

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

**Eighty-First Session
March 31, 2021**

The Committee on Commerce and Labor was called to order by Chair Sandra Jauregui at 1:05 p.m. on Wednesday, March 31, 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:

Assemblywoman Shondra Summers-Armstrong, Assembly District No. 6
Assemblyman Jim Wheeler, Assembly District No. 39

STAFF MEMBERS PRESENT:

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

Minutes ID: 753



OTHERS PRESENT:

Alisa Nave-Worth, representing Nevada Veterinary Medical Association
Quentin Savvoir, Deputy Director, Make It Work Nevada
Amy Koo, Deputy Political Director, One APIA Nevada
Natalie Hernandez, Co-Director of Organizing, Make the Road Nevada
Jennifer Fleischmann, Co-Director of Organizing, Make the Road Nevada
Leo Murrieta, Director, Make the Road Nevada
Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada
Eduardo "LaLo" Montoya, Organizer, Make the Road Nevada
Karla Ramirez, Organizer, Planned Parenthood Votes Nevada
Marlene Lockard, representing Nevada Women's Lobby
Verania Rebolledo, Organizer, Make the Road Nevada
Paul J. Moradkhan, Senior Vice President, Government Affairs, Vegas Chamber
Misty Grimmer, representing Nevada Resort Association
Chase Whittemore, representing Meruelo Hospitality and Gaming Group; and Las Vegas Sands Corporation
Connor Cain, representing HCA Healthcare
Russell Rowe, representing Boyd Gaming Corporation
Amber Stidham, Vice President, Government Affairs, Henderson Chamber of Commerce
Nick Vander Poel, representing Reno + Sparks Chamber of Commerce
Alexandria Dazlich, Director, Government Relations, Nevada Restaurant Association
Bryan Wachter, Senior Vice President, Government and Public Affairs, Retail Association of Nevada
Alexis Motarex, Government Affairs Manager, Nevada Chapter, Associated General Contractors
Brittany Sheehan, Executive Director, Independent Labor Alliance
Melissa Blundo, Private Citizen, Pahrump, Nevada
Wiselet Rouzard, Nevada Director of Grassroots Operations, Americans for Prosperity
Christopher Sewell, Chief Operating Officer, Department of Employment, Training and Rehabilitation
Zach Conine, State Treasurer
Paul Catha, Political Lead, Culinary Workers Union Local 226
Michael Gittings, President, United Food and Commercial Workers Union Local 711
Jessica Ferrato, representing United Food and Commercial Workers Union
Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO
Chris Daly, Deputy Executive Director, Government Relations, Nevada State Education Association
Vincent Saavedra, representing District Council of Iron Workers of the State of California and Vicinity
Robert Benner, Secretary-Treasurer, Building and Construction Trades Council of Northern Nevada
Abraham Camejo, Owner, Camejo Safety, North Las Vegas, Nevada

Michael Alonso, representing Golden Entertainment
Randi Thompson, State Director, National Federation of Independent Business
Victoria Carreon, Administrator, Division of Industrial Relations, Department of
Business and Industry

Chair Jauregui:

[Roll was called. Committee protocols were explained.] Thank you, everyone, and let us begin with today's agenda. We are going to start with the work session portion of the agenda and take the four bills that we have to work session. We will start with Assembly Bill 200, and we have our policy analyst, Ms. Paslov-Thomas, here to present Assembly Bill 200.

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

Marjorie Paslov-Thomas, Committee Policy Analyst:

Assembly Bill 200 was sponsored by Assemblywoman Bilbray-Axelrod [Ms. Paslov-Thomas read from Exhibit C]. It was heard on March 22, 2021, and it revises provisions governing veterinary medicine. Assembly Bill 200 prohibits the practice of veterinary medicine unless a veterinarian-client-patient relationship exists, except that emergency or urgent care may be provided to an animal when a client cannot be identified. The bill also expands the practice of veterinary medicine to include veterinary telemedicine. A veterinarian who practices telemedicine must be licensed in Nevada and in the state where the animal is located and may supervise a veterinary technician via telemedicine under certain circumstances.

There are seven proposed amendments:

Alisa Nave-Worth, Greenberg Traurig, LLP, proposes the following amendments:

1. Amend section 2 of the bill to add "group of animals" to the definition of veterinary telemedicine.
2. Amend subsection 3 of section 3 of the bill to replace "shall be deemed to have a veterinarian-client-patient relationship" with "shall have established a veterinarian-client-patient relationship," to clarify that such a relationship is established if the conditions set forth in subsection 3 are met.
3. Delete subsections 3(d) and 3(f) of section 3 of the bill and replace 3(d) of that section with language that more closely aligns with the American Veterinary Medical Association model practice act concerning a veterinarian-client-patient relationship.
4. Amend subsection 4 of section 3 of the bill to delete "through other means" to clarify that a veterinarian-client-patient relationship cannot be established, only maintained, by veterinary telemedicine.

5. Amend section 4 of the bill to clarify that a supervising veterinarian must have an established veterinarian-client-patient relationship to supervise a veterinary technician via veterinary telemedicine.
6. Amend subsection 2(a) of section 6 of the bill to align with existing Nevada State Board of Veterinary Medical Examiners language regarding courses of continuing education for veterinarians or veterinary technicians by adding "approved" courses.
7. Delete section 7 of the bill for the purpose of clarifying that a veterinarian practicing telemedicine is required to be licensed in Nevada.

Chair Jauregui:

Members, is there any discussion?

Assemblywoman Dickman:

Thank you so much. I did not get a chance to really look at the amendment, but I just wanted to say, for the record, I think A.B. 200 is a good bill. With the proposed amendment that I have seen, I think it would be a great one. We have a veterinarian shortage in northern Nevada and in the rural counties. It could take weeks to get an initial appointment to establish that veterinarian-client-patient relationship. And it has been horribly exacerbated by the pandemic.

Recently one of my Yorkies became ill. I could not get an appointment with a regular veterinarian for two weeks and we had to take her to an emergency veterinarian, but then they would not see her because they are closed two days a week due to a staffing shortage which has become worse in the past year. The point I am trying to make is that telemedicine visits can easily be followed with an in-person visit when an appointment becomes available.

There is one other point I wanted to make. Every issue I have had with my many dogs over the years has been totally unrelated to any previous issues they had. The relationship would be somewhat irrelevant to helping them and, if that is the case, then the only telemedicine that would be appropriate is a follow-up to a previous procedure or an in-person visit. At any rate, I will be voting for the bill, but I hope it is made an even better bill as it makes its way through the process. I hope the sponsors will work with other interested parties to achieve this. Thank you so much.

Assemblywoman Tolles:

I do not see the sponsor here. I just wanted to confirm that this is a friendly amendment that the sponsor has accepted.

Chair Jauregui:

We do have Ms. Alisa Nave-Worth here to help answer questions. I believe there might have been an amendment submitted as an exhibit. That is not the amendment that is in your work session document. The amendment you will be voting on is the language in your work

session document, not any other document that might be submitted as an exhibit on the Nevada Electronic Legislative Information System (NELIS). It is the document you have before you.

Assemblywoman Tolles:

Thank you. I will follow up and continue to clarify. I am a yes on this, and I just want to make sure I am still a yes. I will be a yes out of Committee, and I think this is what I was anticipating. I will follow up afterwards. Thank you, and thanks for the clarification between the exhibit and the work session document; I appreciate that.

Chair Jauregui:

I will ask, since we do have Ms. Nave-Worth here: the amendment on NELIS [[Exhibit D](#)] is not a friendly amendment?

Alisa Nave-Worth, representing Nevada Veterinary Medical Association:

That is correct. The amendment that was just reviewed by Committee staff is an amendment that was collaboratively put together by the Nevada State Board of Veterinary Medical Examiners, the Nevada Veterinary Medical Association, and the American Veterinary Medical Association.

Chair Jauregui:

Thank you, Ms. Nave-Worth. At this time, I will entertain a motion to amend and do pass Assembly Bill 200.

ASSEMBLYMAN FRIERSON MADE A MOTION TO AMEND AND DO
PASS ASSEMBLY BILL 200.

ASSEMBLYWOMAN HARDY SECONDED THE MOTION.

Are there any comments on the motion?

Assemblywoman Carlton:

I just wanted to say that I am still trying to figure all this out. There is more good in here than what I have questions about. However, I still do have some concerns about the bill, so I will be supporting it today. I echo Assemblywoman Dickman's concerns about some of this. Thank you very much.

Chair Jauregui:

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

THE MOTION PASSED UNANIMOUSLY.

I will assign that floor statement to Assemblywoman Bilbray-Axelrod. Next item on our work session is Assembly Bill 210. Ms. Paslov-Thomas, will you present Assembly Bill 210 to the Committee?

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

Marjorie Paslov-Thomas, Committee Policy Analyst:

Assembly Bill 210 revises provisions governing the practice of chiropractic [Ms. Paslov-Thomas read from [Exhibit E](#)]. It is sponsored by Assemblyman Yeager, and it was heard on March 22, 2021. Assembly Bill 210 provides for the registration and regulation of certain business entities that provide chiropractic services. Such business entities must register with the Chiropractic Physicians' Board of Nevada. The measure specifies the duties of such registered entities and establishes a maximum fee for the issuance or renewal of a registration as such a business entity. The measure also makes various changes to the practice of chiropractic, including:

- Changing the title of a person who provides chiropractic services to "chiropractic physician" and the title of a person assisting a chiropractic physician to "chiropractic assistant";
- Revising certain educational qualifications of an applicant for a chiropractic license;
- Authorizing a chiropractic physician to recommend, dispense, or administer any drug or device for which a prescription or order is not required; and
- Revising provisions concerning confidential communications between a patient and a chiropractic physician.

There are two proposed amendments. John J. Piro, Chief Deputy Public Defender, Clark County Public Defender's Office, proposes the following amendment:

1. Amend subsection 4 of section 18 of the bill to change the punishment provided in that subsection from a category B felony to a category D felony, punishable by one to four years in prison and a possible fine of not more than \$5,000.

Dan Musgrove, Strategies 360, Inc., on behalf of the Chiropractic Physicians' Board of Nevada, proposes the following amendment:

2. Revise the definition of "business entity" to exclude certain business entities owned by certain licensed providers of health care.

Chair Jauregui:

Thank you, Ms. Paslov-Thomas. Members, is there any discussion on Assembly Bill 210?

Assemblywoman Tolles:

Thank you, Chair. I went back and I rewatched this hearing because I still had some questions about the business entity piece. I have been speaking with the sponsor and stakeholders to continue to work through some of my questions. I am going to be a yes today, but I am still working through that. I will let the Chair and sponsor know if I change.

Assemblywoman Dickman:

Thank you so much, and I would have to agree with Assemblywoman Tolles. I was leaning strongly no because of the business entity things, but I will vote yes in Committee. I want to reserve my right to change.

Assemblyman O'Neill:

I will just say "ditto" to make it fast.

Assemblywoman Hardy:

I will say "ditto" as well. I will vote yes. I have done some communication with some of the stakeholders as well to get a little bit more clarity and comfort on this, so I will vote it out today.

Chair Jauregui:

At this time, I will accept a motion to amend and do pass Assembly Bill 210.

ASSEMBLYMAN FLORES MADE A MOTION TO AMEND AND DO
PASS ASSEMBLY BILL 210.

ASSEMBLYWOMAN MARZOLA SECONDED THE MOTION.

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

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblyman Yeager. The next item on our work session is Assembly Bill 250. Ms. Paslov-Thomas, will you walk us through Assembly Bill 250?

Assembly Bill 250: Revises provisions relating to insurance which provides for the payment of expenses not covered by Medicare. (BDR 57-142)

Marjorie Paslov-Thomas, Committee Policy Analyst:

Assembly Bill 250 revises provisions relating to insurance which provides for the payment of expenses not covered by Medicare [Ms. Paslov-Thomas read from [Exhibit F](#)]. It was sponsored by Assemblywoman Jauregui and it was heard on March 24, 2021. Assembly Bill 250 requires an insurer, a nonprofit hospital, a medical or dental service corporation, the Public Employees' Benefits Program, and any local government that issues an insurance policy providing for the payment of expenses not covered by Medicare to

offer an annual enrollment period during which a person may enroll in any policy of insurance that provides for the payment of expenses that are not covered by Medicare without being subject to medical underwriting.

The open enrollment period must begin on the first day of the birthday month of an enrollee and remain open for 60 days. At least 30 days, but not more than 60 days, before the beginning of the open enrollment period, an insurer must notify enrollees of the dates the open enrollment period begins and ends, any rights of the insured to change to a different plan, and any modifications of the current benefits.

There are three proposed amendments by the sponsor of the bill:

1. Amend section 1 of the bill to: (1) specify that the policies of insurance that provide for the payment of expenses which are not covered by Medicare described in the bill must be a "Medicare supplemental policy" as defined in 42 CFR § 403.205; and (2) specify that a person may, during his or her open enrollment period, purchase a Medicare supplemental policy made available by any insurer with the same or lesser benefits.
2. Amend the bill to indicate that "Medicare supplemental policy" also includes plans offered by public entities that otherwise meet the requirements of 42 CFR § 403.205.
3. Amend the effective date of the bill to January 1, 2022.

Chair Jauregui:

Thank you. We will go to discussion now. Before I go to the members, I do want to start the discussion off. I have spoken with my policy analyst about adding a fourth amendment to Assembly Bill 250. The fourth amendment would be to add a cosponsor, Assemblywoman Melissa Hardy, to the bill. We had a nice discussion this afternoon and had the exact same bill both brought to us by constituents whom it was a very important issue to. Members, I know that amendment is not on the work session document before you, but I would like to propose a fourth amendment to add a cosponsor of Assemblywoman Hardy to the bill. Is there any other discussion on the work session bill before you?

Assemblywoman Hardy:

I just want to say thank you, I appreciate that.

Chair Jauregui:

You are very welcome, Assemblywoman Hardy. Members, is there any other discussion?
[There was none.]

ASSEMBLYWOMAN CARLTON MADE A MOTION TO AMEND AND
DO PASS ASSEMBLY BILL 250.

ASSEMBLYWOMAN CONSIDINE SECONDED THE MOTION.

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

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to myself. The last item on our work session document today is Assembly Bill 290. Ms. Paslov-Thomas, would you walk us through Assembly Bill 290, please?

Assembly Bill 290: Revises provisions relating to financial institutions. (BDR 55-979)

Marjorie Paslov-Thomas, Committee Policy Analyst:

Assembly Bill 290 revises provisions relating to financial institutions [Ms. Paslov-Thomas read from Exhibit G]. It was sponsored by Assemblywoman Jauregui, and it was heard on March 29, 2021. Assembly Bill 290 revises the definition of a fiduciary to provide that a trust company or a savings bank that acts as a custodian for an individual retirement account is not a fiduciary for the purposes of certain provisions of law governing the business of a trust company. The bill also applies to savings banks certain rules relating to bank deposits and required collateralization of fiduciary funds that are applicable to bank charters other than savings banks. There are no proposed amendments.

