

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

**Eighty-First Session
February 10, 2021**

The Committee on Government Affairs was called to order by Chair Edgar Flores at 9:01 a.m. on Wednesday, February 10, 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:

Assemblyman Edgar Flores, Chair
Assemblywoman Selena Torres, Vice Chair
Assemblywoman Natha C. Anderson
Assemblywoman Annie Black
Assemblywoman Tracy Brown-May
Assemblywoman Venicia Considine
Assemblywoman Jill Dickman
Assemblywoman Bea Duran
Assemblyman John Ellison
Assemblywoman Susie Martinez
Assemblyman Andy Matthews
Assemblyman Richard McArthur
Assemblywoman Clara Thomas

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Erin Sturdivant, Committee Counsel
Judith Bishop, Committee Manager
Geigy Stringer, Committee Secretary
Cheryl Williams, Committee Assistant



OTHERS PRESENT:

Aaron Ford, Attorney General

Christine Jones Brady, Second Assistant Attorney General, Office of the Attorney General

Kyle E. N. George, First Assistant Attorney General, Office of the Attorney General

Heidi Parry Stern, Solicitor General, Office of the Attorney General

Jessica Adair, Chief of Staff, Office of the Attorney General

Shannon Chambers, Labor Commissioner, Office of Labor Commissioner,
Department of Business and Industry

Evelyn Pacheco, Founder, Nevada Women in Trades

Chair Flores:

[Roll was taken. Committee rules and virtual meeting protocol were explained.] We have two great folks who are very familiar with our Committee presenting today. We are going to take the agenda in the order that it appears. I would like to open the presentation from our very own Attorney General Ford.

Aaron Ford, Attorney General:

It is so great to see all of you. Many of you I know that I have served with; many of you I do not know, but I have seen you around. Congratulations to all the new Assembly members on your wins, and I am looking forward to working with you.

I want to acknowledge those who are on the screen with me. I am going to ask them to show their videos. I have with me in Carson City my second assistant, Christine Jones Brady. I have in the Office of the Attorney General in the south, my first assistant, Kyle George, and my chief of staff, Jessica Adair. On her own screen, I have my solicitor general, Heidi Parry Stern. That is my executive team. We have one vacancy in my executive team, my general counsel position, because we were fortunate to have a fantastic two-year tenure with Rachel Anderson, who is a full professor at University of Nevada, Las Vegas, Boyd School of Law. She offered to give me two years. I took it, and she has now returned. So, we are now hiring for that particular position. I want to introduce them to you because—except for Christine Jones Brady, they do not know this—I am going to have them read their portion to you because they are responsible for so many aspects of this office, and it is important for you to get to know everybody on my team who helps to make certain that we have an Attorney General's Office that uses the hashtag #ourjobisjustice as what it is that we do.

Thank you for the opportunity to provide an overview of the Office of the Attorney General. My office consists of nearly 400 dedicated and hardworking individuals committed to enforcing Nevada law and upholding justice for the protection and benefit of all our residents.

As the state's chief law enforcement officer, the Attorney General's Office represents the people of Nevada before state and federal trial and appellate courts in criminal and civil matters; we serve as legal counsel to state officers; legal counsel to state departments, most

state boards and commissions; and we work with our local, state, and federal law enforcement partners to protect the public.

In addition to my written testimony [[Exhibit C](#)], I have provided Committee staff with an agency organizational chart [[Exhibit D](#)] and a copy of the agency's Biennial Report [[Exhibit E](#)], which was submitted to the Office of the Governor and released publicly on September 1, 2020. While that report goes into significantly greater detail, I would like to highlight a few key accomplishments of the Office of Attorney General over the last two years of my administration:

- We responded to a global pandemic to minimize the loss of life in Nevada, assisting state agencies and thousands of Nevadans who called our office for help.
- We saved over 1.2 billion taxpayer dollars by vigorously defending the state and providing quality client advice.
- We secured tens of millions of dollars in settlement funding and federal grants.
- We investigated and prosecuted and defended appeals against those who seek to harm Nevadans, including murderers, abusers, and scammers.
- We provided robust constituent services to Nevadans seeking assistance, receiving over 50,585 written inquiries; and
- We sponsored laws to protect Nevadans. During the last legislative session, 14 bills sponsored by my office were signed into law. All 14 bills received strong bipartisan support. I look forward to working with you all again this year to pass laws to improve the lives of Nevada families.

