and we should in this body fight against that. I do mean it when I say that I appreciate the value of this legislation. I do want to note, though, regarding the court case, that was a contractor, not a private employment agency. We do have a way to also discipline skilled and unskilled workers under a private employment agency through the Labor Commissioner. I just want to clarify that.

William Stanley:

I am not a lawyer and I do not play one on daytime television, to be clear. I am parroting here, and I get myself in trouble when I do that, but my understanding is that this entity out of Texas was acting as a leasing agency. At least, that was the claim: that they were acting as a leasing agency to the contractor in Lake Tahoe. There is, as you read the case, some testimony to that validity. At least, those were some of the excuses that were given.

I am not disputing the value of an employee leasing agency. What I am challenging is that for an entity to be held liable for work that employees of that entity do on a construction site, they have to be a contractor. The employee leasing company is the employer of record, not the contractor. The contractor simply says that they are not his employees, so if they did something, he is not liable for it. He can say to go hold the employee leasing agency liable instead, and then the employee leasing agency says that he is not liable because he is not a contractor.

We cannot keep playing "pass the buck." The group of us that came together in the last two years determined that the best way to fix this problem is just to make everybody an employee of a contractor. You have to be a W-4 and W-2 employee of a contractor. It fixes all of these issues. It fixes the issue with misclassification. It fixes the issue with the underpayment of workers' compensation where leasing agencies can pay out a lower rate. It fixes the issue of leasing agencies paying out a different unemployment rate than the general contractor who is employing people at the jobsite. It also makes sure that we can hold the entity who performed the work, in this case the leasing agency, liable for the work that their employees perform at the site, rather than the contractor.

I can tell you that this is convoluted. I have been in the business for a long time, and when I read this case, it stood me on my head. I said that this is against everything that I have always understood. By the way, I have been a licensed contractor myself. It is not what I understood the contracting relationship with the construction user to be. However, that is what came out of the courts, so we are here to fix it because it is not good public policy.

Assemblywoman Tolles:

Thank you for your answers and your passion. I do want to note that on page 2 of the court opinion [[Exhibit H](#)], it says that "Legacy is a contractor licensed in the State of Nevada," but maybe I missed somewhere else that it acted as a private employment agency. I do appreciate the explanations and what you are getting at with this bill.

Assemblywoman Kasama:

I have two questions. First, in the presentation on lost revenues to the State, it would seem to me that for those figures to be correct, we would also have to have an estimate of the payouts that were made. We would include revenue for employees who are properly classified, and then from a historical perspective or with averages, we would see how many of those employees get paid workers' compensation or unemployment insurance and deduct that to have a true net effect on the state.

For example, right now during COVID-19, we are losing money. The revenue is not coming in enough to cover unemployment. I cannot remember the gentleman who gave the presentation, but it seems to me that we are missing the estimated payouts to get to a net revenue number. Would that be correct?

Jeffrey Waddoups:

We made broad estimates of how much money would not be provided to the state's Unemployment Compensation Fund and the Fund for Worker's Compensation and Safety given that workers were treated, illegally, as independent contractors or just paid as cash employees. We did not have any way to estimate payouts. What we found out was that these funds would be underfunded by a certain amount given that behavior. That is all we could do with this study.

Assemblywoman Kasama:

I understand. It just seems like you could also come up with an estimate on the payouts based on how many employees there are in the state and how many people get paid. That is just a comment that I am making on that. My other question is about the language of the bill in section 1, subsection 1, paragraph (b), where it says, "By or through an employee or employees of the contractor or of another contractor."

I understand the misclassification of employees due to employers trying to not pay their fair share. I completely agree with that statement. But, for example, if I try to hire a contractor to remodel my house, and he hires out an electrician who is also a contractor to do that work, then that electrical contractor would be paid with a Form 1099. He would not be a W-2 employee. I do not understand how that is being taken into account here. I am not sure who can answer that question.

William Stanley:

I can answer that. In the hypothetical situation you have just laid out, you hired a general contractor to do some work on your home. That general contractor then hires an electrician. That subcontractor electrician who holds that specialty license also has to be licensed through

the State Contractors' Board. A contractor cannot hire, knowingly or unknowingly, an individual who is not a licensed contractor. In the case you described, both the general contractor who you hired, the prime contractor, and the electrician, the subcontractor, would have to be contractors.

In that case, the prime contractor that you hired directly would be responsible for everything on the jobsite that they perform for you, the homeowner, including the work of the electrical contractor. The payroll liabilities would rest with the general contractor, the prime contractor, if the subcontractor did not pay their employees.

The case that we are trying to resolve here in the context of the hypothetical you described is that of a prime contractor who hires an electrician who is not a licensed contractor in the state of Nevada. That electrician wires your house wrong, and then the prime contractor says it is not his problem. Then the electrician says that he is not a contractor and you cannot do anything to him.

That is what we are trying to get at here. We are going to make sure that that prime contractor can be held liable when he hired the electrician who was not properly licensed. We are trying to get to that basic point to protect you, the homeowner, so that you have a way of resolving your issue, which is that you now have an incorrectly wired house. That is the bottom line here. We want consumers and end users of construction services to be well-protected, as we have always believed they were through the State Contractor's Board.

Assemblywoman Kasama:

As long as you are hiring another licensed contractor, you do not have to make them an employee. It is for those people that are not licensed. Thank you for your explanation; I think I understand it now.

Assemblywoman Dickman:

It almost seems like this bill basically eliminates private employment agencies. If that is true, how does it affect young workers who might be new to construction and want to try different trades in a temporary setting to decide which trade they want to focus on, or what company they would want to work for? As well, perhaps there are contractors who need to temporarily increase their staff to complete projects. How will this affect them?

William Stanley:

I do not think anyone is trying to dictate the relationship between a contractor and their source of employees. All we are saying is that when those employees come to your jobsite, they have to be on your payroll. They cannot remain on the temporary employment agency's payroll.

This may be a shift in the business model for some people, but this has all been brought on by a court case that we all did not anticipate. There may be a change in people's business practices. [unintelligible.]

[There were technical difficulties with Zoom.]