Chair Jauregui:

Thank you, Ms. Paslov-Thomas. Is there any discussion, members? [There was none.]

ASSEMBLYWOMAN CARLTON MADE A MOTION TO DO PASS
ASSEMBLY BILL 290.

ASSEMBLYWOMAN MARTINEZ SECONDED THE MOTION.

Members, is there any discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign that floor statement to myself. Thank you, members; that concludes the work session portion of our hearing. Thank you, Ms. Paslov-Thomas, for walking us through the bills.

[Exhibit H is the complete set of work session documents.]

Members, the next item on our agenda is the bill hearing portion of our meeting today. For those who are watching over the Internet and the presenters with us today, I do want to let you know that I will be taking the bills out of order this afternoon. I am going to start with Assembly Bill 303, then move to Assembly Bill 312, and end with Assembly Bill 246. With that, I will open the hearing on Assembly Bill 303, which removes certain exceptions

relating to certain requirements for paid leave. We have Assemblywoman Shondra Summers-Armstrong with us to present the bill and she also has some copresenters with her. Welcome to the Committee on Commerce and Labor. When you are ready, Assemblywoman Summers-Armstrong, the floor is yours.

Assembly Bill 303: Removes certain exceptions relating to certain requirements for paid leave. (BDR 53-851)

Assemblywoman Shondra Summers-Armstrong, Assembly District No. 6:

Thank you so much for giving this time today for me to present Assembly Bill 303. Senate Bill 312 of the 80th Session passed in 2019, creating a category of paid leave for certain employee groups. The advocates from Make It Work Nevada brought what is now Assembly Bill 303 to me with concerns for the need to clarify language. There is only one objective of this bill: with this amendment—there is an amendment that should be on Nevada Electronic Legislative Information System (NELIS) [[Exhibit I](#)]—the goal is to ensure that employers are made aware that they may not consider state and federal holidays in calculating paid time off (PTO). I am now going to pass this presentation off to Quentin Savvoir of Make It Work Nevada, and he will go into more detail.

Quentin Savvoir, Deputy Director, Make It Work Nevada:

Make It Work Nevada works alongside Black women, families, and communities of color for economic, racial, and reproductive justice. We really appreciate the opportunity to present Assembly Bill 303, a clarifying measure intended to protect both Nevada's workers and businesses. As Assemblywoman Summers-Armstrong stated, in 2019 we passed S.B. 312 of the 80th Session, a measure that provided paid sick days for Nevada's workforce. At the time, some 522,000 Nevadans had no access to paid sick days. They were often struck with the hardships of choosing between going to work sick to earn their salary or missing a day to care for themselves or a loved one and running the risk of not quite being able to make ends meet come Friday. The measure provided that families would no longer have to choose. They would have something of a safety net to protect them from financial upheaval and the gut-wrenching decision-making between inevitable evils that should never be pitted against one another.

The bill enjoyed bipartisan support from both chambers, was signed by Governor Sisolak, and went into effect on January 1, 2020. Then COVID-19 happened. It brought our entire state to its knees, crippled our economy, and brought record unemployment to this state. To put it plainly, everything changed when COVID-19 ravaged our state. Everything. As we work incessantly to be a resource to community members during the pandemic, we continued having socially distanced conversations about the needs of the families we work alongside. We learned the obvious things. We learned that people needed personal protective equipment. They needed paper products. They needed financial resources and much, much more. But we also learned from the essential workers in our communities. Those working in your local grocery stores, the local Walgreens, or the local corner store, they had to go to

work. Senate Bill 312 of the 80th Session would not apply to their employer. These same conversations also revealed some minor fixes that will strengthen the protections of Nevada employees and employers.

Current *Nevada Revised Statutes* (NRS) can allow for employers to qualify for the statutory exemption by providing paid holidays to their employees. This does not seem right because we know that individuals or families do not plan when they get sick. When they do, it definitely is not based on the calendar of holiday time that an employee may get from their employer. The bill, as amended, addresses section 1, subsection 3, paragraph (d), [page 3, [Exhibit I](#)] that expressly states the following: "For the purpose of determining the amount of paid leave or paid time off provided to an employee pursuant to this section, consider a state or federal holiday for which an employee is paid but is not required to work to be paid leave or paid time off."

The intention of A.B. 303 and this modification is to clarify the measure that we passed in 2019. To put it plainly, we want to ensure that employers who do provide paid time off on state and federal holidays are not able to use that time to exempt themselves from the current statutory requirements. We do not seek to penalize businesses. That is not the intention of this bill. They, too, are struggling in these uncertain times, and we know that. We are just seeking clarification for all parties involved. I think we can all agree that clarity is good for everyone; workers will understand their rights, and employers will know their responsibilities as dictated by the legislation.

Furthermore, despite the overwhelming sense of normality that we seem to be walking back into all throughout the country, we are still in the throes of a global pandemic and we should insist that employees have access to paid sick time should they come down with COVID-19 or any other illness. Allowing them said time helps suppress the virus and stop the spread. It also gives families a little latitude to care for themselves without further harming their economic standing.

In 2019 we all agreed that paid sick days are an important benefit that Nevada's workforce needs to have access to. Today we have the opportunity to double down on this understanding, clarify the intent of the established NRS language, and protect our employees and employers. It is a win-win for all parties involved. I stand available to answer any questions that you may have or to further clarify the intent of this bill. Thank you so much for your time and attention, and we deeply appreciate Assemblywoman Shondra Summers-Armstrong for helping us clarify this language in this bill. Thank you.

Chair Jauregui:

Assemblywoman Summers-Armstrong, did you have another presenter with you?

Assemblywoman Summers-Armstrong:

No, it is just Mr. Savvoir and me. We want to keep it short, sweet, and to the point. We do have folks, I am sure, on the call and there are letters of support on NELIS [[Exhibit J](#),

[Exhibit K](#), [Exhibit L](#), and [Exhibit M](#)] as well as a letter in opposition [[Exhibit N](#)]. The amendment is on NELIS [[Exhibit I](#)] and we are ready for questions. Thank you.

Chair Jauregui:

Thank you, Assemblywoman Summers-Armstrong. Committee, I will now go to questions.

Assemblywoman Carlton:

Madam Chair, I apologize; for some reason I do not think I have an amendment. I am curious. The testimony we just got was in reference to the bill, so what actually is the amendment? I will try to find it. I apologize. I did not know there was an amendment; I do not have it.

Assemblywoman Summers-Armstrong:

Vice Chair Carlton, our apologies. We were working diligently and we were not able to get it out to you in time. I will have my assistant send it to the entire Committee within the next three minutes; she is loading it up right now. I can speak it to you if you would not mind my just reading you the language that we received from the Legislative Counsel Bureau [page 3, [Exhibit I](#)]. In section 1, subsection 3, we have added letter (d) and it says, after the letter (c), "For the purpose of determining the amount of paid leave or paid time off provided to an employee pursuant to this section, consider a state or federal holiday for which an employee is paid but is not required to work to be paid leave or paid time off." In addition, it brings back text that was struck in section 1, subsection 8, paragraph (a) and just leaves subsection 8(a) whole as it was previously passed in S.B. 312 of the 80th Session. That keeps it the same, and that is the only change that we are presenting to you today.

Chair Jauregui:

Members, I just received notice from our Committee staff that the amendment has now been uploaded to NELIS. Members, are there any questions on the amendment?

Assemblywoman Tolles:

Thank you so much, Assemblywoman Summers-Armstrong, and welcome to the Assembly Committee on Commerce and Labor. I appreciate the background on S.B. 312 of the 80th Session. I was part of that bipartisan support because there was so much collaboration between the sponsors and the business community to come up with that final compromise language. I did support that effort last session, and I am just wondering if there was that same collaboration and discussion with those same entities this time around on this new language.

Assemblywoman Summers-Armstrong:

Yes, we have had a number of meetings with representatives from the business community. We have tried to explain very clearly what the intent is; it is not to change the basic premise from S.B. 312 of the 80th Session, but just to have clarifying language. I have not received any significant pushback. There is, as I said before, a letter that is on NELIS [[Exhibit N](#)], but we have spoken to quite a few people. We have not tried to do this in a silo; we have tried to be available and actively seek input from others.

Assemblywoman Tolles:

Thank you, I appreciate that. I will ask a follow-up clarifying question on holidays. What qualifies as a federal holiday? I know that we have so many. Especially in this building, it seems like every day we are wearing a different color to celebrate something, so how many hours or days are considered federal holidays?

Quentin Savvoir:

Thank you for the question, Assemblywoman Tolles. Senate Bill 312 of the 80th Session stipulates that a Nevada employee is able to earn up to five days of paid sick time or paid time off in current NRS language. I agree with your sentiment that it is definitely difficult to understand all of the holidays that we have. It seems like every month we have a holiday: Arbor Day, Flag Day, et cetera. Because the limit of five days is stipulated by S.B. 312 of the 80th Session, it is fairly safe to assume that the federal holidays—there are at least five federal holidays that are universally accepted: Thanksgiving, the day after Thanksgiving, New Year's, Christmas, most companies recognize Easter, and so on. I would be concerned with the question that you pose if the threshold outlined in S.B. 312 of the 80th Session was something like 15 days because then there are probably not 15 holidays that companies are about to observe. Because the limit in S.B. 312 of the 80th Session is where it is in terms of the five days, we can safely assert that there are five holidays that would be federally considered just broadly across the spectrum. I hope that answers your question.

Assemblywoman Tolles:

Thank you. I am still absorbing the amendment, so I will keep reading and get back to you.

Assemblywoman Dickman:

I am, like Assemblywoman Tolles, trying to absorb the amendment. Help me understand: this is saying that there is a calculation for how much paid leave is earned, right? The paid holidays cannot be used in that calculation? Or would this require five extra days of paid leave regardless of what you have earned?

Quentin Savvoir:

Thank you for the question, Assemblywoman Dickman. Currently in NRS 608.0197, in subsection 8, paragraph (a), it states, "An employer who, pursuant to a contract, policy, collective bargaining agreement or other agreement" That particular line outlines the exemptions. If you examine companies across Nevada that have a policy for paid holiday time, what we are saying and what we are intending with this bill is that companies that do provide paid holidays cannot use those paid holidays to meet the statutory exemption standard as outlined in section 1, subsection 8(a) of the bill.

Assemblywoman Dickman:

Okay, that helped me understand it better. I was just wondering, do hospitals or casinos—the really large employers that have a lot of employees working on holidays—would this have a huge effect on them or a detrimental effect? Would it change anything for them?

Quentin Savwoir:

Current NRS provides that companies with 50 or more employees do have to abide by the current NRS standing. However, hospitals are around the clock. I suspect that it would be up to the individual provision of the hospital, and I think that language is outlined based on an employer who, pursuant to the policy of the hospital, would determine if they provide those paid holidays. We know hospitals are not closed, so I suspect that hospital employees—my mother being one, she gets time and a half when she works on a holiday or Christmas, which is considered a holiday. We are just saying that if you are a company, the bill will apply to you, except you do provide those paid holidays and you are off. That does not allow you to check the box for exemption for the NRS that was established in S.B. 312 of the 80th Session.

Assemblywoman Considine:

Following along the same line, I wanted to ask about a hypothetical to solidify my understanding of the bill. If my hypothetical is wrong, please fix it. Let us say I am working at a business and I have accrued two PTO sick days. I have accrued two days off and it is May, so the business is closed for Memorial Day. That business is also closed for the Fourth of July. I believe those would be federal holidays. Under the current law, are you saying some businesses could say that those were your two accrued days and what this bill is trying to do is say, No, those were paid holidays? Would I still have the two days that I accrued?

Assemblywoman Summers-Armstrong:

Assemblywoman Considine, you are exactly correct. That is the intent: the policy of the organization sets the ground floor. If your organization has already established that it has those two days off as paid days for all their employees, the accrual does not apply to those days. Now in the converse, if your employer said that we are open on the Fourth of July and I want to go home and see my mom for the Fourth of July and I have accrued two days, in order for me to be able to take the Fourth of July off, I need to use one of my paid days because that is a work day. Thank you for that, and I hope that helps clarify things a little bit.

Assemblywoman Considine:

Yes, it does, thank you. Now I get it.

Chair Jauregui:

Members, are there any other questions? [There were none.] We will move into the support testimony.

Amy Koo, Deputy Political Director, One APIA Nevada:

One APIA Nevada advocates on behalf of the growing Asian community here in Nevada, including on economic justice. I am testifying on behalf of A.B. 303. In 2019, we advocated for the previous paid sick leave bill for businesses with more than 50 employees. However, we have seen in the last two years that this bill needs to be clarified when it comes to holiday time off and paid sick leave. We are still in the middle of a global pandemic, and all families

deserve access to paid time off when sick without sacrificing their family's livelihood. Assembly Bill 303 protects employees, businesses, and all patrons by providing Nevadans access to paid sick leave.

Natalie Hernandez, Co-Director of Organizing, Make the Road Nevada:

Make the Road Nevada also worked very hard in 2019 to help pass S.B. 312 of the 80th Session. All of our members support it, we represent hundreds of members across the state of Nevada, and we are here in support of A.B. 303 because healthy employees make happy employees make happy businesses.

Jennifer Fleischmann, Co-Director of Organizing, Make the Road Nevada:

Make the Road Nevada organizes in the immigrant and Latinx communities. Our membership consists of workers who need to be able to take the time off to get better when they get sick. We know that businesses are stronger when their employees are healthy, and no one can plan when they get sick. That is why I am calling in support of A.B. 303. Thank you so much.

Leo Murrieta, Director, Make the Road Nevada:

As my colleagues have mentioned, we work to improve the quality of life for working class, immigrant, and Latinx families across the state, and we are here in support of A.B. 303. After the work done during the 2019 Session, our members worked tirelessly with partners, with legislators, and with businesses all across the state to establish S.B. 312 of the 80th Session, which allowed workers the ability to take paid sick days to care for themselves and their families. I believe that A.B. 303 does an excellent job of clarifying the original intent of S.B. 312 of the 80th Session and allows businesses and employees to be on the same page of what rights each have. I am here in support of A.B. 303. [Written testimony was also submitted, [Exhibit J.](#)]

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

I am here in support of Assembly Bill 303. Last session, the Nevada Legislature took steps to improve access to paid sick days so that some workers do not have to choose between taking a child to the doctor or staying home to recover, and a day's pay. In the midst of a global pandemic, the importance of staying home when you are sick is higher than ever. Assembly Bill 303 is a clarifying measure that will protect Nevada's workforces and solidify the intention of S.B. 312 of the 80th Session. We are here in support.