Every Attorney General brings his or her own perspective as to how to protect and improve the lives of Nevadans. The overarching theme that I have brought to this office and that I have used to set the intention of our work is "Our Job is Justice." That is justice for all. This guides my decision making, and I have also framed my administration by a set of policy priorities. These priorities do not override our statutory obligations, but rather serve as a lens through which we view our work. I refer to these priorities as the "five Cs." If you were to ask anyone in any of our offices around the state what my five Cs are, they could articulate them because they absolutely help to define what it is that we do here. Those five Cs are: constitutional rights and the protections thereof, criminal justice reform, consumer protection, client service, and community engagement. Each of these Cs serves as the moral compass to guide the ways our office can serve Nevada.

Our office is composed of several divisions with specific assignments related to the Attorney General's statutory responsibilities and the administration of the office. I would like to turn to some of those divisions in more detail. To explain the component of seeking justice for Nevadans through her lens, I would like to offer my second assistant, Christine Jones Brady, the microphone so she can explain to you the division that she operates and manages.

Christine Jones Brady, Second Assistant Attorney General, Office of the Attorney General:

Several divisions are dedicated to one of the most sacred responsibilities of the office: seeking justice for victims of crime and protecting vulnerable Nevadans.

Our Criminal Prosecution Division is headed by Chief Michael Kovac. The Criminal Prosecution Division prosecutes financial fraud, including scams, insurance fraud, workers' compensation fraud, securities fraud, mortgage fraud, sex trafficking, cybercrimes, public integrity cases, and crimes that occur in Department of Corrections facilities. In the past two years, this division has charged several murder cases, including the 1979 murder of a Reno woman in a case thought to have gone cold, elder abuse murders, and killings in Nevada's prisons. We have prosecuted hundreds of cases from child sex trafficking, to scams and fraud, to animal abuse. In state fiscal years 2019 and 2020, the Workers' Compensation and Insurance Fraud units filed 389 prosecutions and had nearly \$1.5 million in restitution and costs awarded to the state.

As a prosecuting agency, it is particularly important to me that when it comes to criminal justice reform, we do not just talk the talk, but we walk the walk. Our office has adopted new internal policies to ensure that our charging decisions and bail requests are appropriate and ethical. We incorporate the victims' wishes whenever practical, and we seek justice, not vengeance.

The Post-Conviction Division is headed by Chief Heather Procter. The Post-Conviction Division handles petitions for habeas corpus in state and federal courts. The division is also responsible for representing the state in death penalty appeals. In the past biennium, the division handled 11,666 federal habeas cases and 5,797 state habeas cases. This division is also responsible for implementing the law passed by this body last legislative session to compensate those Nevadans wrongfully convicted of crimes they did not commit.

Medicaid Fraud Control Unit (MFCU) is headed by Chief Andrew Schulke. The Medicaid Fraud Control Unit investigates and prosecutes fraud by health care providers in the Nevada Medicaid Program. For the past biennium, the Attorney General's Medicaid Fraud Control Unit opened 80 investigations, closed 67 investigations, and has successfully prosecuted 34 criminal cases involving fraudulent activities by companies scamming the Medicaid system. In the process, the division recovered \$13,510,403 for state fiscal years 2019 and 2020. The MFCU also reviews reports of abuse or criminal neglect of patients in facilities that use Medicaid. This unit focuses on community engagement, partnering with medical schools to train students on how to identify signs of elder abuse and neglect.

The Bureau of Consumer Protection is headed by Chief Ernest Figueroa. The Consumer Protection Bureau diligently works to protect Nevada consumers from economic harm. The division has four primary areas of focus: 1) advocacy for ratepayers before the Public Utilities Commission and Federal Energy Regulatory Commission to ensure ratepayers receive reliable utility service at a reasonable cost; 2) protecting consumers through enforcement of the Nevada Deceptive Trade Practices Act; 3) prevention of unfair markets through enforcement of the Unfair Trade Practices Act and federal antitrust law; and 4) administration of the Home Again Nevada Homeowner Relief Program.

In the past two years, this division has been responsible for bringing tens of millions of dollars to the state as the result of settlements with companies that violated Nevadans' consumer rights, such as consumer data breaches. Of note, we negotiated a settlement in the T-Mobile merger to guarantee that every T-Mobile job in Nevada will stay in Nevada and employee bargaining rights will be protected. Additionally, T-Mobile will offer a low-cost plan for Nevada's consumers and build out coverage for rural Internet service.