I know that there are employment agencies that supply skilled craft workers to nonunion groups, and those individuals are neatly placed on the contractor's payroll for the temporary time that they are there. They then return back to their temporary hiring agency for the next job.

These agencies are affected by this; we openly admit it. However, we believe it is such a minor change in the relationship with the temporary hiring agency that, given the overarching interest of the public policy that is enshrined in the enforcement of the State Contractor's Board and of NRS Chapter 624 in the state of Nevada, we believe that it is not onerous. They could change their business practices to facilitate and continue that practice of dispatching and employing crafts workers for all those that need them.

Assemblywoman Dickman:

Thank you. I missed an awful lot of that, you were cutting out, but I think I got the gist.

[There were technical difficulties with Zoom.]

Assemblyman O'Neill:

Mr. Stanley, I am confused. The state contracts with numerous people as consultants and assistants, particularly in the Division of Child and Family Services of the Department of Health and Human Services. The state goes through Manpower of Northern Nevada, and they require that they have a certain level at Manpower before they can supply the employee with insurance for work and for any malpractice, and also to ensure that they take care of their unemployment, et cetera.

I am at a loss. Could a contractor not simply need an unskilled laborer for a day or two to clean out a residence or a building? When providing these services in their contract with a private employment agency (PEA), could the contractor not just make the same requirements to ensure that the employees hired through the PEA are protected and covered with unemployment insurance, workers' compensation, et cetera? That is a long question, I know, but I am really confused here and I need your help.

William Stanley:

To tidily answer your question and the hypothetical that you just laid out, that temporary agency who would have sent someone to a contractor to clean out a house would not be required to be a licensed contractor. Therefore, that situation would not be included, and it is not what we are trying to fix.

If you go back to the language that I discussed earlier in section 1, subsection 2, that is what we are saying there. We are not trying to include work that the contractor already has jurisdiction over. Those types of individuals that you are talking about—the ones who come in and do the cleanup of the building when we are done, who do the vacuuming, cleaning

windows, and all of that final readiness for the building, or even at the beginning of the construction to get the site ready to go—those individuals are not currently governed by this and do not require contractor's licenses. We are not trying to gather those folks up. The State Contractors' Board does not currently have jurisdiction over that work.

Assemblyman O'Neill:

For the contractor, part of the usual contract is to deliver a finished product, is it not? Technically, the contractor is providing the service of cleaning. I am just using that as an example. They may have an unskilled laborer, let us say, to carry the bricks. That is how my stepson started in the construction business, not as a contractor, but by starting work as a teenager packing up bricks for the stone masons in order to learn the trade.

It just seems to me that it is still part of the contractor's work. The contractor could negotiate their contract with those private employment agencies to ensure that the employees that are hired are covered under the workers' compensation, unemployment insurance, et cetera. That is all.

William Stanley:

I am not sure if you are looking for a response.

Assemblyman O'Neill:

I was in a sense. It is just that the contractor is still providing a service of cleaning up as part of their requirements. I am still confused. Maybe it is in response to beating this dead horse too much today. That is it, thank you.

Assemblywoman Carlton:

If I could just step in to reiterate. Those folks are not licensed and are not under the jurisdiction of the State Contractors' Board. Therefore, they would not need to comply with this. That is why language was put in to make sure that we did not adversely affect someone who the State Contractors' Board did not have jurisdiction over. We just wanted to make sure that folks who are supposed to be licensed contractors who need to be held accountable on the jobsite can be held accountable. We do not want to go after folks that we do not need to.

Chair Jauregui:

Members of the Committee, any further questions? [There were none.] I want to make a quick statement to say thank you. I actually carried a wage theft bill [Assembly Bill 211 of the 79th Session] in 2017 because misclassification was such a big issue, and we are still dealing with it. I specifically remember testimony from James Halsey who was representing the International Brotherhood of Electrical Workers, Local 357. He talked about his members and how, over the course of 2002 to then, they had hired a compliance officer to help over 300 of their members who had been misclassified collect over a million dollars in wages that were due to them.

I just wanted to say thank you for bringing the bill forward, Assemblywoman Carlton. Seeing no further questions, we can go to the telephone line for those who are wishing to testify in support.

Jeffrey Proffitt, Business Manager, International Association of Sheet Metal, Air, Rail and Transportation Workers Local No. 88:

I represent over 2,000 sheet metal workers throughout the state of Nevada. I want to thank Assemblywoman Carlton for bringing this bill forward. This has obviously been an ongoing problem in the state of Nevada, year after year. We are in favor of this. We believe this levels the playing field, stops rewarding unethical contractors, and stops the exploitation of hardworking employees across the state. We are in full favor of this.

Brandon Morris, representing Southwest Regional Council of Carpenters Local No. 1977:

I represent the 6,000 members of the Carpenters Local No. 1977 in southern Nevada. We are definitely in support of this. It is a way to help control the rash of labor abuse and misclassification, and it will help bring dignity and value to the workers of the state. We are in favor of and all for this, and we appreciate this being brought forward by Assemblywoman Carlton.

James Halsey, Business Manager and Financial Secretary, International Brotherhood of Electrical Workers Local No. 357:

Today I speak in favor of Assembly Bill 227 on behalf of our 4,000 members who work every day as employees and receive a W-2 every year. We support this bill to ensure that all workers in construction have the same employment and protections that W-2 employees of a contractor are afforded. Those protections include unemployment insurance, future social security benefits, and workers' compensation. Again, that is why we are in support of this bill.

Michael West, representing International Union of Painters and Allied Trades:

The rampant misclassification of people as independent contractors when they are doing the work of licensed contractors is a huge problem in Nevada for the International Union of Painters and Allied Trades. That includes painting, drywall finishing, floor covering, and glazing. We stand in solidarity with the northern and southern Nevada building trades in support of A.B. 227, and I would like to thank Mr. Stanley for doing an excellent job of representing us all.

Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO:

We represent over 150,000 workers here in the state of Nevada. I would like to thank Assemblywoman Carlton for bringing forth this bill. It is a very important bill. All of you who have read this court case which has been brought up in the documentation of this bill can see that it allows for a passing of the buck [[Exhibit H](#)]. This bill would help to close that loophole so that we can no longer pass the buck on who is responsible for taking care of workers.