Eduardo "LaLo" Montoya, Organizer, Make the Road Nevada:

I am also in support of A.B. 303, as my colleagues have spoken about. I also want to highlight that with S.B. 312 of the 80th Session, what COVID-19 taught us is that it did not go far enough. I believe that A.B. 303 is a good step to clarify the intent of why paid sick days keep our families safe, and why paid sick days provide families with certainty that they will be safe not only at work but also at home from having to do all the work that they have to do. That is why I urge you to please do what you can to preserve the spirit of what we are on the course to do, which is to keep Nevada's families safe while they are at work and pass A.B. 303. [Written testimony was also submitted, [Exhibit K.](#)]

Karla Ramirez, Organizer, Planned Parenthood Votes Nevada:

Planned Parenthood Votes Nevada is in favor of A.B. 303 because it solidifies the intention of S.B. 312 of the 80th Session, which passed with bipartisan support in 2019. Allowing families to access sick days removes barriers to accessing quality health care. Black, Indigenous, and people of color, as well as low-income communities, have borne the brunt of the pandemic and should be guaranteed the time off to access the care that they need without worrying about paying rent or putting food on the table. We must protect the rights and health of our working families in Nevada now more than ever. Planned Parenthood Votes Nevada urges you to support A.B. 303 to ensure workers' rights are protected.

Marlene Lockard, representing Nevada Women's Lobby:

We are in support of A.B. 303, but we do have to say we find it very disappointing that we need this bill. We felt it was clear, those of us who worked very hard on Senate Bill 312 of the 80th Session, that the intent was clear. It is disappointing that employers continue to find ways and loopholes to not follow the intent of legislation which was designed to help workers in meeting myriad issues with paid time off. We support the bill, but we would hope that, in the year 2021, we can work together with employers to come to an agreement that our workers need to be cared for and that there is a happy medium.

Verania Rebolledo, Organizer, Make the Road Nevada:

Make the Road Nevada is a local nonprofit organization here in Las Vegas that focuses on empowering Latinx communities and immigrant communities. I am here in support of A.B. 303. As we mentioned in 2019, S.B. 312 of the 80th Session did not do enough in keeping workers safe during the COVID-19 pandemic. Please, I urge you, A.B. 303 is a good first step for employees and businesses to be safe and healthy at home and at their workplace. [Written testimony was also submitted, [Exhibit L](#).]

Chair Jauregui:

Thank you so much. We will now move to hear testimony in opposition.

Paul J. Moradkhan, Senior Vice President, Government Affairs, Vegas Chamber:

We did reach out to the bill sponsor. We appreciate her time and being with us regarding A.B. 303. The Vegas Chamber is opposed to this bill as we did work extensively on Senate Bill 312 of the 80th Session in 2019. We are concerned about any changes to Nevada's paid leave law at this time because of the impact it would have on employers as we attempt to recover and rebuild our economy and bring employees back to work.

Last session we worked extensively with stakeholders to create a paid leave bill that we believe gives employees the flexibility that they wanted, creates a standard of 40 hours of paid leave in Nevada, and one that is easy to understand for both employees and employers. As part of the conversations that we had as drafted and adopted in S.B. 312 of the 80th Session, Nevada's paid leave programs can be used for any reason by the employee with no restrictions. It is our opinion that the end product is model legislation for other states to look at, and is a fair and balanced system between employees and employers.

During the COVID-19 pandemic, the vast majority of employers have done their best to adjust and adapt as much as possible to help support needs of their employees during the public health crisis. We have all worked together to get through the pandemic. Now most businesses are currently operating at 50 percent, per state directives to help slow the spread. Our members have been under restrictions or closures since March 2020.

I do want to clarify for the Committee that in 2020 there were ten federally recognized federal holidays, per the federal government. Those include, of course, New Year's Day, Martin Luther King Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving, Christmas Day, and New Year's Day. In Nevada, of course we recognize Nevada Day in October every year. We will review this amendment and follow up with the bill's sponsor. Again, we do have concerns with the bill, and we will follow up with the bill's sponsor after we follow up with our members. Thank you, Chair and members of the Committee, for your time.

Misty Grimmer, representing Nevada Resort Association:

I am here to today in opposition to A.B. 303. We too, have just seen the amendment [[Exhibit I](#)], so we have not had the opportunity to respond to the sponsor and are not sure yet if this amendment changes our position. The language change in section 8 of the bill was very problematic to our members, so setting that language back to the existing statute is appreciated [page 4, [Exhibit I](#)]. We will need some time, however, to review with our members the changes regarding holidays.

While I understand that one legislature cannot tie the hands of the next legislature, the compromise that was reached in 2019 on S.B. 312 of the 80th Session was a very difficult compromise to come to. It took the work of many parties from all sides of the issue in many meetings to come to language that was eventually passed. I know all of us feel like 2020 lasted for five years but, in fact, the provisions of S.B. 312 of the 80th Session from 2019 have actually only been in place for one year; we were not pleased to see it being changed already. Once again, we will review this with our members and get back to the sponsor and Chair based on the changes in the amendment.

Chase Whittemore, representing Meruelo Hospitality and Gaming Group; and Las Vegas Sands Corporation:

We, too, are in opposition to the bill as introduced and have not had a chance to review the proposed amendment. As Ms. Grimmer stated, putting back that language into section 8 does go a long way. We still need some time to review the other changes, and we will certainly circle back with the members of the Committee after that time.

Connor Cain, representing HCA Healthcare:

I am testifying in opposition to A.B. 303. We appreciate the sponsor's willingness to be available to work through stakeholder concerns and also for Mr. Savvoir's explanation of the proposed amendment today and how it would impact hospitals. That being said, we do have

some concerns still with the proposed amendment and would look forward to the opportunity to reach out to the sponsor and work with her. We again thank her for her willingness to make time to work with stakeholders.

Russell Rowe, representing Boyd Gaming Corporation:

We echo the comments of the Nevada Resort Association, and we will review the proposed amendment.

Amber Stidham, Vice President, Government Affairs, Henderson Chamber of Commerce:

On behalf of more than 1,800 of our business members throughout southern Nevada, we, too, along with many of the stakeholders speaking today, worked really hard to create and come to a compromise on that paid leave bill, S.B. 312 of the 80th Session during 2019. We feel that bill really does strongly support both employers and employees. We, too, would need to review the amendment that was just posted during this meeting with our members. We share all of the same concerns that all of our business colleagues have mentioned earlier in our initial review of the bill. We are open to working together with the bill sponsor on this.

Nick Vander Poel, representing Reno + Sparks Chamber of Commerce:

As noted, Reno + Sparks Chamber of Commerce along with the Silver State Chamber of Commerce submitted a letter of opposition [[Exhibit N](#)]. As many of my colleagues have reiterated, to relive the 2019 Legislative Session on Senate Bill 312 of the 80th Session—it was a compromise. It was a very good model to put in place, and to undo that is unfortunate. We believe we have a good system in place, and we share the remarks of our colleagues.

Alexandria Dazlich, Director, Government Relations, Nevada Restaurant Association:

The Nevada Restaurant Association is in opposition of A.B. 303. We echo the concerns brought forth by our business colleagues, and we are opposed to the bill as it is currently written due to the increasing costs as well as liability it would have on our operators. However, we are looking forward to reviewing the amendments and working with the bill sponsor.

Bryan Wachter, Senior Vice President, Government and Public Affairs, Retail Association of Nevada:

I would just join my fellow business organizations and echo their comments.

Chair Jauregui:

Can we check for anyone wishing to testify in neutral?

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

We share many of the same concerns articulated by those testifying in opposition. However, at first blush, the bill as presented with the amendment removes our initial opposition; we will need more time to review it in closer detail. We look forward to continuing the conversation with Assemblywoman Summers-Armstrong.

Chair Jauregui:

At this time, I would like to bring Assemblywoman Summers-Armstrong back up to give any closing remarks.

Assemblywoman Summers-Armstrong:

Thank you, Chair Jauregui, and thank you, members of the Assembly Committee on Commerce and Labor, for your time and attention to this issue. We have noted the concerns of all those who testified in opposition and neutral, and we will make a valiant effort to reach out to each and every one of them to discuss this. I would like to refer to a statement that was made by Paul Moradkhan of the Vegas Chamber. When he said that folks can use this leave that they acquire without restrictions, I would just like to reiterate the reason that this is being brought forward. If a person's paid holiday is being used as meeting the requirement, that means that if that person is sick, they do not get to have a holiday, or they do not get to have time to use to care for themselves. That holiday would then be substituted for leave, and I do not believe that was the intent of S.B. 312 of the 80th Session.

We are just asking for clarification. We do not believe that it is a burden, but we are not closed-minded, so we will reach out to all those who called in to discuss this and make sure that we are clear that the amendment [[Exhibit I](#)] is clear to them. We hope that they can get on board and understand where we are coming from and look after the best interests of their employees. Thank you.

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

Chair Jauregui:

Thank you, Assemblywoman Summers-Armstrong. With that, I will close the hearing on Assembly Bill 303. Next item on our agenda is Assembly Bill 312. I will open the hearing on Assembly Bill 312, which creates the Independent Contractor Benefits Program. I believe we have Assemblyman Wheeler here to present the bill. Welcome to the Assembly Committee on Commerce and Labor. Assemblyman Wheeler, when you are ready, the floor is yours.

**Assembly Bill 312: Creates the Independent Contractor Benefits Program.
(BDR 53-886)**

Assemblyman Jim Wheeler, Assembly District No. 39:

Thank you, Chair Jauregui and members of the Committee, for having me today. I want to present for your consideration Assembly Bill 312, which creates the Independent Contractor Benefits Program. During the pandemic, I was contacted, as I am sure we all were, by many, many people who were independent contractors having a lot of trouble getting their Pandemic Unemployment Assistance (PUA) benefits from the federal government. These were put in through the Department of Employment, Training and Rehabilitation (DETR). There was no system in place, and DETR was completely overwhelmed already with the regular unemployment, so it was very hard for these folks to get their benefits.

We were contacted daily. I was contacted by one of our constituents in southern Nevada who asked us why we did not have a DETR-type program for these PUA people so that the programs are in effect. I thought that was a good idea. At her request, I went ahead and put this bill in. I did not make it a "by request" bill because it was my last bill and I got it in really quickly. It was at the request of a lady you will be hearing from in a moment.

Some background information on this: For many people, the main reason to consider becoming an independent contractor is the freedom it presents. However, some drawbacks are no regular paychecks, no health insurance, and no retirement package. If you look at the Bureau of Labor Statistics, U.S. Department of Labor, report, one-third of the workers in the United States are classified as independent contractors. In Nevada, it is estimated a larger portion of contractors work in industries and occupations such as agriculture, construction, trade shows, trade events, rideshare cab drivers, emergency room physicians, and even financial advisors, just to name a few.

While it may seem safe to assume that a large percentage of our state's workforce earns a steady paycheck, we cannot forget that a significant percentage have a grueling challenge to face. It is particularly painful to consider the situation in the context of the COVID-19 pandemic. So many individuals and families have been struggling to cover day-to-day living expenses and necessities. This is a regular struggle for independent contractors, and economic downturns in our state just make these circumstances doubly difficult.

Assembly Bill 312 creates the Independent Contractor Benefits Program. The primary purpose of this program is to offer financial support to participating independent contractors who are out of work. The following describes the process for a participating contractor in this benefit program: an independent contractor submits an application for the Independent Contractor Benefits Program to the Employment Security Division of the Department of Employment, Training and Rehabilitation or to the Office of the State Treasurer. We have been in contact with both DETR and the State Treasurer in the last day. We are actually looking at doing a conceptual amendment here, by the way, to move this to the State Treasurer's Office because they are already set up to do this. If you look on the Nevada Electronic Legislative Information System, there is a rather large fiscal note from DETR on it, and this would cut that down, according to State Treasurer Conine, probably to the \$500,000 to \$600,000 range from the \$4 million range it is at now because they already do programs like this. Given that, we will get that conceptual amendment out to you in the next day or two before this ever goes to work session. We have to do some negotiations with the State Treasurer's Office and with DETR, both of whom, I believe, are either on the phone or on Zoom to answer any questions you may have.

With this program, the contractor includes information about their income from the previous year and the amount they would like to contribute to the Independent Contractor Benefits Program each month in the application. The administrator of DETR or the State Treasurer's Office would determine if a contractor is approved to participate in the program. Participants must contribute to the program for at least six months and are not required to contribute in any months they are not receiving benefits. The Independent Contractor Benefits Program

provides an opportunity for contractors to set aside money as a savings account, basically, or rainy day fund that they can utilize for difficult times or to save as a retirement fund for later in life. This program has been done, I believe, in New York, and I think they are looking at it in California as well. I would like to turn the presentation over to the lady who came up with the idea for the bill, Ms. Brittany Sheehan, if she is ready.

Brittany Sheehan, Executive Director, Independent Labor Alliance:

Independent Labor Alliance is a nonprofit organization that advocates for the interests of independent contractors through policy and building partnerships. Independent contractors are a vital and vibrant part of our community. They are freelance journalists using First Amendment rights to freedom of the press and enhancing our democracy. They are our specialists, physical and other therapists, providing services to patients on their path to recovery. They are photographers capturing special events such as weddings or documenting our history. They are our cosmetologists keeping us all looking great. They are the entertainers in Las Vegas and in Reno. They are the nightlife promoters, helping bring in millions of dollars in nightly revenues to some of your favorite venues. They work in our trade shows and at our conventions. They are supporting industries to our tourism sector. They also support our civic sector as linguists and translators, giving equal access to society for those with a language barrier. They are creative service providers and skilled business professionals.

A *Forbes* article published in 2020 reported studies found that about 30 percent of the workforce are independent contractors. An Intuit study in 2017 predicted 40 percent of the workforce would be working as independent contractors by 2020. If those estimates prove correct, then Nevada is home to about 300,000 independent contractors. However, over the last year we had economic restrictions in our state that impacted independent contractors, as DETR could very well tell you as administrators of the Pandemic Unemployment Assistance program.

Today I am presenting a bill that offers a state-level option to a series of actions taken at the state level. I do not feel it is wise or even appropriate to make such decisions over Nevadans' economic opportunities and look to the federal government as the sole solver of the problem. The PUA program has an expiration date. As of now, it is set to expire in September. It is my understanding that the state emergency does not have a set expiration date and that this body has not undertaken discussions of any changes to the current status quo. Simply put, we are making decisions at a state level that adversely impact Nevadans, and we have not answered to Nevadans at the state level for how we solve those problems.

Given those circumstances, I am offering legislation that will help Nevadans to help themselves in times of need. This bill allows independent contractors and freelancers to opt in to a state fund and access those deposits when they have a loss of contract. Simply by having a state-level program, we are encouraging community members to think about and prepare for unexpected interruptions to the regular course of business. As the bill reads, it is solely funded by the independent contractor or freelancer. It is designed so that these

contributions occur monthly and in the amount the independent contractor chooses. I encourage you all to think about this program in terms of an access point, which I will speak on more in a moment.