This team is also responsible for responding to thousands of COVID-19-related complaints, such as price gouging, failure to issue refunds, illegal evictions, and scams. The Bureau of Consumer Protection also represents ratepayers before the Public Utilities Commission, saving them from increased utility costs especially due to the fiscal impact of the pandemic. This includes litigating a general rate case before the Public Utilities Commission resulting in a \$120 million credit to ratepayers in southern Nevada. Consumer protection staff also help Nevadans protect themselves from scams through community education and outreach programs.

The Investigations Division is headed by Chief William Scott Jr. The Attorney General's investigators work directly with our prosecutors and local and federal law enforcement partners to investigate a wide array of criminal activities. Since January 2019, the Investigations Division has received over 8,000 complaints, completed over 1,000 investigations and referred over 530 cases for prosecution, arrested 246 subjects, and recovered 81 missing children.

Additionally, the Attorney General's Office provides vital support to Nevada through multi-jurisdictional task forces such as the Internal Revenue Service Financial Fraud Task Force, the Child Exploitation Task Force, the Health Care Fraud Task Force relative to opioid-related matters, the Southern Nevada Human Trafficking Task Force, the Elder and Vulnerable Person Investigation Task Force, and the Federal Bureau of Investigation's Joint Terrorism Task Force. The Investigations Division has also focused on engaging with the local community to better foster relationships and trust with the people we serve.

Aaron Ford:

Thank you, CJ. Ms. Brady joined us soon after I was elected. She was formerly a public defender and has been an integral asset in all that we do in the divisions that she oversees.

Let me speak about the Ombudsman for Victims of Domestic Violence whom we have here in our office, Nicole Reilly. Nevada holds the unacceptable distinction of being one of the worst states for domestic violence. You all probably knew that. The Domestic Violence Ombudsman serves as a liaison with all state and local partners on issues related to domestic violence, sexual assault, and human trafficking. The ombudsman serves as a state-level coordinator with oversight of many programs and initiatives, including the statewide Committee on Domestic Violence and Nevada Victim Information and Notification Everyday (VINE). Nevada VINE is a statewide, automated system that allows victims to receive timely, accurate information on the custody status of offenders. Jessica Adair, my

chief of staff, may want to offer more insight on that. She is also very instrumental in all that we do in this arena.

Next, I will speak about a division that was begun by my predecessor, Adam Laxalt. To his credit, it was a fantastic initiative and my administration continued it. It is the Office of Military Legal Assistance (OMLA), run by Special Assistant Attorney General Nicolo Danna. The Office of Military Legal Assistance provides pro bono legal advice for veterans and military families in civil matters and is the first of its kind in attorney general's offices across the nation. In fact, it has become a blueprint that many have copied over the course of the last few years. Since the program's launch in November 2015, and with the assistance of our pro bono legal aid partners, the OMLA has helped over 3,650 service members and veterans. Even during the pandemic, the OMLA continued operating virtually, particularly assisting military families facing evictions.

I would like to introduce to you my first assistant; Christine Jones Brady is my second assistant and Kyle George is my first assistant, but that is only because I had to use numbers. They are equal and on par, and they have very important roles within our office. I offer Kyle the microphone to talk about representing our state.

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

The Office of the Attorney General (OAG) represents all constitutional offices and state Executive Branch agencies, as well as many statutory boards and commissions. The attorneys within these divisions have a broad range of expertise, including the fields of state and local taxation, business law, regulatory law, election law, employment law, constitutional law, and civil litigation. It is in these divisions that Attorney General Ford's priority of client service is paramount, although staff often find ways to incorporate other priorities as well, including protection of constitutional rights.

Our Gaming Division is led by Chief Darlene Caruso. The staff of the Gaming Division advise the Nevada Gaming Commission, the Nevada Gaming Control Board, the Nevada Athletic Commission, and the Gaming Policy Committee. In addition to daily legal advice, staff also represent the board and commission at monthly public meetings. Litigation in this division includes disciplinary actions brought against gaming licensees, disputes regarding taxes and fees, hearings on the surrender of gaming licenses, and actions to add to the list of excluded persons.

Our Boards and Open Government Division is led by Chief Rosalie Bordelove. The Boards and Open Government Division provides counsel to all *Nevada Revised Statutes* (NRS) Title 54 occupational licensing boards on administrative law and procedure, administrative rulemaking, the law of licensure, and the Open Meeting Law. Deputies in the division attend meetings of the boards and commissions, as well as serve as prosecutor and board counsel in disciplinary proceedings against licensees. Staff are also responsible for enforcing the Open Meeting Law for all public bodies.