Currently, in the state of Nevada, a large number of our workers are being exploited, as you heard in testimony and have read in this case where workers were not being paid. It is not the first time and it probably will not be the last until we get some things fixed. This will help those exploited workers. Not only that, the other people being exploited here are the residents of the state of Nevada who have to pay the taxes and workers' compensation for companies or employees that are not covered by workers' compensation due to these work arrangements that are done in the state. This will help close that loophole too.

When I heard that figure of \$98 million a year that the State of Nevada is essentially leaving on the table by allowing this to occur, I knew that it was not a good practice. At a time when we are always looking for more revenue to fund important priorities in the state, including education, leaving \$98 million on the table is not good policy. With that, we stand in support of this bill. We think it is long overdue and it will help address these issues going forward.

Don Campbell, Executive Director, Southern Nevada Chapter, National Electrical Contractors Association:

The National Electrical Contractors Association stands as an association of contractors in support of this bill, A.B. 227, because of the illegal labor practices in the construction industry which truly do result in payroll fraud. Law-abiding employers such as our members end up paying between 18 percent to 38 percent more per worker than contractors who engage in payroll fraud, as Dr. Waddoups indicated.

Without the kinds of protections that A.B. 227 affords, misclassification runs rampant in the construction industry and creates an uneven playing field in which rule-breaking contractors are rewarded at the expense of law-abiding contractors, their employees, and the public. We absolutely support the passage of A.B. 227 and hope to have your support.

Vince Saavedra, Sergeant-at-Arms, District Council of the State of California and Vicinity, International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers Union, AFL-CIO:

Users of the construction project are at risk, and the risk of injury on the construction jobsite is higher, when construction workers are completing tasks that they are not qualified to perform. We support this legislation as it protects both contractors and his or her employees.

Danny Thompson, representing International Brotherhood of Electrical Workers Local No. 396; and Local No. 1245:

We support this bill for all of the reasons that have been stated. You know, in Nevada, when someone is being paid under the table in the construction industry and in other industries, and there is an accident—which there inevitably is—that person's claim is paid out of the uninsured fund, which every employer pays into in the state of Nevada. I will tell you that in the past, there have been some horrific accidents that cost nearly a million dollars. I think it is important that this bill pass and correct the problem.

Alfonso Lopez, Private Citizen, Las Vegas, Nevada:

I speak in full support of A.B. 227 to help filter out the bad and irresponsible contractors that come to work in our state. Thank you for your time and for hearing this matter. This is an issue that will definitely increase revenue to our state.

Richard "Skip" Daly, Business Manager and Secretary-Treasurer, Laborers' International Union of North America Local No. 169:

We are speaking in support of A.B. 227 for the reasons that were stated by Mr. Stanley and others. I worked with him on some of this language to try and make sure that we address the issue that came out of the court case regarding the State Contractors' Board and their jurisdiction. I think this is an important step in the right direction to remedy that particular situation.

Hopefully, I can clear up some questions that the Committee had regarding what is and is not covered. The State Contractors' Board requires a contractor to have a contractor's license in order to perform a variety of scopes of work. There are other scopes of work that are commonly performed on construction sites, and some of them do not require a contractor's license. That is the modification there.

The work that Assemblyman O'Neill spoke about is hod carrying, where the hod carrier services a bricklayer who is working. That work is covered and would require a contractor's license in order for that person to perform it. Other types of work, for instance flagging, are not covered as they are not really building anything or are commonly on construction jobs, and so it does not require a contractor's license to perform that work. That is kind of what the distinction is on what is and is not covered.

Whenever a contractor is performing work that requires a license, that person needs to be on the payroll of a contractor so that the State Contractors' Board has jurisdiction to make sure that there is accountability, both for the consumer who is hiring that prime contractor and for the subcontractor and everyone else involved. That is the genesis of this bill. This is a step in that direction to solve that problem, and I believe that it will. I urge your support all the way across the board and I hope that my explanation was helpful.

Rob Benner, Secretary-Treasurer, Building and Construction Trades Council of Northern Nevada:

We believe that this legislation will help the State Contractors' Board enforce the contracting laws in Nevada the way that they should be enforced. Too many construction workers in Nevada are taken advantage of. This bill would help prevent that kind of abuse. We are in support of A.B. 227.

Robert Conway, Business Agent, International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers Union, AFL-CIO Local No. 433:

We represent 5,000 workers. When contractors engage in unethical practices to increase their profits, these actions come at a considerable cost to the state, which has been described pretty well this afternoon. We urge and appreciate your support on A.B. 227.

Chair Jauregui:

We will now move on to testimony in opposition.

Joshua Hicks, representing American Staffing Association:

I am here today in opposition to the bill, particularly in respect to the impact that this bill will have on private employment agencies (PEAs). Private employment agencies are members of the American Staffing Association. They provide temporary labor in a variety of industries throughout the state. There are around 30,000 Nevadans who work for PEAs in industrial, commercial, and construction contexts.

It is important to note that a PEA is a licensed and regulated entity in the state of Nevada. They are licensed and regulated by the Labor Commissioner. The employees of a PEA are W-2 employees. Workers' compensation, unemployment insurance, and the modified business tax all get paid for them. Income taxes are withheld. It is important to note that because the stated purpose of this bill is to avoid cash-under-the-table employment or independent contractor-type situations. That is not the type of situation that you will see with a PEA for all of the reasons that I just set forth.

There are thousands of Nevadan PEA employees who work in construction, both skilled and unskilled. This has been a long-standing practice in the state of Nevada. This was recognized in the court case that was mentioned and it is a very common practice between contractors and PEAs, particularly with respect to smaller contractors who need labor on a fluctuating basis. Certainly, it allows the contractor to do what they are here to do, which is to build things and to not spend their time recruiting and dealing with administrative pieces. That is what the PEAs do.

There is an easy fix to this that we have submitted for the record [[Exhibit L](#)]. It is a simple amendment. It will not change any of the big issues on this bill with respect to stopping the cash-under-the-table type of employment. What it will do is allow a PEA to provide both skilled and unskilled labor, just as they can today, and maintain the jurisdiction and control of the Labor Commissioner over these practices.