CBS News ran a headline in 2019 that 70 percent of Americans say they are struggling financially. This article goes on to say 7 in 10 Americans struggle with at least one aspect of financial stability, including saving money. Anyone can do a rudimentary Internet search and find a litany of results on the topic of Americans struggling to put aside money for emergencies or for unforeseen circumstance. There is no argument that people do not need any help in the venue of savings. We should all know that they absolutely do. By having a program that asks for a monthly recurring contribution, we also encourage good fiscal habits for Nevadans.

A common opposition argument we might hear today is that people could just go get a bank or savings account. While I acknowledge the logical thinking on this argument, and I am open to discussions and good-faith ideas, this program is not designed to operate as a bank account. Additionally, there can be barriers to having a bank account. In order to have a bank account, you would need ID. Recently we have heard from state officials that not everyone can access IDs. While we can all breathe a collective sigh of relief because that discussion is for another day, I urge you to bear that requisite in mind. I believe it would be a bipartisan agreement, that when we shut down our state's Department of Motor Vehicles (DMV) for no less than three months, that was a barrier to Nevadans as a whole to access identification.

The program I am proposing today relies on sufficient proof that the applicant received the majority of their income from independent contracting. One form of this proof would be a filed tax return. In order to file tax returns, the identification required is most often a social security number, something most people would receive at birth or generally before starting to work in our society. That is not the only standard of proof; applicants have the opportunity to demonstrate this proof in another way as well. These criteria mean that even in the circumstance that the DMV is closed, people could still participate in the Independent Contractor Benefits Program. This is why I again asked you to look at this legislation as an access point for independent contractors. We all know that we have to start somewhere, be it for saving, finding a new opportunity, or in designing a new program.

Another demographic important to all of us is our women. Over the past year, women have turned to self-employment to balance the changes in education taking place in the home. We know many women receiving a Form W-2 left the workforce entirely to answer those social challenges and take up more domestic roles. However, that is not true for the independent contracting workforce because of the flexibility it provides. An Internal Revenue Service (IRS), U.S. Department of the Treasury, report in December shows women were the larger proportion of self-employment growth over men. It is worth noting and celebrating that their incomes are also trending greater growth over men. What the IRS found is that independent contractors are increasingly female, with faster income growth.

These are our caretakers who use ingenuity and self-determination to provide in the environments needed and juggle their careers. These are women worth applauding. In the face of uncertainty, they declared, "I may not know exactly what to do but I am going to figure it out." These are the single mothers in our community who wear all the hats at one time. These are exactly the people who can use the access point as a peace of mind and a leg up as they forge forward in creating futures for themselves and their loved ones.

Now the big question: Is this the best financial product on the market? No, plainly, it is not. However, it is the most accessible for many of these Nevadans. Because the independent contractor has the ability to end participation in the voluntary program at any time if they find a financial product or service that better suits their needs, they can take their funds and go obtain this product or policy. The program can give Nevada freelance and independent contractors the opportunity to put away and save for the premium needed to obtain those other options, even if it is a few hard-earned dollars at a time. Most importantly, they have funds set aside for times of need. This is a hand up, not a handout. Additionally, if the participant changes their occupation and has a 401(k) or another financial product made available to them, they can move their funds accordingly.

It is very important to note that this legislation is presented and intended to be a voluntary program. From my purview as the director of a nonprofit for independent contractors, I know there are many unique aspects to their lifestyles and the way that they work. Some are college students who have few responsibilities outside of school and are just making a little extra on the side. Some are elderly who have fixed incomes and are doing minimal work just to cover extra expenses. Some are retirees whose specialty is needed or in demand and they lend their knowledge to do just one project. Some independent contractors have mental health conditions that prevent them from working full-time or even part-time, so their schedules could be as sporadic as their health. Some independent contractors have impressive savings accounts, just ask a doctor or a lawyer. Some independent contractors have no savings, just listen to PUA applicants in dire need to have their claims processed. There is no one size fits all.

It would be narrow-sighted to make this program mandatory instead of voluntary because there are so many situations and people that will not fit inside that box. If this bill is perverted from its original intention to function as a voluntary program, I will caution you that you will get calls from lawyers and real estate professionals asking, Are you kidding me? I do not need this, and my money grows better elsewhere. If we go down the path of picking and choosing who needs this and who does not on their behalf, we are applying arbitrary criteria and creating an entry burden into industry. There are bills in the Legislature right now to reduce entry point requirements, to help Nevadans who lost work over the last year and are reinventing themselves in a new industry. We do not wish to move in the opposite direction. We aim to bring accessibility to the Nevadans who want to benefit from this program without casting a dragnet that captures people who should not be there, people whom you would certainly hear from. I ask that you acknowledge that. In making this a compulsory program, it would tip the scale in a way that we are harming more people than we are helping. Because of our biennial legislature, we will not be able to change course,

exempt, second-guess, or help anyone who is adversely impacted. We simply do not have time to make mistakes by choosing what is best for hundreds of separate industries in Nevada. I ask that you all understand the occupational diversity that we are talking about in this context and realize, truly, one size does not fit all.

Another upside to this program is that it is not ripe for abuse or fraud because it is their own money that they are contributing. There is nothing prohibitive. If the state or even a philanthropist wants, they can give to the fund in a way to support Nevadans who are seeking to do the best they can by utilizing the access point. I believe neither the state nor the taxpayers can take on a replica of the PUA program. We simply do not have the hundreds of millions or billions of dollars in the budget it would take, and DETR has definitely struggled to administer such a program.

In light of no alternatives being offered to contend with those impacts to independent contractors, I propose to help Nevadans who would benefit by providing this access point, encouraging healthy habits, and making considerations for their futures and the future of the state. The questions we are asking today are, Do you believe in Nevadans? Do you believe in empowerment? Do you believe in women entrepreneurs? Do you believe in Black entrepreneurship? Do you believe in the determination of the Latino community? Do you believe in those with social limitations or other barriers? When you vote yes on this bill, you are voting yes for inclusion, yes for accessibility. You are voting yes for women, for single mothers, for those with mental, developmental, or health limitations. You are voting yes for guidance, yes for preparation, yes for healthy habits, and yes for empowerment.

To those of you who might think it is not enough, I assure you that inaction is not enough. Doing nothing at all is not enough. Ignoring all of the implications of the last year is certainly not enough. Because Las Vegas is increasingly a hockey fanbase, to quote the great Wayne Gretzky, "You miss 100 percent of the shots you don't take." Independent contracting is sometimes referred to as nontraditional work. With that in mind, I am proposing a nontraditional solution to a unique problem. Members of the Committee, I ask that you enthusiastically support this program of self-help to the self-employed. Thank you.

Chair Jauregui:

Thank you, Ms. Sheehan, and thank you Assemblyman Wheeler, for the presentation. Assemblyman Wheeler, are we ready to go to questions?

Assemblyman Wheeler:

We are ready to go to questions, Madam Chair.

Assemblywoman Carlton:

I am still trying to figure out exactly what type of account we want to set up. Assemblyman Wheeler, your proposal is along the lines of what is in section 19 of the bill, that this would be in the State Treasury and be managed by the State Treasurer. Is that where you are headed?

Assemblyman Wheeler:

Originally, the idea was to go through DETR and have DETR set up the whole thing. After the bill came out, discussions with DETR and with the State Treasurer's Office over the last day, we felt that it would probably be better to be deposited in the State Treasurer's Office. Who actually administers it is something we want to fix in the conceptual amendment, whether that will be the State Treasurer's Office or DETR. Obviously, this particular bill, if it passes out of Committee and onto the floor, would go to the Assembly Committee on Ways and Means. We will have everything done in the next day or so, so we will have absolute clarity on that. Right now, I think I am kind of leaning toward the State Treasurer's Office since they do this type of thing all the time.

Assemblywoman Carlton:

Is it not your intention to ask the state for matching funds? This will be individual accounts funded by the contractor.

Assemblyman Wheeler:

That is correct. As Ms. Sheehan said, the state really cannot afford that right now. Who knows, maybe someone will want to revisit it later, but I doubt it. The idea being, an independent contractor is just that, being independent. This can be used for unemployment-type stuff. The difference is going to be, they are going to get a bill every month, or at least a notice every month saying that they need to contribute to this. It could also be done through automatic deposit, et cetera. If they do not use it, if they do not want it, they could use it for their retirement.

Assemblywoman Carlton:

Would the independent contractors be picking up the cost of the State Treasurer's Office doing this, or would you expect the state to pick up the cost for it? Because there will be a cost.

Assemblyman Wheeler:

Yes, there will be a cost, and that is why there was a fiscal note on it, of course. We are trying to bring that fiscal note down. It would be something that the state would actually get started with. There could be a small fee, I guess, for the independent contractor. I think when you look back at the pandemic, what happened to these people and how long they had to wait to get some of their stuff, to get the program going, et cetera, we need to have something out there where we have a program for these people if something happens again. Either way, whether they pay for it themselves or the state does, I think we have to have a program like this set up and ready to go. Hopefully, we will never have any type of emergency like we had last time—or are still going through—but we need to have a program set up in case that happens.

Brittany Sheehan:

There is language in the bill that permits the state to invest in the fund, which is why it is a dollar-in and dollar-out program for the independent contractors. We do hope that with interest accrued, that it would offset some of those operational costs.

Assemblywoman Carlton:

That was leading me to my next question. You would actually be okay with the state making money off of independent contractors' money? I am not sure the state is allowed to do that off of private citizens' money. I think we would have to talk to our legal counsel about that. I think you are being very gracious to offer that—believe me, we will take the money. I am just not sure if the state wants to get into the business of making money off of independent contractors' money. I think we would have to take a real good look at that, Assemblyman Wheeler.

Assemblyman Wheeler:

If I am reading it right, Assemblywoman Carlton, section 19, subsection 2 states "the Administrator as a contribution by a participant" This actually would not be paying the state anything. If the state actually makes interest on it, which would be a small amount of interest because it would have to be such a safe fund, then that would go back into the account.

Assemblywoman Carlton:

Okay, I am getting a little bit of mixed messages here. When we see the conceptual amendment, we will have a better idea. Thank you so much for looking at amending your bill so that it does not cost the state \$4.5 million. I appreciate that, thank you.

Assemblyman Wheeler:

I did not want it to go up to your committee and me have to [unintelligible].

Assemblywoman Duran:

Thank you, Assemblyman Wheeler and Ms. Sheehan, for bringing this bill present. We had a lot of constituents talk about PUA, and it is something that needs to be reckoned with. My question is, in here it says that the person can contribute, but what happens if they just disappear? What is going to happen with the funds that are in the account? Do they get paid out at a certain time if they do not continue contributing? For example, if I stop paying, is the State Treasurer going to send my money back to me, or if I move, what happens then?

Assemblyman Wheeler:

The way I understand it, Assemblywoman Duran, the contractor can take that money out at any time because it is really their money. I kind of doubt that anyone would say, Well I paid into it for two years and I am leaving. If that were to happen, then—I believe there is someone online from the State Treasurer's Office who could answer this probably better than I—I would assume it would go into unclaimed property, but that is just an assumption on my part. It would not revert back to the state.

Chair Jauregui:

I do believe we have someone from the State Treasurer's Office. I know they had signed in, but I do not see them on. They might be on the telephone line, and if they are, maybe they can help answer your question, Assemblywoman Duran.

Assemblywoman Duran:

Okay, and that is what I was going to say. Would it revert back to the unclaimed funds that State Treasurer Zach Conine puts out once a year or every couple of years, that unclaimed property? Because a lot of our people are transitory, and they leave town in a hurry and they just "space it out." That is my only concern.

Assemblyman Wheeler:

I am absolutely not sure on that, but the State Treasurer's Office will be able to tell you that the intent is to make every effort to make sure that this person gets his money back.

Assemblywoman Kasama:

Ms. Sheehan, at the beginning of your presentation you talked about how difficult it is for independent contractors to put money aside. This program is a voluntary program, so I am just wondering what the incentive would be for them to use this program versus their own private accounts. Secondly, I believe you mentioned there was one other state that had implemented this program. How long has that program been in existence, and what is the success? Are people using it?

Brittany Sheehan:

This is why I am calling it an access point. The incentive is to help them put something aside; it is not an independent contractor problem, but it is an American problem that we struggle to have what we need in times of need and in terms of savings for emergencies. Because independent contractors are operating on their own, this is a way to help encourage those habits. If you cannot access a bank account, or if you are a person who struggles with maintaining a bank account—such as you get a high summer utility bill and then it wipes out all of your savings—this is a separate place to put it, just like someone with traditional employment would have a separate benefit that is not affected by their utility bill or other things. I do realize that if there is a more beneficial financial product or policy on the market, those people would go and access that. This is a stepping place for them to start saving and thinking about what they need to prepare for these types of times.

I believe you had a second question about other states. There are several different models in other states, and I believe it was Assemblyman Wheeler who actually mentioned the other states. I am familiar with an opt-in program for disability and that includes paid family leave in California. I will tell you that their budget and some of the things they do, do not quite look like Nevada. Not every state model is reciprocal for how our state functions. I will turn it over to Assemblyman Wheeler to answer that.

Assemblywoman Kasama:

Before you do that, you are thinking by the state mailing them a bill or an invoice, that will be more incentive for them to contribute to the fund. Is that kind of where you are coming from? It is a reminder to them to contribute money if the state sends them a bill?

Brittany Sheehan:

Yes, and I do not look at it as a bill so much as an investment or a savings. Because this is your money, you are not paying it out necessarily. What it does is it teaches people who are self-employed and taking on the responsibility of going into business for themselves to think about putting money aside, to think about what financial products they can have. It is about accessibility because not everyone can access these things. It is about encouraging healthy habits for Nevadans who do not have these safety nets. Frankly, today we cannot offer them those safety nets.

Chair Jauregui:

I am going to jump in, Assemblywoman Kasama. I believe the two states Assemblyman Wheeler mentioned were California and New York that had set these up. I had the same question. Can you speak to what their success rate is? How many independent contractors have they enrolled?

Assemblyman Wheeler:

I know that New York has it set up, but it is taxpayer-funded in New York, and you can start a new business. For instance, if you go on unemployment in New York, you can start a new business and continue on with your unemployment. From what I understand, private contractors are included, and it is a fairly new program. When I mentioned California, I believe I said that they were starting it. I think it is going through the legislative process over there, so I do not think there are any numbers available on it yet. Really, Nevada would be the cutting edge on this.

Chair Jauregui:

Has it not passed in California yet?

Assemblyman Wheeler:

As far as I know, no. I am absolutely not a hundred percent sure.