I do also want to make note of a few comments that were made earlier. Just to be clear about it: the case that was referenced was not a PEA case. That was a case where a Nevada contractor who needed some additional workers hired a crew out of Texas in order to do that work. It was specifically noted in that case that the Texas crew was not a PEA.

That was one of the big problems in the case and why it led to this problem and this bill. I think it is important to note that because, had the Nevada contractor done what he was supposed to do and utilize a licensed and regulated Nevada PEA, there would not have been an issue and he would not have had a problem or been subjected to the jurisdiction, discipline, fines, and everything else.

I also want to note for the Committee's reference that in Dr. Waddoups presentation, he noted three categories of misclassification. None of those were PEAs. They were all other types of cash-under-the-table issues. Again, I want to make the point that the PEAs are not the problem here.

Finally, there were some comments about liability that I wanted to mention to you. Unfortunately, I know a lot more about construction liability than I ever wanted to due to my work in the last few years in the construction defect field. I can tell you that a contractor is ultimately responsible for the work that they put in. If they get sued on a construction defect basis, whether it is their employee's work, a subcontractor's work, or the work of an employee hired through a PEA, then they are going to have problems when that defective work is done. It is their license that is on the line. That is the important protection that is provided by the State Contractors' Board.

In conclusion, we would urge this Committee to take a look at our amendment and accept it. It will accomplish all of the goals of this bill with respect to misclassification. It will allow contractors and PEAs to continue to work together, and it will keep those 4,300 workers who are working in construction for PEAs on the job and in their jobs. We appreciate your consideration of that. I am happy to answer any questions. [A letter was also submitted, [Exhibit M.](#)]

Assemblywoman Carlton:

I want to make it clear that I did get a copy of the amendment, but I have not yet had conversations with those who proposed it. I have already received messages from folks saying that they will support the bill if I include this amendment. There has not been a conversation about this yet. I wanted to make sure that was perfectly clear with the members of the Committee. I did not propose this amendment and I have not spoken with folks about it.

It has been stated that those on a jobsite are not under the jurisdiction of the State Contractors' Board. I want to make sure that with your amendment, Mr. Hicks, if there was an incident with one of the folks that your association sent to the jobsite, would they be under the jurisdiction of the State Contractors' Board, or would they still be excluded? [Mr. Hicks was no longer on the line and was unavailable to answer.] I thought it would be good to clarify that for the Committee, but I will take it up with whomever later on.

Johnny Skowronek, Vice President of Operations, Square One Solutions, Reno, Nevada:

I have been operating staffing companies in Nevada for the last 17 years. My company is called Square One Solutions, Inc. We have been in operation as Square One Solutions for the past 11 years, and we are based out of Reno. We are family-owned and operated. My mom is the owner and I work with my two brothers.

We focus on construction staffing and we are licensed as a private employment agency through the Nevada Labor Commissioner. We should not be confused with an employee leasing company or a professional employer organization. Contractors should not be prohibited from using private employment agencies to augment their skilled or unskilled workforce. Every industry in Nevada, including the State of Nevada offices, uses a variety of temporary employees on the payroll of private employment agencies in some capacity. It is a legitimate, licensed, and insured form of employment, and it would be unfair to not allow contractors to utilize this hiring tool.

Many of our clients run smaller operations where the owner works in the field and does not have the time or skills to recruit and hire volumes of new employees, especially if it is only needed for temporary skilled help. Private employment agencies give them the opportunity to locate and try out employees before committing to a permanent hire. It allows them to quickly augment staff or reduce staff based on project needs.

The workers that we provide to our clients must be supervised from the standpoint of the direction of work, quality of work, and safety. I often do job walks on new projects to ensure that supervision is being provided by the contractor. Our workers do not work independently, but rather under the contractor's license, under their direction, and alongside their crew, performing operations that the contractor is licensed to perform. Contractors are already held responsible for the work performed by employees of a private employment agency. They act as, and are considered, employees of the contractor. They do not perform work independent of the contractor's operations.

While not technically on the contractor's payroll, the workers that we, the PEAs, send to contractors are paid market wages and are covered by workers' compensation as well as general liability insurance. They have payroll taxes, social security, and Medicare deducted. A W-2 is issued at the end of each year, and in the case of Square One Solutions, all workers are electronically verified. I would be in favor of this bill if the changes that Mr. Hicks suggested are made [[Exhibit L](#)]. [A letter was also submitted, [Exhibit N](#).]

Matthew Nguyen, Business Manager, PeopleReady, Las Vegas, Nevada:

PeopleReady provides general and skilled trades people to companies in a wide variety of industries, including 100 workers per day to construction contractors in the state. If this bill passes the way it was originally written, those workers will lose their jobs. The people who work with PeopleReady are legal, W-2 employees, and we provide workers' compensation, pay their taxes, and make sure that they pay their garnishes.

When we assign people to work for a construction contractor, regardless of their skill level, they work under the direction and control of the licensed contractor. The work they do is within the scope of the contractor's license. The only difference is that we find, hire, and assign the employees for businesses whose core competency is building. Some of our clients, especially smaller construction firms and those in small and rural communities, do not have full human resources or recruiting departments. Our core is in finding the right worker for the right job at the right time.

Our associates choose to work for us because we work to find jobs that match their skills. Otherwise, while working during the day, they would spend their nights and weekends looking for their next gig. Many of our employees have worked with us for years because they prefer the flexibility, variety, and dependability. They know that when they want to work, we will find a job that matches and grows their skills.

We simply do not understand why you would want these workers to lose their jobs and make it harder for construction contractors to maintain access to the flexibility that allows them to complete their projects with the right workforce while staying on budget and on time. Please preserve these jobs for the people who most need help finding jobs by rejecting this bill or amending it to allow employees to find, through private employment agencies, workers who will work under the direction and supervision of a properly licensed contractor. [A letter was also submitted, [Exhibit O](#).]

Linda Alvarez, Staffing Coordinator, Contractors and Builders Division, Eastridge Workforce Solutions, Las Vegas, Nevada:

I am deeply concerned about [A.B. 227](#), a bill that would keep me from providing Nevadans the opportunity to work in the construction industry. Passing this bill will deeply affect the community that we assist in getting the opportunity to work with companies that can eventually provide permanent placement. While our employees are employed with us, they are receiving benefits. We are able to continuously keep them busy and provide them with full-time employment. This means fewer people on unemployment and more people working, which is the ultimate goal, especially with the unemployment issues that we have recently seen in Nevada.

This will not only affect the community, but also my family that depends on me to continuously work for the construction division. This will affect my position, and I would be deeply saddened if I am unable to continue helping my community with construction job placements and unable to keep providing for my family.

Victor Aldana, Area Account Manager and Operations Manager, Eastridge Workforce Solutions, Las Vegas, Nevada:

I am speaking in opposition to [A.B. 227](#), a bill that would rob Nevadans of opportunities to work. Eastridge Workforce Solutions has been working in Nevada since 1974, and in the last three years we have put 1,990 local Nevadans to work in the construction industry, all of whom received a W-2. Passage of this bill would have prevented a large number of these hardworking people from earning paychecks. Additionally, many of them have earned high-paying, permanent positions at these companies due to the collaboration between licensed contractors and PEAs like Eastridge Workforce Solutions.

As an employee-owned PEA under an employee stock ownership plan, our workers are able to obtain ownership in our organization and have access to medical insurance, flexible spending account programs, health savings account programs, 401(k) plans, and a host of other benefits. They additionally benefit from the PEA's advocacy of employees in ensuring that they are receiving top-of-market pay, a safe worksite, and workers' compensation access.

Passage of this bill during this critical period of economic recovery and during an affordable housing shortage in Nevada would not only put people out of work and deprive them of opportunities, it would also severely and adversely impact an industry which has seen its fair share of struggles in Nevada. Additionally, Nevada has suffered from a skilled workforce shortage for many years. This would only exacerbate the issue. As the industry continues to grow and provide opportunities for good, hardworking people, continues to reach out to young Nevadans looking for a good job, provide further opportunities for women, and help diversify our state economy, the last thing we need is a bill that throws cold water on this tremendously important issue.

Mac Bybee, President/CEO, Nevada Chapter, Associated Builders and Contractors:

I speak in opposition to this bill. I have had a number of conversations with Mr. Stanley and I believe that he and I have a common goal. We do not want to see employees mistreated. We do not want to see workers go unpaid. We do not want to see unsafe workplaces. I believe that we share a common goal.

However, when I read this bill, I see that it is targeting private employment agencies, and I do not know if it really resolves the issue being discussed. Now, private employment agencies basically work as the employer. The workers file a W-4 and get a W-2 and workers' compensation and everything that everyone has said before me. The PEA works as the primary employer until a contractor picks up that craft professional for full-time employment. Alternatively, if the employee chooses, he will stick with that private employment agency because he prefers the flexibility.

Requiring the worker to file a W-4 with the contractor changes the relationship that the employee has by making that contractor the full-time employer. That individual no longer has that opportunity to be with the private employment agency if they so choose. I believe that there are a number of things that we can do to address the problem, and I am hoping that we can work together on this issue to create a solution which protects employees and prevents wage theft and all the items that were discussed earlier.

[Additional letters in opposition to Assembly Bill 227 were submitted, [Exhibit P.](#)]

Chair Jauregui:

Do we have anyone else wishing to give testimony in opposition? [There was no one.] At this time, we will move on to the neutral position.

Alexis Motarex, Government Affairs Manager, Nevada Chapter, Associated General Contractors of America:

We represent the commercial construction industry in northern Nevada. We are neutral on this bill as introduced. We would like to thank Mr. Stanley for working with us during the interim on its language and addressing most of our concerns as it was being drafted.

Chair Jauregui:

I believe that we also have Margi Grein with us from the State Contractors' Board in case anyone had any questions for her. Ms. Grein, are you here to testify in the neutral position?

Margi A. Grein, Executive Officer, State Contractors' Board:

Yes, I am. Although I am signed in as neutral, I would like to let the Committee know that the Board supports the concept of A.B. 227. The Board is working with the sponsors to make sure that work requiring a contractor's license will only be done by a licensee or their employee. The Board's longstanding interpretation and application of all of NRS Chapter 624 has been that when the Legislature uses the word "employee" throughout the NRS, it truly means an employee of the contractor with a W-2. We have not recognized independent contractors who use 1099 forms as employees.

Likewise, leased workers who are someone else's W-2 employee, or worse yet, someone else's independent contractor, are not employees of the contractor. We have had several recent cases where a contractor has used the device of a leased-labor company to compete unfairly by undercutting contractors who actually employ their own workers, and the leased employees were ultimately left stranded in Nevada without being paid by the labor-leasing company. The quality of an employee is best assured to the public when a contractor has an abiding investment in the people that they hire.

To answer Assemblywoman Carlton's question regarding whether the Board has oversight over employees of the PEA: the answer is no. Employees of a PEA are not licensed, and this proposed amendment allows unlicensed people to work on a jobsite next to skilled laborers.

Chair Jauregui:

Thank you for answering Assemblywoman Carlton's question; we appreciate that you noted that from earlier testimony. As there are no more callers in neutral, we can now move to our closing remarks. Assemblywoman Carlton, do you have any final remarks?

Assemblywoman Carlton:

Thank you for powering through all of the technical difficulties that we have had today. I want to thank the folks who presented in support. Those in opposition, we hear your concerns. The issue is protecting the workers on the jobsite and making sure that they have all the due protections that they need. I believe that Ms. Grein summed it up very well: if something were to happen on a jobsite, those folks in a PEA would not have those protections. That is our goal.

For any of those folks who are in opposition that spoke about robbing Nevadans of work and taking jobs away, if they knew who I was or Googled me at all, they would know that there is no way that I would ever bring a bill that I thought would hurt Nevadan workers or stop them from getting good-paying jobs, health care, and protections at work. I just want to make sure

that it is perfectly clear that I believe there is a solution to this. If those employees were W-2 employees and that agency moved folks over to the contractor as an employee, we would have the public safety components that we all want on a jobsite to make sure that everyone is held accountable for their own responsibilities while working.