Assemblywoman Hardy:

Thank you, Assemblyman Wheeler and Ms. Sheehan, for bringing this idea. You can show that you are an independent contractor with your tax return; I am assuming somebody gets a Form 1099. A person would be required to pay every month to this account except in months when they are receiving a benefit. What happens if they just stop paying, and what happens to the account? Is the agreement canceled? What happens in that situation?

Assemblyman Wheeler:

The idea here is not to penalize someone for not paying in. Say they pay in for six months in a row, and then they miss for two months. They can start paying again. This is their account; this is their money; we are not going to penalize someone for not being able to pay one month or the next month. As you know, a gig driver may not work for a month and may not make enough money to put in it for a month. It is not a bill. Whatever they are going to receive every month needs to be set up, not in the bill, but by regulation so that it is a little bit

more easily changeable. That process needs to be set up by the department that actually controls this, whether that be the State Treasurer's Office or DETR. That would be a process that they set up.

Assemblywoman Hardy:

Turning to the payout side, will they get a weekly amount depending on what they made over a year? Is it broken down, or do they just get a lump sum? Do you have any thoughts regarding how they would receive the money?

Assemblyman Wheeler:

That is something that should be set up, we believe, in regulation by the controlling authority in conjunction with the contractor. Once again, this is not state money; this is their money. I think that they should be able to fill out a form saying how much of that they want over what period of time. I would assume it would be a monthly check, not a weekly check.

Chair Jauregui:

I have a few questions before I go to other members. Did you discuss or think about whether this was going to be pretax money or posttax money? I am still having trouble wrapping my head around why someone would want to invest their money into this program and let the state own interest for this program because independent contractors already have other routes they can take. They can set up an individual 401(k), or they can also set up their own type of individual retirement account (IRA) which would then earn interest and have tax advantages. Those also have the ability for people to make early withdrawals in extreme hardship emergencies as well, including being laid off. What is the advantage going this way for an independent contractor, instead of going with an IRA under a simplified employee pension plan (SEP-IRA) or individual 401(k) that would earn interest? I would think that as an independent contractor, I would want to keep interest in my account versus somebody else's account.

Brittany Sheehan:

This is an access point. I did say in the presentation that this is not the best financial product on the market, but it might be the most accessible for some people. I do agree that if people have policies or financial products available to them that better suit their needs, then it is in everyone in society's interest that they go and obtain those things. This is a route to help them see those needs and to save to afford a premium or to afford to get one of these products. Of course, if you are a doctor, this is not where you are going to put your money. If you are a single mom who has trouble putting something aside and just want a starting place for emergency situations and just learned over the last year that you are underprepared for these things, this is a way that we can help Nevadans start. That is what I am asking for today. I hope I answered your question.

Chair Jauregui:

I think you are going to have the same difficulties getting people to invest into a state-run account if we are having difficulties getting them to invest in an individual 401(k) or SEP-IRA. Again, those do come with the tax advantages. Will this money that they are

contributing be pretax or posttax? Will there be a tax advantage for them? How do you plan on getting the word out to independent contractors? Where would the dollars for that campaign come from?

Assemblyman Wheeler:

The way I understand this, for the foreseeable future at least, this would be posttax dollars because that is what you are paying in. What comes out would also be posttax dollars; it would not be taxable, much like taking it out of a savings account. I understand what you are saying as far as notification for this. I think that is something that we would have to actually put in regulation in the next interim to see what works, what does not work, and let people know what is available to them.

Assemblyman O'Neill:

Madam Chair, you asked one of my questions on taxes. I am not sure if Ms. Sheehan or maybe our legal counsel could answer my other question. Would the money be subject to any garnishment in the sense of child support payments either in the account or at time of the payout?

Brittany Sheehan:

It should not be. This is generally not how we would expect a benefit for someone who needs it during a time of unemployment. They do not garnish your unemployment, or we just heard a bill about sick days. These things that traditional employees get should not be taken from them if they need them in a time of emergency. If there is a lien or something at the time that you file your income tax, a lot of times the states will put that on your income tax return. I hope that answers your question.

Assemblyman O'Neill:

I think it does, thank you.

Assemblyman Wheeler:

I would like to ask our legal counsel that because in a different committee that I am on we just heard a bill that would make gambling winnings eligible for child support. That is one I would love to hear from our legal counsel on. I will get ahold of them, and I will let you know, Assemblyman O'Neill.

Assemblywoman Carlton:

There was one thing that was not addressed. I am a little confused. I heard something earlier about not having ID. I know in this building we have had a lot of conversations about people having to have ID to do certain things. What is the thought process behind the statement about the ID and being able to have this account?

Brittany Sheehan:

I was trying to demonstrate to the Committee why a bank account might not be accessible to everybody. Even though the logical first thought is, Oh, you put savings in the bank account, right? An ID is required for a bank account. For this program, we are looking at proof that

you made the majority of your income from independent contracting. Most of the time, that would be federal taxes filed with a Form 1099. However, that is not the only burden of proof. Applicants in this program have the opportunity to use another satisfactory way to show this, so if someone cannot get an ID, and maybe that reason is because the DMV is closed, then they can still participate in this program. That is why I brought it up. Thank you for your question.

Assemblywoman Carlton:

Okay, that is not quite where I was going, but thank you very much.

Chair Jauregui:

Members, are there any questions for our presenters? [There were none.] I will move us into testimony in support.

Melissa Blundo, Private Citizen, Pahrump, Nevada:

I am speaking in favor of the bill due to what we saw go on with the multiple independent contractors in our state who waited from March until November or are still waiting to receive PUA. I believe this is a way to help them, as Ms. Sheehan spoke about, have an access point to start saving some money or put something away, so if we ever come into a situation like we did again and DETR is not ready, we cannot always rely on federal government to have the money. Look at these debts that we are going into as a country. I think it is a great way for us to help a lot of people in our state who are independent contractors and will always be that way to be able to access money to be able to help them in times of need.

I encourage you all to really look at this from the lens of an independent contractor, and not so much somebody who has always been employed through another company or through government. Try and see things that way. They are not always informed on the different financial products that are out there for them. I believe that the Independent Labor Alliance could get this out there to them. It is something that you are going to see independent contractors really take a hold of more than what they would a traditional bank savings account, or, like somebody said, a 401(k) or an IRA. I truly encourage you take a look at this and move forward with it. Thank you.

Wiselet Rouzard, Nevada Director of Grassroots Operations, Americans for Prosperity:

Thank you, Chair. Americans for Prosperity activists in Nevada support flexible work arrangements, including independent contracting, which empowers tens of millions of Americans to earn income and fulfilling careers while meeting the demands of their busy personal and family schedules. Such flexibility has been increasingly important for families in the twenty-first century in general, but has become even more critical during the COVID-19 pandemic that has led to employment, health, and schooling disruptions, in addition to other new challenges. Americans for Prosperity seeks opportunities for flexible work. We applaud the intent of this legislation to create a new, voluntary benefits system for contractors to draw from when they have disruptions of income. Independent contractors, who largely are outside of traditional unemployment compensations aside from temporary

federal measures such as during the pandemic which we all saw, would definitely benefit from increased access to voluntary opportunities. In fact, the voluntary nature of such a program is key to preserving independent work.

Contractors have many unique preferences and circumstances to consider. Some prefer higher direct pay over more benefits, or perhaps already have the benefits that they seek through spouses or private options. As we continue to explore the most effective policies for independent contractors and the broader freelance community, we urge you all to consider measures that better protect the independent status that workers seek, which is aided by voluntary benefits that preserve the choice of workers, and arranged to work best for them. Assembly Bill 312 is the right step in that direction.

Chair Jauregui:

Thank you for your testimony. Let us move into the opposition part of the hearing. Can we check for those wishing to testify in opposition? [There was no one.] Let us check for those wishing to testify in the neutral position.

Christopher Sewell, Chief Operating Officer, Department of Employment, Training and Rehabilitation:

As Assemblyman Wheeler spoke to earlier, we are working with him and the State Treasurer's Office on the best way to move forward in reducing that fiscal note that we had to place on this bill. The reason for that fiscal note, just so it is out there and on the record, is because the unemployment insurance program and the PUA program are federally funded and federally mandated programs. This program would be a state program; therefore, we cannot use our resources that normally would be used for unemployment insurance and PUA to put together and maintain this program. That is one of the reasons why it has such a large fiscal note. We are working with Assemblyman Wheeler to get the best program for these individuals and these Nevadans so we can move forward and help them in the next issue. Hopefully, there is never another pandemic. We are available for questions. I do have our senior attorney here, Troy Jordan, and we are available for questions. Thank you.

Chair Jauregui:

Members, are there any questions for Mr. Sewell? [There were none.]

Zach Conine, State Treasurer:

I wanted to call in and testify in neutral. Assemblyman Wheeler brought this to our attention yesterday. We do some of these accounts in things like the Achieving a Better Life Experience Act program and the rest. We wanted to take a look to see if there was a way to do so more cheaply. We heard some interesting things in the hearing, and we would want to make sure, from a regulatory perspective, we are going to be able to service accounts like this. We are going to sharpen our pencils and, now that we have learned a little bit more, see if there could be a solution here. We will work with DETR, Assemblyman Wheeler, and anyone else to try to figure it out. Thank you.

Chair Jauregui:

Thank you, State Treasurer Conine. Are there any other callers on the line? [There were none.] At this time, I would like to bring Assemblyman Wheeler back to make any closing remarks.

Assemblyman Wheeler:

I just wanted to thank Mr. Sewell and Treasurer Conine for getting on and letting us know that they are willing to work with us. Independent contracting serves as a means for workers to move in and out of the workforce. It is a lot of the people who start their own businesses and grow into massive businesses. Let us do whatever we can to help them. Anyone having any ideas on this, please get ahold of me. I would love to see something so that we can keep these people in the independent workforce the next time that something happens.

Chair Jauregui:

Thank you, Assemblyman Wheeler, and thank you, Ms. Sheehan, for being here and presenting Assembly Bill 312. I will now close the hearing on Assembly Bill 312. Members, this brings us to our last bill hearing for the afternoon version of the Assembly Committee on Commerce and Labor. I will now open the hearing on Assembly Bill 246. We have our very own Assemblyman Edgar Flores here to present the bill. Members, I do want to note that there was a conceptual amendment that was recently uploaded to the Nevada Electronic Legislative Information System (NELIS) [[Exhibit P](#)]. I have had our committee manager share it with everyone so that we can easily access it while we follow along during the bill presentation. Assemblyman Flores, the floor is yours.

Assembly Bill 246: Revises provisions governing employment practices relating to employee safety. (BDR 53-781)

Assemblyman Edgar Flores, Assembly District No. 28:

I am here to present Assembly Bill 246. If I may offer a quick road map as to how I intend for the conversation to move forward. For the sake of clarity, as I know there was a last-minute amendment that came in, every time I refer to a section, a page number, and/or a line number, I will be referring to the original text of the bill. I have only provided the conceptual amendment [[Exhibit P](#)] so that you may have notes for the future, and so you can follow along with some of the changes I intend to make.

I first want to offer a quick synopsis of where this bill originated, and then I would like to preemptively explain how I think this bill addresses those concerns. I will then walk you through the bill and the conceptual amendment, then lastly open it up for questions. Assembly Bill 246, for me, is a notice bill for employees. We all know that we are still in the middle of a pandemic. While we are hopeful that things are improving now that we have a vaccination available and now that we are slightly moving towards the direction of reopening, there is no question that we are still in the middle of a pandemic. Consistently throughout the pandemic, we have had everybody thanking our essential workers. I myself, owning a small business, have had the obligation to look 12 to 14 employees in the eye and try to figure out whether or not we could keep our doors open, and/or if we needed to

mitigate the situation by implementing some part-time program, or whatever we need to do. By no means am I unsympathetic to how employers have stepped up. I know employers have done numerous things throughout the pandemic, and I think Nevadans should be very proud of the types of employers we have here. We have seen folks delivering food; we saw folks donating things; we saw folks who did not have their employees coming in and employers were still paying them.

We saw so many different things where our employers were stepping up, so when I started thinking about this particular bill, the question to me was, What more could we do to help our employees that is not overly burdensome on employers? I reached out to friends, colleagues, other law offices, folks who own car dealerships, friends of mine who own dental offices—I reached out to everybody I knew who was a small business owner, and I asked them what happens when you find out that somebody in your office may have potentially been exposed to COVID-19. Through dialogue, I realized that most of us immediately go into reactive mode: you know that somebody may have potentially been exposed, you notify the employee. It is very much a reaction to a situation we cannot always prevent. That is what this bill is about. This bill is about what happens when an employee notifies an employer that she or he has potentially been exposed or has COVID-19 and has been around other employees.

What, then, does their employer do? That is the first thing that this bill does. The second thing puts in place a mitigation program specifically to ensure that once we know somebody has tested positive for COVID-19, they have notified the employer and the employer has notified employees. What are we doing now after that? I want to make it abundantly clear this bill does not violate the Health Insurance Portability and Accountability Act because this bill does not require an employer at any time to tell an employee who may have tested positive. I also want to preemptively tell you that this bill does not impose, in my opinion, an overly burdensome requirement on employers. My understanding is most good actors are already doing this.

You will hear from many industries today. You will hear from employees who talked about knowing or finding out weeks later that they were working side by side with somebody who had tested positive for COVID-19, notified the employer, and the employer still told them to continue working and never took any type of preventive measures to notify the individuals working within the immediate proximity of that individual that somebody there may have potentially been exposed. You will hear about individuals for whom there was just a general broad statement made and maybe not specified to particular individuals where there are language barriers. There may be a work site where everybody speaks a specific language and everything is communicated in a specific language, but when it came to the notice of their potentially having been exposed to COVID-19, it was said in English or a language that they did not understand. Lastly, I want to say that, in walking you through the bill, there are going to be particular industries that are going to be completely exempt or are excluded purposefully in this bill. I will explain in detail as to that.

Now I am going to walk you through Assembly Bill 246. I am now looking at sections 2, 3, and 4. The first thing I want to say here, and in the conceptual amendment that I provided to you [[Exhibit P](#)], I am making it abundantly clear that sections 2 through 12 shall not apply to those covered by the Ryan White HIV/AIDS Treatment Extension Act of 2009. That is federal law that specifically addresses the requirements of notification for medical facilities. Federal law goes above and beyond this bill; it is much more stringent. There are already many requirements that medical facilities have to abide by, and I do not want to muddy the water with this bill and impose anything that is less than what the federal law already requires. Medical facilities—we are talking about hospitals, et cetera—are exempt.