I would like to thank those that have worked over the last couple of years with all of the interested parties on this bill. They will continue to work. I will stay out of their way so that they can get the job done.

Chair Jauregui:

Thank you, Assemblywoman Carlton and your presenters, for being here to present Assembly Bill 227. With that, I will close the hearing on Assembly Bill 227 and move onto our last bill for the afternoon, Assembly Bill 330.

I will now open the hearing on Assembly Bill 330, which establishes provisions governing occupational training and licensing. We have Assemblyman Ellison here with us this afternoon to present the bill.

Assembly Bill 330: Establishes provisions governing occupational training and licensing. (BDR 54-759)

Assemblyman John Ellison, Assembly District No. 33:

I would like to present Assembly Bill 330 for your consideration. The measure provides that a person who receives certificate training or technical training in high school or in a postsecondary institution is eligible to receive equivalent credit towards an occupational license related to training as he or she receives.

For the record, my grandson got into this in Idaho in the last few years. Before he even graduates, he will be an emergency medical technician and can go into ambulances fully certified. He got his certificates. Actually, he is going to go as a medical evaluation team member on flights.

I think that it is pretty neat that they can go forward with the education that they want and get most of it done, pass an exam at the end, and go on to work. I think that is something that I want to see here as well. When this was brought forward to me, I thought it was the greatest thing in the world. They are doing it now across the state. What we are trying to do is give you some information to go forward on this.

Assembly Bill 330 provides work-based learning opportunities and career pathways to students and young adults in order to remove occupational licensing barriers. In order to hold credentials and receive an occupational licensing application, it is required to work and operate in a certain occupation and meet certain criteria in the form of educational training, fees, and testing. Nevada regulates over 50 occupations, most of which are contained in Title 54 of the *Nevada Revised Statutes* (NRS).

Boards and commissions are responsible for protecting the health and safety of the consumer to ensure a high level of service, yet license regulations can create unique barriers and challenges for people who are entering into the labor market, especially for those people who have high school diplomas but less than a bachelor's degree. These regulations can require tests, courses, and fees that may stop young workers from entering those occupations.

In order to overcome these challenges, Nevada has to help students prepare for career opportunities with career and technical education (CTE) programs, many of which end in certificates or licenses. These programs are offered by high schools and postsecondary institutions, providing skilled, entry-level workers for local communities and the state as a whole. While some boards already recognize training provided in postsecondary institutions and high schools, this bill proposes to formalize that and requires recognition of the skills of students when prepared through these programs.

During the 2019-2020 school year, the Department of Education reported that 69,213 students, or roughly 14 percent of students, were enrolled in CTE programs. Students can obtain a college and career-ready high school diploma with a career-ready endorsement, which demonstrates proficiency on a career readiness assessment, issuance of a CTE skills certificate, and obtainment of industry-recognized credentials.

For instance, the practical nursing program provides students with the knowledge and skills required to enter into the field as a practical nurse with the State Board of Nursing certification exam. During the 2019-2020 academic year, the Nevada System of Higher Education (NSHE) two-year institutions confirmed roughly 3,800 skilled certificates were achieved [[Exhibit Q](#)]. Those institutions included the College of Southern Nevada (CSN), Great Basin College, Truckee Meadows Community College (TMCC), and Western Nevada College (WNC).

Assembly Bill 330 would have a positive effect on rural areas of the state. The National Center for Education Statistics within the U.S. Department of Education reported that in 2013, students from rural towns earned more CTE credits than their counterparts from the cities and suburbs. As the population ages, skilled jobs are increasingly going unfilled in these areas of our state. When high school students graduate, they leave the area to attend postsecondary institutes to fulfill the education requirement to obtain a license, many with CTE equivalent credits. They may not return to their home areas. This can have a devastating impact on our local economies.

In Tennessee, they passed a bill in 2019 similar to this one, House Bill 353, which passed with no objections. In summary, this bill makes persons who receive a certificate for completing training programs or technical education in high school or postsecondary institutes eligible to receive the equivalent credits towards the occupational license related to the training received.

The Nevada Franchised Auto Dealers Association is in support of this, although they could not stay on the line much longer. They wanted to let the Committee know that their

association is in full support of this bill. We are also working with the Deputy Superintendent for Educator Effectiveness and Family Engagement in the Department of Education to make sure that everyone is on board to make this work.

We sent over a copy of a document that shows the different colleges and breaks down their programs for skill certificates and certificates of achievements [[Exhibit Q](#)]. It shows how many students have passed through these programs, and it is amazing. There are credits in engineering, mechanic repair, nursing programs, construction trades, precision production, computers—I could on and on about what these kids can do in high school to further their educations and get a jump start on their careers. A lot of these people cannot afford these programs, so their high school allowed them to do the college credits as they go.

I would like to turn this over to Elliot Malin, who will provide some comments to the Committee. Following his presentation, he will be able to answer any questions.

[Written testimony was submitted, [Exhibit R](#).]

Chair Jauregui:

Did you submit that document you were referencing just now to the Committee [[Exhibit Q](#)]?

Assemblyman Ellison:

Yes, I did. There are only two pages; it is pretty small. It shows all the two-year colleges such as Great Basin College, CSN, TMCC, and WNC.

Chair Jauregui:

Wonderful, I just wanted to make sure I was looking at the same document you were referencing [[Exhibit Q](#)]. I believe that we have Mr. Malin here to continue the presentation.

Elliot Malin, Private Citizen, Reno, Nevada:

I am here to present Assembly Bill 330 alongside Assemblyman Ellison. It is a piece of legislation that continues in the line of work that the Legislature has taken over the past few sessions in order to reform regulatory licensing agencies.

First, I want to thank the Committee for allowing me the opportunity to be here today. I also want to thank Assemblyman Ellison for bringing this legislation forward, inviting me to participate alongside him, and remembering my passion for occupational licensing requirements. I am not here today on behalf of any client, but rather because I have a passion for regulatory reforms that can improve the lives of Nevadans and the opportunities that Nevadans have each and every day.

I am aware of the unique privilege I have by working in the Legislature. Many Nevadans are not as fortunate to have this opportunity and I like to do what I can to help others get ahead. It has been no secret over the last few years that I have a passion for these reforms.

Last session, I was honored to work with Assemblywoman Tolles on Assembly Bill 319 of the 80th Session, a bill that had bipartisan and bicameral sponsorship and which passed unanimously. In my mind, that bill was a highlight of my career and has already helped countless Nevadans.

After the session, we had the opportunity to meet with TMCC faculty and students about this legislation and we listened to the stories of those this would have helped. Listening to those students was a remarkable experience that I will never forget. I believe that A.B. 330 is a natural progression of that legislation from last session.

According to a study by the National Conference of State Legislatures, about 25 percent of Americans require a license to work. Educational requirements for licensure can be extremely expensive and cost-prohibitive, especially for those who come from lower income socioeconomic situations. That same study by the National Conference of State Legislatures also says that occupational licensing requirements, including the need to pass exams, continue education, and pay licensing renewal fees, presents significant barriers to entering a licensed occupation. This can reduce the total employment in that profession.

In a presentation given by Professor Morris Kleiner of the University of Minnesota in a webinar hosted by Arizona State University, Professor Kleiner said he found that in some cases, occupational licensing was actually a barrier to employment because of the cost associated with required exams or education. By allowing Nevadans to apply either their secondary or postsecondary equivalent education, it would save them not only money but also valuable time which would allow them quicker and more direct access to licensure. This gives them the opportunity to get to work in a high-paying career.

There are already CTE programs in place which are offered by our Nevada high schools and NSHE postsecondary institutions that will help our students. These programs allow Nevada's students to save time and money by allowing them to apply their existing and relevant education background to equivalent standards set forth by the regulatory agencies and the NRS under Title 54.

While the intent of occupational licensure is to protect the public and consumers through public safety and public health measures, we also have to ensure that the barriers that people face to get in the workforce are not detrimental to them either. This legislation would work hand in hand to keep the public safe, to keep educational standards uniform, and to help people get in the workforce to earn a higher wage, which will not only benefit them, but the state's economic health and well-being too.

This legislation does not create a system of inferior education requirements which would allow those seeking licensure to obtain a less stringent path, putting Nevadans' health and safety at risk. Instead, it allows for uniform standards to exist within education and allows Nevadans the opportunity to get ahead. Three years ago, I sat in this Committee and asked you to give Nevadans the opportunity to do just that. You answered the call. I ask that you do the same today and urge the passage of A.B. 330.

Lastly, I want to make clear that we want to work with all stakeholders to make this bill great. The last thing we want to do is create duplicate efforts or confusion. The intent of this bill is to get young adults into good-paying jobs faster. I appreciate Assemblyman Ellison for bringing this bill forward and working to help Nevadans get ahead. I am happy to answer any questions that I am equipped and able to answer.

[Written testimony was submitted, [Exhibit S.](#)]

Assemblywoman Considine:

As I was reading this bill, I noticed that it says postsecondary education and includes Title 34. However, it seems like you are talking about just NSHE institutions, whereas Title 34 also covers private postsecondary institutions, such as many that get people ready for occupational certificates, programs, and future employment. My question is, Does this also include or encompass private postsecondary institutions? If so, have you been working with the Commission on Postsecondary Education within the Department of Employment, Training, and Rehabilitation, or is this specifically just for NSHE institutions?

Elliot Malin:

Our intent is to bring everybody to the table here. If we have to make an amendment or do anything to get this to advance, we will do so. We are working with everybody that we can at this point in time. We have done some outreach and we are waiting for some information back. Our intent is to include as many stakeholders as possible, including some of the private institutions.

Assemblyman Ellison:

The whole intent is to bring this across the entire state in every high school and postsecondary institution, no matter where it is. When I noticed that they were doing cosmetology down in Las Vegas and kids were coming out of school ready to go to work, I thought that was the greatest thing in the world. They worked so hard to get to their second education or what they wanted to do. It saved the families a lot of money. It is not just rural Nevada. It is everywhere that we can try to get this.

Assemblywoman Dickman:

I was wondering if you could touch a bit on how this would help people who would like to stay in their communities. I know you referenced rural communities. Some people do not want to go to the city. Would they still be able to achieve these goals without going to school at all?

Assemblyman Ellison:

My granddaughter, for instance, was taking multiple classes in high school for the last two or three years. She was taking college courses at the time. Of course, students change their minds all the time about what they want to do, but it is good because it challenges them, and it can be done anywhere. I think Washoe County is doing the same thing right now; we will be meeting with them. They were going to be here today to testify in neutral, but they are in another Committee at this time.

If you look at the list of what programs students can take and get training in, when they get out of high school, they might have to take a year of community college or whatever it may be. This is something good for any and every school around the state. I know that Las Vegas has got quite a lot going on around the community college down there right by their campus. It seems to be a little bit everywhere. We know that we are tracking what is happening in the community colleges, but it should be happening everywhere.

Assemblywoman Dickman:

It sounds like it would be helpful for the community as well because you would be filling positions with qualified people who you might not normally be able to attract to rural communities.

Assemblyman Ellison:

My future son-in-law, who just finished at Elko High School, was taking the credits and courses at the community college there. He has already been accepted to go into engineering to work with a nuclear submarine. This opens the door for these guys, so they are not in school for four years or two years when they cannot afford it. They come out of high school with college credits and go right into whatever career they want with that secondary education.

Chair Jauregui:

Committee members, are there any other questions? [There were none.] Can we check the telephone line for those wishing to testify in support?

Dylan Keith, Policy Analyst, Government Affairs, Vegas Chamber:

We are in support of Assembly Bill 330. As we all know, the economy continually requires workers who are highly skilled in multiple facets of their occupations. We believe that this legislation works to ensure that workers are recognized for their efforts to increase their skills.

We agree with the streamlining purpose of this bill to ensure that any credits towards another related certification are also given. We appreciate the ability of workers to appeal for equivalent credits, ensuring that those who have already completed courses receive all credits due, and that all boards and commissions will work in coordination with the Department of Education to ensure consistency with these certificates.