The second part of the caveat that we are specifically carving out is everything captured under "public accommodation facility" as defined by *Nevada Revised Statutes* (NRS) 447.320. If you see section 8 of the bill, page 3, line 37, it says, "The provisions of sections 2 to 12, inclusive, of this act do not apply to a public accommodation facility." I wanted to define a public accommodation facility. *Nevada Revised Statutes* 447.320 defines it as "a hotel and casino, resort, hotel, motel, hostel, bed and breakfast facility or other facility offering rooms or areas to the public for monetary compensation or other financial consideration on an hourly, daily or weekly basis." The reason I am carving them out as well is because in NRS 447.345 there are already very stringent mitigation and notification requirements for all public accommodation facilities that go beyond what this bill does. They are completely exempt. They are not being captured in any way by this bill, and I just want to make that abundantly clear.

Section 3 tries to define what COVID-19 means, and we have seen similar discussions as to COVID-19 referenced in other statutes. Particularly, you may recall that in Senate Bill 4 of the 32nd Special Session we had a very similar definition. Section 4, just to not muddy the waters, says an "independent contractor" and references to where it is already under NRS 617.120. Section 5 talks about what a potential exposure to COVID-19 means and it talks about when a person interacts with an employer, employee, principal contractor, subcontractor, or independent contractor; and that person has been diagnosed with COVID-19 or is diagnosed with COVID-19—but not more than ten days. Right now, as the bill reads, on line 22, it says "14 days." I am amending that to read "10 days." The reason we are making that amendment is because we have seen new federal guidelines that talk about 10 days, so we want to mirror what we are getting from our federal counterpart of workers to ensure that we have transparency and that we are mimicking one another.

Beyond that it goes into section 5(c), "Is experiencing symptoms of COVID-19 and has not yet received a positive or negative diagnosis for COVID-19; or (d) Died due to COVID-19." That specifically talks about when somebody may have potentially been exposed to COVID-19 and what that means. I want to go into section 9, which works in tangent specifically with section 5. I am amending it to include the language, "within 6 feet of such a potential exposure to COVID-19" [[Exhibit P](#)]. Section 9 would read as follows, "If an employer is informed of a potential exposure to COVID-19, the employer shall notify in writing each employee who was within 6 feet of such a potential exposure to COVID-19 on the premises or worksite of the employer." I also want to make a correction here. In the

original bill, section 9, I use "premises or worksite" but that is not defined. To bring clarity and to bring an actual definition, I am amending that particular language and instead of using "premises or worksite," I am using "place of employment" as defined by NRS 618.155. Again, this is just a swap. When we use the phrasing "premises or worksite," we had meant the same thing as "place of employment," but because "place of employment" is already defined, we are simply substituting that phrasing.

Continuing on in the amendment [[Exhibit P](#)], ". . . of the employer and each principal contractor, subcontractor or independent contractor, that is contracted with the employer who was within 6 feet of such a potential exposure to COVID-19" Again, we are using the place of employment of the employer who has an employee who worked within 6 feet of such a potential exposure, et cetera. We want to make sure that anytime somebody has been exposed to COVID-19, we are only triggering the notification requirement if you were within 6 feet. The logic behind that is this: maybe I own five different buildings and I have over a hundred employees in each one. If a particular employee in a particular section of building A were to be potentially exposed, I do not want the employer to be required to have to notify everyone in that building and then building B and then building C. We just want to make sure that we are narrowly tailoring the language of having to notify those who were within the immediate 6 feet of the potential exposure; again, you only know that if you have been put on notice as an employer. If the employer has never been told, never received any type of notification, the employer is not on the hook to do anything. I just wanted to make that abundantly clear.

If we go to section 9, subsection 2, it goes into the notice requirement. It says, "An employer who provides the notice pursuant to subsection 1 shall provide the notice: (a) Within 1 business day after being informed of the potential exposure to COVID-19." Section 9, subsection 2, paragraphs (b) and (c) talks about the representative of the employee, if applicable, needing to be notified in both English and a language that the majority of the employees speak. Again, we have worksites at which the daily communication may be in a whole host of languages except English. We have heard this from our Tagalog-speaking community; we have heard this with our Spanish-speaking community. There is a whole host of communities out there where they walk in and, from the moment they clock in to the moment they clock out, they do not utter a single word in English because everybody there may be from a particular community where they all speak a certain language. We want to make sure that we are informing them in their language.

We want to make sure that the way the employer is notifying those who were potentially exposed, those who were within 6 feet, that they do it in a way in which they are accustomed to communicating. If text messaging is how you normally notify somebody of anything going on in the workplace—or email or a phone call or sending out a letter, whatever it may be—we want to make sure that you are capable of doing it that way. We do not want to tie your hands to doing it in a specific manner that is not accustomed to that particular place of employment. I want to draw attention to this particular language. One of the questions that I got is, Well, how do I make sure they got it? I do not want to be on the hook as an

employer if my employee did not receive it. Note that this particular section triggers language specifically in sending. You meet your burden, or what we are asking that employer to do, the moment they send it out. Whether or not that email was received, that text message was opened, that letter was opened, whatever it may have been, that already takes the onus off the employer. The employer is just required to send it, and we want them to do that within 24 hours or 1 business day. Whatever your business day defines to make it easier for the employer, as 24 hours may not mean the same thing to everybody.

Section 9, subsection 3, is another requirement that we want to add in addition to the notice required to section 9, subsection 1, where you have to notify them via text, email, whatever it may be. We also want the employer to notify the employee who has potentially been exposed of any benefits related to COVID-19 to which the employee may be entitled to under applicable federal law, state law, or local ordinances, including, without limitation, workers' compensation, leave available for illness for COVID-19, sick leave, et cetera. We want to make sure that once you have put the employee on notice—you may have potentially been exposed, you may have been within 6 feet—the employer understands what potential protections and benefits are out there for that employee. Often, you will hear about folks who are scared to speak out because they do not necessarily recognize or understand that there may be some protections where it is okay for them to take a day off or whatever they have to do. That is why we have that language in there.

Section 9, subsection 3, paragraph (b), says:

The plan and standards used for disinfecting and cleaning that the employer maintains or plans to implement and maintain. Such plan and standards shall comply with the guidelines set forth by the Centers for Disease Control and Prevention and by the COVID-19 prevention program established pursuant to section 11 of this act.

Not only are we going to let the employee who is potentially exposed know what protections they have and what rights they have under federal and state law, but we also want to assure them that there are going to be some mitigation and cleanup procedures in place.

If I could use my own law office as an example, when we had a potential exposure we immediately went and sanitized that whole area to the best of our ability. We disinfected it following the Centers for Disease Control and Prevention (CDC) recommendations. My understanding, and from every conversation I have ever had with anybody I know who owns a small business, this is what they do too. This is exactly what they do. Most small businesses and big businesses are already doing this, period. In fact, most of us are already disinfecting daily anyways. We just want to ensure that we are doing that, and that the employee knows that. It is important that the employee understands this because once you are telling the employee this is what I am going to do to ensure that, in case you were not—even though you might have been exposed but you go and do a test and find out that

you are fine—you still want to know that you are coming back to a workplace where some mitigating factors have been triggered, and folks are taking some preventative measures. Again, we are doing this already, but there are, anecdotally, some employees who have given us numerous examples. You will hear them explain why that is so important when we get to that portion of the support for this bill.

Section 10 of the bill is going to be eliminated. The reason section 10 is being removed is that it is duplicative. *Nevada Revised Statutes* 618.445 already has the retaliatory protections in place, so there is no need to restate them here.

In section 11, there are two things that I am doing there. I am removing or changing the phrasing of "COVID-19 prevention program" to "COVID-19 mitigation program." The reason I am changing that is because we want to make sure that we are not misleading the public or, specifically, our employees. The word "prevention" entails something that should have been done previously or prior to, and what we are really doing is mitigating the situation. An individual indicates to the employer that they may have been exposed to COVID-19, then the employer takes mitigative actions in response to that. That is why we are changing that language.

You will also see a technical change in section 11. There is a reference to "the Board" throughout. That was an error, as the board that it is referencing, pursuant to NRS 618.585 subsection 1(b), does not have the authority to do that. We are removing that altogether. I wanted to explain those technical differences then go into what that section actually does. Section 11, subsection 1, states, "An employer shall establish, implement and maintain a written COVID-19 prevention program." One of the questions that I got, and some of the feedback that was given to me, is that may be too onerous now. I had the opportunity to speak with our Department of Business and Industry's Division of Industrial Relations and specifically as to our Occupational Safety and Health Administration (OSHA) requirements. That is already required now, so we wanted to make it abundantly clear that this is not necessarily new. However, I do want to have this language in there clarified because, pursuant to NRS 618.383, that deals with the establishment of a safety program. That is already a requirement, but there is not a specific mention of COVID-19. Hence, I think that this overly emphasizes the requirement that you have to maintain a written COVID-19 prevention program.

Per OSHA, when they go into and have communication with an employer now, this is a requirement that they demand of them. This is already practice, but I want this to serve as a notification and more of an educational component more than anything to our employers and employees that this is a requirement. We want them to have, implement, and maintain a written COVID-19 prevention program. We want to then specify within section 11, subsection 1 that:

Such a prevention program must comply with any standards concerning COVID-19 set forth by the Occupational Safety and Health Administration of the United States Department of Labor, the Division and the Board, as

applicable. An employer shall: (a) Provide a copy of the COVID-19 prevention program to an employee upon the employment of the employee; and (b) Train its employees on the COVID-19 prevention program.

I have talked to numerous small businesses, my office included. We recently, in the last eight months, hired two new individuals. The very first thing we did was walk them through our safety protocol COVID-19 prevention program. Every time somebody sits there, we have to wipe it down. Anytime somebody goes into that particular office, we have to clean it. We went through all that. We have the protocols in writing, and we keep them around the office so that everybody knows what their obligations are. For example, in our office, there are some folks who work in a cubicle. Their responsibilities are very different from the folks who work the front desk. We try to specify those requirements, that program, depending on who is where. The fact is, you have to have some type of program in place because we all are already doing this.

Section 11, subsection 3, states "An employee may file a complaint with the Division if his or her employer does not comply with subsection 2." This is something that employees can do now. Then walking quickly through section 11, subsections 4 and 5 state:

If an employee makes a request for a copy of the COVID-19 prevention program, the employer shall provide the copy within 1 business day of the request. If an inspection of the employer occurs for a violation of any standards concerning COVID-19 set forth by the Occupational Safety and Health Administration of the United States Department of Labor, the Division or the Board, as applicable, the Division shall review the COVID-19 prevention program established, implemented and maintained by the employer.

Again, this is already required, but we just want to make it abundantly clear that this applies to COVID-19, and we want to make it abundantly clear that an employee can request that within one business day. The usage of one business day also goes to helping the business if they are closed Saturday and Sunday. Realistically, we do not want to force that employer to take action over the weekend or whatever days that they are not working. However, immediately within the next business day, they have to comply.

With that, we can open it up for questions. All the good actors I know are already doing this, those who are registered with our chambers of commerce, those who have made it a practice during COVID-19, during this pandemic, who have stepped up to the plate. All these individuals are already doing that. There are a select few who are not. That is why we come forth with this plan, and we see the necessity for this requirement.

We have said thank you so many times, in so many different social media posts, and in so many speeches to our essential employees. To all the folks who have stepped up during this pandemic, we consistently have said thank you to them. I think another way we can say thank you to them, to those who have stepped up to the plate while many folks were staying

home, and those who continue to wake up every morning to handle business for us, is by saying at a bare minimum, we have a responsibility to say, You may have potentially been exposed, here are the mitigating actions we are going to take. That is the very minimum we can do for our employees. I do not know how this can be overly burdensome and how we can argue that we are not doing this already. Good actors are already doing this. Let us just protect those who are tied to a situation they cannot leave, those who are working there every day and night and do not have, at the very least, an employer who is stepping up to the plate and saying, Let me just give you a heads-up. That is all this bill does.

[Assemblywoman Carlton assumed the Chair.]

Vice Chair Carlton:

I am looking at section 9, subsection 3, paragraph (a), the benefits portion, where the employer should be informing the employee of any benefits that are out there. I know last spring and summer, in the nonprofit work that I do, I had to inform employees, because they were out sick, they could get this benefit from their employer because they had not been informed. How do you see this working?

Assemblyman Flores:

I see it playing out in a whole host of different ways. In my particular place of business, we have an employee handbook. It is in an electronic format, and we consistently update it to comply with different federal laws. As we saw during the pandemic specifically, we had instances—and certain applications and protections were in place—that triggered up to this month. I know some ended in December 2020; a few extra protections have gone beyond that. That is the way we do that. I do not want to say that every place of employment would do it that way. We are lawyers, so we chose to approach it through that lens. I think other folks could simply direct individuals to the federal or state guidelines or websites or print that out for them. I do not want to tie anybody's hands specifically to say that one size fits all. Understandably, because every industry is unique, there are some protections that extended to some folks within a particular industry that did not to others.

The idea here is not to play the lawyer and have to break down a synopsis of every single rule in the NRS or federal law or regulations coming down or emergency measures, but rather pointing in the direction and providing them that information. I think the easiest way would be through directing them to and printing out what those websites are. If you are sending a text or an email, send the link to the federal guidelines and state guidelines, something like that. That is not going to be the best way for everybody, but employers are doing this now. Whatever procedures they have in place, I would say to replicate that.

Vice Chair Carlton:

In your place of business you have a bunch of lawyers; in mine, we do not. I think maybe I need to start thinking about hiring a lawyer who likes to do food pantry work also, so I have that expertise in my shop because things are getting more complicated by the day. Are there other questions from other Committee members for Assemblyman Flores at this time?

[Assemblywoman Jauregui reassumed the Chair.]

Assemblywoman Tolles:

My first question is, is there a penalty involved with not complying with this? The only thing I see is in section 12 that the Division may adopt regulations to carry out. Of course, there are certain enforcement measures under OSHA. Could you walk me through that, please?

Assemblyman Flores:

The quick answer is, we are not putting those in place. They are now in place via OSHA, and I know our Department of Business and Industry's Division of Industrial Relations has protocols in place now. For example, if somebody has COVID-19 and you were to fire them for that reason, there are triggers now for that. If an employee were to ask an employer for their prevention program, and they do not have it and they do not wish to provide it, there are already rules in place that have to be triggered. Again, that is not something that we are adding; that is something that is in statute already.

Assemblywoman Tolles:

Thank you for that clarification. I am trying to picture this. We own a business; we have six full-time employees and four part-time employees who come in and out on various days. I appreciate this. A couple of our employees are married to first responders who were exposed, so we had exposure within our office. We did have a couple who got infected, so we had to run our protocols, how do we respond to all this. We went through this exercise and now some are already vaccinated. Others are in the process and will be vaccinated as soon as it is available to them. You already had to change the amendment to align with changes in CDC protocols. I am just wondering what this is going to look like a year from now, two years from now, four years from now. By putting this into statute, if we find that we are successful—I am optimistic—as more people get vaccinated or as things keep progressing, if CDC guidelines get to a place where exposure notifications are no longer what they are today, we have now put this into statute. Could you just help me understand that?