Along with the support of the Vegas Chamber, we would also like to note that our member, the Nevada Franchised Auto Dealers Association, has asked me to add them in support of this legislation as well. We urge you to vote yes on A.B. 330.

[A letter in support of Assembly Bill 330 was submitted, [Exhibit T.](#)]

Chair Jauregui:

We will move on to those who wish to testify in opposition. [There was no one.] Let us move on to those who wish to testify in the neutral position.

Peter Krueger, representing Greater Sacramento Chapter, National Electrical Contractors Association:

We are in neutral because we want to continue our discussions with Assemblyman Ellison's staff to explore ways that registered apprenticeship programs could be included in this very important legislation. Whether it is under Title 34 or in other construction trades, registered apprenticeships play a valuable role in teaching and preparing people for careers, not just for a job. We will remain neutral as we continue our discussions.

Chair Jauregui:

Assemblyman Ellison, would you like to give any closing remarks?

Assemblyman Ellison:

I really appreciate your hearing this bill. I apologize for going through it so quickly. Mr. Krueger is right. We have an electrical program at the Great Basin College and these jobs are filled before they get halfway through. I am so happy that they are doing this. I think it is one of the best education programs that we have in Elko.

If you look at section 1, subsection 4, of the bill, it says, "Each regulatory body, in coordination with the State Board of Education," and I think that is so important. They can choose how they want to regulate the credits. It is an important program, especially for these young people who might not ever get a chance to go to college. They can go right to high school, work on this, and then start their career.

Chair Jauregui:

I will now close the hearing on Assembly Bill 330. Committee members, this brings us to our last item on the agenda, which is public comment. [Protocol concerning public comment was discussed.]

Is there anyone who wishes to give public comment on the telephone line? [There was no one.] I want to remind everyone that we will be meeting on Wednesday, March 24, 2021, and the start time will be at 1 p.m. If the floor session goes past 1 p.m., then we will start upon the adjournment of the floor session. That concludes our meeting for today. We are adjourned [at 4:34 p.m.].

RESPECTFULLY SUBMITTED:

Louis Magriel
Committee Secretary

APPROVED BY:

Assemblywoman Sandra Jauregui, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a proposed amendment to [Assembly Bill 210](#), presented and submitted by Nick Vander Poel, representing Nevada Chiropractic Association.

[Exhibit D](#) is a proposed amendment to [Assembly Bill 210](#), presented and submitted by John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office.

[Exhibit E](#) is a proposed conceptual amendment to [Assembly Bill 200](#), dated March 12, 2021, presented by Alisa Nave-Worth, representing Nevada Veterinary Medical Association, and submitted by Stephanie Balistere, Legislative Assistant, Greenberg Traurig, LLP.

[Exhibit F](#) is a collection of letters submitted by various individuals in support of [Assembly Bill 200](#).

[Exhibit G](#) is a copyrighted booklet published by the American Veterinary Medical Association titled "AMVA guidelines for the use of telehealth in veterinary practice," submitted by Stephanie Balistere, Legislative Assistant, Greenberg Traurig, LLP.

[Exhibit H](#) is a copy of the court case of *Legacy Specialties, Inc., et al. v. Nevada State Contractors' Board*, Second Judicial Court, Washoe County, No. CV20-00404 (Nev.), presented by William H. Stanley, Executive Secretary-Treasurer, Southern Nevada Building Trades Unions, submitted by Dan Musgrove, Nevada Vice President, Strategies 360.

[Exhibit I](#) is a document titled "Bulletin No. 11-07: Employee Misclassification," dated January 2011, presented by William H. Stanley, Executive Secretary-Treasurer, Southern Nevada Building Trades Unions, submitted by Dan Musgrove, Nevada Vice President, Strategies 360.

[Exhibit J](#) is a document titled "Payroll Fraud in Nevada's Construction Industry: Extent and Fiscal Impact," dated December 30, 2020, presented by William H. Stanley, Executive Secretary-Treasurer, Southern Nevada Building Trades Unions, submitted by Assemblywoman Maggie Carlton, Assembly District No. 14.

[Exhibit K](#) is a copy of a PowerPoint presentation titled "Testimony on AB 227," dated March 22, 2021, presented and submitted by Jeffrey Waddoups, Director, Institute for Construction Economics Research, regarding [Assembly Bill 227](#).

[Exhibit L](#) is a proposed amendment to [Assembly Bill 227](#), dated March 17, 2021, submitted by Joshua Hicks, representing American Staffing Association.

[Exhibit M](#) is a letter dated March 17, 2021, signed by Joshua J. Hicks and Lindsay Knox, representing American Staffing Association, in opposition to [Assembly Bill 227](#).

[Exhibit N](#) is a letter dated March 22, 2021, presented and submitted by Johnny Skowronek, Vice President of Operations, Square One Solutions, Reno, Nevada, in opposition to [Assembly Bill 227](#).

[Exhibit O](#) is a letter dated March 18, 2021, signed by Matthew Nguyen, Business Manager, PeopleReady, Las Vegas, Nevada, submitted by Natalie McNair, Director of Government Relations and Corporate Social Responsibility, PeopleReady/TrueBlue, Inc., in opposition to [Assembly Bill 227](#).

[Exhibit P](#) is a collection of letters submitted by various individuals in opposition to [Assembly Bill 227](#).

[Exhibit Q](#) is a table titled "NSHE Certificate Awards Conferred – 2yr Institutions," presented by Assemblyman John Ellison, Assembly District No. 33, submitted by Omar De La Rosa, Minority Policy Analyst.

[Exhibit R](#) is written testimony presented and submitted by Assemblyman John Ellison, Assembly District No. 33, regarding [Assembly Bill 330](#).

[Exhibit S](#) is written testimony dated March 22, 2021, presented and submitted by Elliot Malin, Private Citizen, Reno, Nevada, regarding [Assembly Bill 330](#).

[Exhibit T](#) is a letter dated March 20, 2021, signed by Amber Stidham, Vice President, Government Affairs, Henderson Chamber of Commerce, submitted by Peyton Barsel, Researcher, Henderson Chamber of Commerce, in support of [Assembly Bill 330](#).