Assemblyman Flores:

I think there are multiple answers to that question. First, I am sympathetic and wishful and hopeful that this bill was not even necessary. With those who have had the opportunity to get the vaccine, unfortunately we have seen that they are still, at times, contracting COVID-19 afterwards. Because we know that the vaccine is not 100 percent successful, because we know that not everybody has yet been vaccinated, we still have a very large, vulnerable group of folks who need to be notified if they have been potentially exposed.

Number two, we are still in the infancy stages of understanding COVID-19 and the long consequences of it. I agree with your sentiment that we may hit a point down the road where—maybe a few years from now, maybe eight months, I do not know and nobody can really forecast that—if everybody has the vaccination, there may no longer be the requirement because we have realized that no one is getting the disease again. I will say we have seen strong and very meaningful industries step up. Specifically, at the onset of the

conversation, I referenced how grateful we were that NRS 447.345 put into the *Nevada Revised Statutes* a whole host of preventative measures, a whole host of notification measures that applied specifically and only to public accommodation facilities. We did that because we recognize that we have a responsibility to take care of our employees and, at the same time, try to slowly move towards a world where folks are comfortable going back to their place of employment. I agree with you. Not only this bill, but there are other sections of the *Nevada Revised Statutes* that reference COVID-19. I pray that you and I will be able to come back years from now—in maybe just two years—and be able to take all that out, I genuinely do. Because so many humans have died, so many people have been impacted by this life-changing pandemic, and it is something that we are still going through, I think we have to still take this action now and be hopeful that in the future we can eliminate this language.

Assemblywoman Tolles:

I certainly share that hope. Thank you for the answer.

Assemblywoman Kasama:

Thank you so much, Chair, and thank you so much, Assemblyman Flores, for this. I know this is obviously in your heart, making sure that we protect all of our citizens here in the great state of Nevada. I know how important it is. I do have a concern where we have this amount of detail and regulation for this disease that we all hope is temporary. Is this not where we do look to OSHA, we do look to the Division of Industrial Relations? Is that not what we have tasked them with—to take care of these things, to send notices to employers? I am just concerned. You have section 3, too, any mutation of it. Who is going to decide if this is a mutation that covers it or not?

In section 9, you have the amendment [[Exhibit P](#)] for it being within 6 feet. I understand, if I recall correctly, that the CDC then came out with, it is within 6 feet for a period of greater than 15 minutes. Who knows, as this disease goes along, what other details we will find out or how it is easily transmuted. Do we not already have in statute that employers need to maintain safety in the workplace that it seems this would fall under? It is so well-intentioned; we have other divisions and departments that are tasked with employer safety for their employees, and putting it into statute just does not seem like the right place to me.

Assemblyman Flores:

I think the basic underlying question to your question would be, I agree, but should we do it in statute? I would hate to assume that anybody asking a question does not agree that we have a responsibility to notify employees, right?

Assemblywoman Kasama:

Absolutely. That goes without question that I would agree with that.

Assemblyman Flores:

I would assume anyone asking me a question would agree with that basic premise. Starting there, the question then comes to, Should we, the state, through the Nevada Legislature, come into this space or not? My answer to that is yes. Here is the reason: Right now, when we talk about notification requirements, unfortunately there is no real notification requirement coming down from the federal government. Because it is not coming down, there is no real requirement in place presently where we have a transparent across-the-board statute protecting our employees.

In statute now, we do have specific, narrowly tailored sections of the NRS that only require notifications for some employees. Everybody said that is great, we need those notifications, and we agreed upon that and passed that legislation. I thought that was great because it went to the heart of how important notification is. What does not follow is that if we agreed to put in statute that this particular subset of employees require notification, that we would then disagree in saying all employees require notification. If we have already consciously made a choice to notify some employees, the question now begs, Why not notify all? That is where we are now. If we did not have anything in statute notifying any employees—if there was zero language in statute now and we were having this conversation—and, say, all of us collectively decided to punt all the responsibilities for employee protections to different agencies and different entities, I think I would follow and say that is the logic that we as a state have adopted and we are going to pursue. We have not done that. We have done the opposite of that. What I am saying is, let us mirror what we have said was a great idea for some employees and expand that notification to all employees.

Assemblywoman Kasama:

Would it not be better served to visit with our own Department of Business and Industry, who have clear guidelines, better notifications, and encourage them to work with the employers better? This is so narrowly tailored to an incident at this time in our history that might not be there. I am very concerned about this type of detail in statute that now we could have the next disease, the next mutation. Who decides that? We could agree to disagree. I believe notification to all who could be harmed is very important. I disagree having this detailing in statute. As I said, we may agree to disagree on this one.

Assemblyman Flores:

I appreciate the sentiment, and I have heard this argument before: Oh, if we do this now for COVID-19, what else do we have to do it for? I do not know how many times you have been in the middle of a pandemic like this one in which thousands of Americans have died; worldwide, hundreds of thousands of humans have died. I think the scare tactic, the implication that if we do this now for one thing, what do we have to do it for next, is improperly placed. If you ask anybody who had an individual in their family die, I think they would respond to it by saying we have to do this more. I do not agree with the sentiment that this is just opening Pandora's box. This is a single, isolated moment in our lifetime during which we have been in the middle of a horrible pandemic; we have a responsibility as elected officials of individuals who are representing 65,000 to 75,000 individuals who are looking to you and asking you for an answer. Punting the responsibility right now, in my opinion, in the

session that is in the middle of a pandemic, is not only irresponsible, but also a disregard for all the employees we have across the state who are just begging for, at minimum, something that all good employers are doing already anyway.

Assemblywoman Kasama:

I just want to clarify that I am not punting the responsibility. I have as much concern for those who have passed and have become ill from this as anybody else. I am talking about what is the best vehicle for notification.

Chair Jauregui:

Members, are there any other questions? [There were none.] Thank you for the presentation, Assemblyman Flores. I am going to move us into the testimony portion of the hearing.

Paul Catha, Political Lead, Culinary Workers Union Local 226:

The Culinary Workers Union supports A.B. 246 because all workers deserve to be safe at work. Strengthening workplace safety and contact tracing is the right thing to do during an ongoing global pandemic. Hospitality workers received protections similar to those in this bill during the 32nd Special Session in the historic S.B. 4 of the 32nd Special Session. This bill is also known as the Adolfo Fernandez Bill, named after a Culinary Workers Union member who died after contracting COVID-19. Sadly, 127 culinary and bartender union members and/or their immediate family members have died from COVID-19, and 1,260 workers or family members have been hospitalized due to the virus since March 1, 2020.

The State of Nevada must extend COVID-19 protections and effective contact tracing procedures to all frontline essential workers, especially Black, Indigenous, and people of color who are disproportionately impacted by COVID-19. Assembly Bill 246 will protect workers, put Nevada on a path to a full economic recovery, and help reduce the spread of COVID-19 in workplaces. The Culinary Workers Union urges the Nevada Legislature to support and pass A.B. 246.

Michael Gittings, President, United Food and Commercial Workers Union Local 711:

I am here today in support of A.B. 246, which will require an employer to notify its workforce when there is a COVID-19 workplace exposure and ensures employees have the most accurate information regarding exposures in the workplace. Right now, there is no legal requirement for employers to notify workers of exposure or to notify authorities of outbreaks. While most responsible employers have stepped up to the plate by providing transparency and protections to their employees, this bill would mandate such protections for essential frontline workers who might otherwise be left exposed and unprotected by less responsible employers. We also believe many employers would benefit as well by the guidance and education that the bill provides.

With infections and deaths disproportionately high in the Latino, Black, and Asian/Pacific Islander communities, more information about workplace exposure can be the difference between life and death among frontline and essential workers. We believe this bill is

consistent with Nevada's efforts to track and trace COVID-19 cases. We support provisions in the bill prohibiting an employer from taking retaliatory actions against an employee who is diagnosed with COVID-19 or who needs to quarantine or isolate due to contraction. Employers must also establish, implement, train, and maintain a written COVID-19 prevention program. The timing of this bill is critical. It is important to have a notification and planning process in place for businesses as the state transitions COVID-19 planning and compliance to local governments on May 1, 2021. For these reasons, I respectfully urge your support of A.B. 246. [A letter of support was submitted by Michael Gittings, [Exhibit Q](#).]

Jessica Ferrato, representing United Food and Commercial Workers Union:

I am here in support of A.B. 246. United Food and Commercial Workers Union represents 6,800 workers in Nevada, many of whom work in grocery stores, retail establishments, chemical manufacturing, food processing plants, and the legal cannabis industry. The timing of A.B. 246 is critical. As the state approaches the transition of COVID-19 planning and compliance, and as our state continues to reopen, it is important that protections are in place for all workers. Our workers will not have the ability to work from home or remotely. It will be critical, as the state continues to recover, that we continue to work to protect workers from this deadly virus.

Employee notification and a COVID-19 mitigation plan ensure that workers are provided with reliable information on any exposure and can take precautionary action to protect themselves and their families. Employee notification will help contain the risk of additional outbreaks, especially in the workplace where most exposure occurs. Our members have been on the front lines of this pandemic. We have seen up close that COVID-19 is not merely a public health crisis, it is a worker safety crisis. Many of our members have contracted the virus; tragically, several have lost their lives to it. Employee notification and a mitigation plan will protect workers across the state as we continue to move forward towards recovery and normalcy. We urge your support of A.B. 246.

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

We stand in support of this legislation A.B. 246. This legislation is needed, and it is long overdue. We tried to get something done during the special session, but due to the short time frame that was available to everyone to get the business of the state done, we were not able to accomplish it at that point in time. This bill will provide some much-needed relief, guidance, and protection for Nevada's workforce. I also speak on behalf of the Southern Nevada Building Trades Unions; they are in support of this legislation also.

Chris Daly, Deputy Executive Director, Government Relations, Nevada State Education Association:

Nevada State Education Association has been the voice of Nevada educators for over 120 years. In our history there have been few more challenging times than the one we find ourselves in right now with the COVID-19 pandemic. Nevada State Education Association supports A.B. 246 requiring businesses to notify workers when there is a COVID-19 exposure in the workplace and requiring the development of a COVID-19 prevention program. Nevada State Education Association has aggressively engaged in the issue of

school safety during the COVID-19 pandemic. Last summer we supported the work of the Department of Education to develop the Nevada's Path Forward framework for a safe, efficient, and equitable return to school buildings. We felt this was the proper framework, along with consultation with local health districts, to safely reopen and operate school buildings this school year.

Safety in other workplaces, especially where large numbers of people gather and potential outbreaks are most likely, is also critically important as businesses across the state open. Assembly Bill 246 is needed to protect public health and workers at those businesses, many of whom are parents to students in our schools. We appreciate that, during the COVID-19 pandemic, many workers have not had the option to stay home from work. As the state recovers from this pandemic, it is critical that workers can be notified and a plan be in place to protect employees and keep them safe. [Written testimony was submitted, [Exhibit R](#).]

Vincent Saavedra, representing District Council of Iron Workers of the State of California and Vicinity:

We are in support of this bill.

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

Every worker should have a safe workplace and should be notified in the event of a COVID-19 exposure. It is the responsibility of every employer to have a plan for COVID-19 prevention. We strongly support this bill and thank Assemblyman Flores for bringing it forward.

Abraham Camejo, Owner, Camejo Safety, North Las Vegas, Nevada:

Camejo Safety is a consulting firm, and our primary focus of business is the safety and health of our Nevada workers, working alongside small to large businesses, alongside many of our union members regarding compliance with OSHA and other regulatory agencies. We provide this type of training, and we are in support of Assembly Bill 246. Any businesses that have a successful COVID-19 mitigation plan have been crucial for the safety of Nevada workers and their businesses. I see this firsthand at jobsites. Contract tracing is essential for helping us get back to normal. We are in support for Assembly Bill 246.

Chair Jauregui:

Let us move into testimony in opposition.

Amber Stidham, Vice President, Government Affairs, Henderson Chamber of Commerce:

The Henderson Chamber of Commerce represents more than 1,800 businesses throughout southern Nevada. As an organization that represents the breadth of Nevada's employers and all business sectors, sizes large and small, our Chamber is concerned about various aspects of the draft regulation as written. First, we want to emphasize that we appreciate the seriousness of COVID-19's threat to Nevadans and underscore the fact that chambers like ours, and other business groups throughout Nevada, have been at the table since the onset

and will continue to work nonstop to address COVID-19 public health needs amongst our businesses. Our members are already committed to complying with the legion of already existing state legal mandates, regional and local guidance, including federal OSHA guidelines and those outlined by the CDC.

We do thank the bill sponsor for bringing this employer-centric bill forward and employee-centric as we can imagine the speed in which it would need to be pulled together in today's ever-evolving pandemic environment. It is a complicated task; our members know that all too well. With these complexities in mind, we believe the best regulations are those that include communication among stakeholders who can bring the knowledge and experience to the discussion. That said, we do have serious concerns. One is that our organization was not engaged in discussion during the development of this draft regulation. We will do our best to provide our comments in the very brief amount of time that we have left to address what could impact each and every employer in the state, each and every employee in the state.

I am happy to send a letter detailing our concerns, but for the most part we look to seek clarity and address concerns. That includes time needed for workplaces to come into compliance and some of the big language that could cause confusion for employers. The return to work details can be complex for healthy, ill, or formerly ill employees. The COVID-19 program details what employers need to meet to continually meet those changing guidelines and notifications to outside individuals. I respectfully ask that all aspects of A.B. 246 are met with the seriousness that they deserve, especially considering that this may become statute.

To close, I would just like to say that our businesses are working very hard to take measures to protect our employees and their customers amid the pandemic. As businesses start to reopen and as some continue to be closed altogether, or are operating under restricted measures, employers simply wish to know that if they take reasonable steps to follow the constantly changing health guidelines, their businesses will be protected so they and their employees can continue moving into the recovery phase. [Written testimony was submitted, [Exhibit S.](#)]

Paul J. Moradkhan, Senior Vice President, Government Affairs, Vegas Chamber:

First, I would like to thank the bill sponsor for meeting with the Chamber about A.B. 246. He was proactive reaching out to the business community and seeking feedback from stakeholders. Those discussions have been helpful in understanding the intent of the bill and for us to share the COVID-19 efforts undertaken by employers over the last 13 months. However, the Vegas Chamber is opposed to the bill as introduced for several reasons. First, to my understanding, over a million vaccine shots have been distributed in Nevada, and I believe the positivity rate is now under 5 percent over the last two weeks. We are making significant gains against our collaborative battle against COVID-19. Employers, for example, are providing notification, mitigation, on-site vaccination sites for their employees,

providing time off to get the vaccine, and supporting public service announcement campaigns to get the word out to employees. We are working in partnership with the state and local governments in the battle against COVID-19.

Many Nevada employers have constantly been trying to support their employees and their families during the pandemic. Nevada's employers have spent millions in personal protective equipment (PPE) to protect their employees, reconverted workspace to enhance safety standards, and for those that could provide salary and health care benefits when they were closed and provide flexibility for their employees when they were able to do so. In fact, the Chamber is working on Senate Bill 209, which will provide employees four additional hours of paid leave for employees to get the COVID-19 vaccinations.

We believe this bill will add more regulations and requirements onto the existing standards from the federal government through the CDC and OSHA, the requirements to follow the government directives for employers, local government and health district guidelines, and S.B. 4 of the 32nd Special Session. When you combine all those, we are looking at an extensive list of different standards that employers must follow every day. The reality is, those guidelines and standards are constantly changing, which requires us to constantly pivot and educate Nevada's employers on the changing directives, guidelines, and rules. To codify additional requirements into state law is a concern, as we are constantly adapting our response to COVID-19 as a community, as a state, and as a nation.

We are opposed to the logistical challenge of a broader notification process and lack of flexibility of pending state law. For example, in the original part of the bill, hospitals, health care facilities, clinics, doctors, and pharmacies in theory would have to notify their employees every day of a potential exposure. We are reviewing the proposed amendment from the bill sponsor and we will follow up with him as soon as possible. The Retail Association of Nevada also asked that I register their concerns on their behalf.

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

We are here with some concerns on A.B. 246, but not opposed to the intent. The notification requirements contained in the bill as drafted and as presented with the amendment are troublesome to us. Construction sites often have hundreds of different employees working on them each day, spread out over acres of land. It would be impossible for the contractor to notify each employee of each sub or sub-of-subs, as the information is not tracked and would be too burdensome to do. Instead, we would like to see the requirement be that the primary contractor is responsible for notifying their own employees and each subcontractor with which they are contracted, and then the subcontractors would be responsible for communicating with their own employees. It is actually what our members are currently doing and have been doing since the beginning of the pandemic. We welcome the opportunity to work with the sponsor and stakeholders to accomplish the intent, but address some of our concerns as this bill moves through the process.

Misty Grimmer, representing Nevada Resort Association:

We are in opposition to A.B. 246 as written. I know there are some new amendments which we will review, but in my initial read of those amendments, I do not believe they would change our position. We did meet with Assemblyman Flores and the proponents prior to session and again a few weeks ago. We appreciate their time in hearing our concerns. The gaming industry has taken many measures during the pandemic to help employees, including extending pay after the shutdown and during the shutdown, extending health benefits to laid-off employees, and are now rolling out multiple vaccination sites.

During the summer when COVID-19 was rampaging our state, the Legislature made and took steps to protect workers in the resort industry. The magnitude of the pandemic at that time called for drastic measures. It was a hard-fought compromise; part of the agreement was that when the COVID-19 numbers showed the public health emergency subsiding, the enhanced safety precautions would follow. Thankfully, all of the numbers are indicating a strong decrease in the spread of COVID-19 and a rapidly increasing number of people getting the vaccine. Therefore, we question the need for this bill at this time.

While the bill does seem to provide an exclusion for places of public accommodation, it does not provide any exclusion for the partner businesses that are located within our property. Furthermore, it would appear the time frame of this bill is not tied to whether a public health emergency still exists but is actually ongoing. While it is true that COVID-19 may always be with us, the expectation is that with vaccinations and immunity levels increasing, it will not always be a health threat requiring the extreme measures taken back in the summer or the proposals in this bill. Therefore, we respectfully request that the Committee not process this bill.

Michael Alonso, representing Golden Entertainment:

We met with the sponsor and proponents of the bill and shared our concerns with them, and we are willing to continue to meet with them and to have discussions on this bill. However, we oppose A.B. 246 as written. We just got the amendment [[Exhibit P](#)] and are looking at it, but do not have an opinion yet as we have not had the time to examine it. Golden Entertainment operates hotel/casinos that are subject to the safety provisions contained in Senate Bill 4 of the 32nd Special Session that was discussed by the previous speakers. We are still looking at the amendment to understand whether or not the amendment would change anything with public accommodation facilities that would affect this.

Golden Entertainment also operates numerous tavern locations throughout the state and operates restricted gaming and nonrestrictive gaming operations as a slot route operator within gaming locations that include taverns, bars, restaurants, and other locations. Those locations are not subject to the S.B. 4 of the 32nd Special Session requirements, but they still operate under many COVID-19 restrictions that are already in place, including the Governor's declarations, other state requirements, and the mandatory requirements of the Nevada Gaming Control Board. The Gaming Control Board specifically requires that restricted and nonrestricted locations—and I am referring to the ones right now that do not

have to comply with S.B. 4 of the 32nd Special Session—they have to comply under those Gaming Control Board requirements with health and safety policies related to COVID-19 specifically. These locations are also subject to other requirements.

Those Gaming Control Board requirements specifically require licensees to inform local authorities and cooperate with them on contact tracing. They follow all the rules on quarantines, on notifying employees, and on having these plans. We are concerned, as other speakers in opposition are concerned, about the timing of this bill and whether or not there is an end date. We are really concerned about whether or not the things we are already required to comply with—which are very similar, and I agree with Assemblyman Flores that there are similarities—that which we are already doing. There are differences as well that can create a lot of confusion when a business is trying to comply with all these requirements. There is not really a dynamic way of doing this in statute that goes with the times. As COVID-19 and the protocols around it change, the CDC has already made significant changes over time on contact tracing, on what a close contact is, and how to deal with those situations. I think we are following those guidelines, and we continue to follow them as they change. Putting something in statute just does not seem to be the right approach at this time.

Randi Thompson, State Director, National Federation of Independent Business:

The National Federation of Independent Business represents over 1,800 small business owners across the state. I really do not have much more to add to Mr. Alonso and Ms. Grimmer, and Ms. Stidham and Mr. Moradkhan from the chambers, so I will just say "ditto" to all of them.

Alexandria Dazlich, Director, Government Relations, Nevada Restaurant Association:

The Nevada Restaurant Association is in opposition to A.B. 246 as it is currently written. Our restaurant operators have continued to act in good faith throughout this pandemic by taking steps that protect their employees and adhere to all local, state, and federal guidelines and directives. Some of these steps include installing plexiglass barriers, reconfiguring dining spaces to account for social distancing, installing sanitation stations, providing PPE, and providing ample flexibility for employee testing and vaccinations. The Nevada Restaurant Association takes the COVID-19 pandemic incredibly seriously and appreciates the intent behind the bill. However, we believe A.B. 246 goes too far and opens up our operators to additional liability despite their best efforts to guarantee employee and customer safety.

Chair Jauregui:

Let us move to the neutral position.

Victoria Carreon, Administrator, Division of Industrial Relations, Department of Business and Industry:

Our agency has been at the forefront of the COVID-19 response from the very beginning. We have been advising businesses on how to comply with the Governor's directives as well as doing OSHA enforcement, so we appreciate working with Assemblyman Flores on this bill and addressing some of our concerns. We are testifying in neutral today. In answer to

some of the issues that have been brought up in terms of retaliation that section 10 is being proposed to be deleted, we want to provide a little bit more information about the existing law. We call *Nevada Revised Statutes* 618.445 our "whistleblower protection program," and that is actually required by federal OSHA. This is Nevada's version of the whistleblower protection program, and it is a very key part of ensuring that employees who have COVID-19 or have been exposed to COVID-19, if they have any retaliation, that they have a way to get back wages or be reinstated. We have been dealing with this on a regular basis. There is also a federal program that was recently released on COVID-19 that places an emphasis on the whistleblower protections. Nevada will be adopting that with some changes specific to our state, and we will be emphasizing those whistleblower protections. I just wanted to make sure that the Committee knew that we were working on that very studiously.

The other item I wanted to comment on is the written COVID-19 mitigation program. As Assemblyman Flores also mentioned, NRS 618.383 already requires a written workplace safety program, and as part of the guidance that our agency has been providing to employers, we have made it clear to them that they need to be amending that existing workplace safety program to include COVID-19. Many of those provisions that are in there, we have already been requiring employers to do. Having it in this bill will help make it clearer that COVID-19 needs a prevention program. With that, we are available for any questions should you have any. [A letter in neutral was submitted by Victoria Carreon, [Exhibit T.](#)]

Assemblywoman Tolles:

I appreciate having the ability to talk to the Division of Industrial Relations. Just to make sure I heard you clearly, the written plan is already in statutes through NRS 618.383. Does that also include the written notification?

Victoria Carreon:

Under current law, there is not a requirement to notify employees that they have been exposed to somebody who has COVID-19. That is not currently required, so that part would be new. There is a requirement to have the written workplace safety program that takes into account COVID-19 and how to mitigate the hazard.

Assemblywoman Tolles:

The first part of what you said is, currently, you have already been enforcing the safety standards in compliance with the CDC, adjusting accordingly as the CDC requirements changed over this past year, and you will continue to do so with or without this bill. Is that correct?

Victoria Carreon:

Yes. Our agency has actually been enforcing the Governor's directives. As those have evolved over time, we have issued additional guidance to employers. We tried to keep it as broad as possible because, as you stated, things do change over time. We have been enforcing those and providing guidance during this time period.

Chair Jauregui:

Members, are there any other questions? [There were none.] With that, I will call Assemblyman Flores back up for any closing remarks he would like to give.

Assemblyman Flores:

I first wanted to say thank you to all those who called in support and opposition, particularly those who called in opposition. I had an opportunity prior to submitting any language to legal counsel to speak with the Vegas Chamber, the Retailers Association, and the Resort Association and sit down with them and give them an opportunity to hear me out and what we were trying to accomplish. They provided a lot of feedback and, through that feedback is where this amendment came from and why the original bill, as written, specifically carved out the public accommodation facility. As we talked about, the resorts already have to do a whole host of things pursuant to NRS Chapter 447. I am grateful for their feedback. I understand, and I told them early on that I never expected them to come in support of a bill simply because I amended it. I just did want them to know that how the bill was amended specifically came out of drafting excluding them. The bill is now being amended to address a concern with the medical facilities, as they already have to follow more stringent guidelines pursuant to federal law under the Ryan White Act. I also eliminated section 10 because that raised a lot of questions by some of the opponents, and I took that out completely because we recognize that there was already language in NRS that addressed that issue and we did not want to muddy the record.

To the Henderson Chamber of Commerce, I am apologetic to you. I reached out early on to the Vegas Chamber, but inadvertently missed you. I know there are a few other chambers from up north that I also missed. That was not intentional. I will be sure, as we continue to work on this legislation, to include you in that roundtable.

Lastly, I just want to say thank you to everybody, mainly our employees in Nevada. This bill is for you. I want you to know that I see you, I have a responsibility to you, I hear your concerns. The bare minimum I can do as a legislator is come forth and ask that you be notified if you have been exposed—something that every opponent agrees that their clients are already doing anyway. This is just to capture those few bad actors that are not doing this. To all the employees in Nevada, I see you and I will continue to fight.

[[Exhibit U](#) and [Exhibit V](#) were submitted but not discussed and will become part of the record.]

Chair Jauregui:

Thank you, Assemblyman Flores. I will now close the hearing on Assembly Bill 246. Members, the last item on our agenda for round one of the Assembly Committee on Commerce and Labor is public comment. [Public comment protocols were explained.] Do we have anyone on the line for public comment? [There was no one.] Thank you, members. This concludes our meeting for today. Meeting is adjourned [at 4:33 p.m.].

RESPECTFULLY SUBMITTED:

Paris Smallwood
Committee Secretary

APPROVED BY:

Assemblywoman Sandra Jauregui, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is the Work Session Document for [Assembly Bill 200](#), presented by Marjorie Paslov-Thomas, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is a proposed amendment to [Assembly Bill 200](#), dated March 30, 2021, presented by Alisa Nave-Worth, representing Nevada Veterinary Medical Association.

[Exhibit E](#) is the Work Session Document for [Assembly Bill 210](#), presented by Marjorie Paslov-Thomas, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit F](#) is the Work Session Document for [Assembly Bill 250](#), presented by Marjorie Paslov-Thomas, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit G](#) is the Work Session Document for [Assembly Bill 290](#), presented by Marjorie Paslov-Thomas, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit H](#) is the Work Session Document packet, dated March 31, 2021, prepared by Marjorie Paslov-Thomas, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit I](#) is a proposed amendment to [Assembly Bill 303](#), dated March 31, 2021, submitted by Assemblywoman Shondra Summers-Armstrong, Assembly District No. 6.

[Exhibit J](#) is written testimony dated March 31, 2021, presented by Leo Murrieta, Director, Make the Road Nevada, in support of [Assembly Bill 303](#).

[Exhibit K](#) is written testimony dated March 31, 2021, presented by LaLo Montoya, Organizer, Make the Road Nevada, in support of [Assembly Bill 303](#).

[Exhibit L](#) is written testimony dated March 31, 2021, presented by Verania Rebolledo, Organizer, Make the Road Nevada, in support of [Assembly Bill 303](#).

[Exhibit M](#) is a letter dated March 31, 2021, submitted by Bianca Balderas, Political Organizer, Make the Road Nevada, in support of [Assembly Bill 303](#).

[Exhibit N](#) is a letter to the Assembly Committee on Commerce and Labor, presented by Nick Vander Poel, representing Reno + Sparks Chamber of Commerce, in opposition to [Assembly Bill 303](#).

[Exhibit O](#) is written testimony dated March 31, 2021, submitted by Shannon M. Chambers, Labor Commissioner, Office of Labor Commissioner, Department of Business and Industry, in neutral for [Assembly Bill 303](#).

[Exhibit P](#) is a proposed conceptual amendment to [Assembly Bill 246](#), submitted by Assemblyman Edgar Flores, Assembly District No. 28.

[Exhibit Q](#) is a letter dated March 31, 2021, submitted by Michael Gittings, President, United Food and Commercial Workers Union Local 711, in support of [Assembly Bill 246](#).

[Exhibit R](#) is written testimony dated March 31, 2021, presented by Chris Daly, Deputy Executive Director, Government Relations, Nevada State Education Association, in support of [Assembly Bill 246](#).

[Exhibit S](#) is written testimony dated March 31, 2021, presented by Amber Stidham, Vice President, Government Affairs, Henderson Chamber of Commerce, in opposition to [Assembly Bill 246](#).

[Exhibit T](#) is a letter dated March 31, 2021, submitted by Victoria Carreon, Administrator, Division of Industrial Relations, Department of Business and Industry, in neutral for [Assembly Bill 246](#).

[Exhibit U](#) is a letter dated March 31, 2021, submitted by Cathy Brooks, Owner, The Hydrant Club, Las Vegas, Nevada, in opposition to [Assembly Bill 246](#).

[Exhibit V](#) is a letter submitted by Shannon M. Chambers, Labor Commissioner, Office of Labor Commissioner, Department of Business and Industry, in neutral for [Assembly Bill 246](#).