The Government and Natural Resources Division is led by Chief Gregory Ott. This division serves client agencies and officials responsible for providing core government infrastructure, such as the Controller, the Department of Administration, the Nevada Indian Commission, and Public Employees Retirement System. The Division also serves agencies responsible for managing and protecting the state's natural resources and environment, such as the State Department of Conservation and Natural Resources, the Division of Environmental Protection, the Division of Water Resources, the Agency for Nuclear Projects, and others. Attorneys in this division helped come to a settlement agreement with the U.S. Department of Energy to remove plutonium shipped to our state without our consent.

The Health and Human Services Division is led by Chief Julie Slabaugh. Staff in the Health and Human Services Division serve as counsel to the Department of Health and Human Services (DHHS) and its many subdivisions. The OAG advises DHHS on some of the most critical matters to Nevadans, which include services at its Division of Health Care Financing and Policy (Medicaid), Division of Welfare and Supportive Services, health, mental health and developmental services, Aging and Disability Services and the Division of Child and Family Services. As you can imagine, this team has been absolutely critical to the state's COVID-19 response over the past year.

The Personnel Division is led by Chief Cameron Vandenberg. This division advises Executive Branch departments, divisions, and agencies on employment law, including administrative hearings regarding discipline of state employees; judicial review of administrative proceedings; resolution of grievances before the Employee-Management Committee; and litigation in state and federal court regarding the employment relationship.

Our Public Safety Division is led by Chief Randy Gilmer. The Public Safety Division advises the Department of Corrections and provides representation in all inmate-related litigation, including property and constitutional claims. Staff in this division also participate in the inmate mediation program, a unique program of alternative dispute resolution for inmates.

The Transportation Division is led by Chief Dennis Gallagher. This division advises the Transportation Board of Directors and the many divisions of the Nevada Department of Transportation. Staff in this division provide counsel on many complex transportation matters. Attorneys in this division also represent the Department of Public Safety and its many divisions, including the Division of Parole and Probation, as well as the Department of Motor Vehicles.

The Business and Taxation Division is led by Chief David Pope. This division provides daily legal advice to the Department of Taxation and the Department of Business and Industry and its 11 divisions, including the Divisions of Real Estate, Mortgage Lending, Insurance, Financial Institutions, the Taxicab Authority, the Nevada Transportation Authority, the Labor Commissioner, Consumer Affairs, Housing, Industrial Relations, and Occupational Safety and Health Administration. Attorneys in this division also enforce the tobacco Master Settlement Agreement and its compliance program to prevent underage

smoking. Staff from this division also represent the newly created Cannabis Compliance Board and prosecute violations of cannabis licensees.

Aaron Ford:

Kyle George joined this office soon after I got here as well, with varied experience including as a prosecutor in Mineral County, a congressional staffer, a doctoral student in chemistry; he has a great background and offers a lot to the offices. Thank you so much, Kyle.

I would like to introduce you to Heidi Parry Stern. I have known her longer than anybody in this office, twenty years. She and I were both clerks for the United States Court of Appeals for the Ninth Circuit here. She is my solicitor general and a very big part of this office.

Heidi Parry Stern, Solicitor General, Office of the Attorney General:

Good morning. The Office of the Solicitor General oversees all appeals before the Nevada Court of Appeals, the Nevada Supreme Court, and the Ninth Circuit Court of Appeals. It also houses the Complex Litigation Division, which is a team of highly specialized and experienced attorneys who work with staff in all divisions on complex matters or cases that expose the state to great financial liability.

Aaron Ford:

She read a small paragraph from the overview [[Exhibit C](#)], but believe me, she has been one of the busiest in our office, especially during COVID-19. I talk about having five Cs; that sixth C that I did not introduce that was thrust upon us, is COVID-19. Heidi Parry Stern's group, the Office of the Solicitor General, especially the Complex Litigation Division, has been very busy. Thank you so much, Heidi.

I would like to introduce you now to my chief of staff, Jessica Adair. I have a lot of bosses here in this office—400 to be exact—she is probably the bossiest, but that is because she has a lot to do.

Jessica Adair, Chief of Staff, Office of the Attorney General:

I am proud to oversee our Administrative Division. The Office of the Attorney General is more than one of the largest law firms in the state—it represents a constitutional office elected by the people of Nevada to serve our state. The Office of the Attorney General has a lean yet efficient staff who support the daily functioning of a large agency. The Administrative Division includes information technology personnel, human resources staff, office managers, and legal secretaries dedicated to each legal division. The Communications team manages a robust public outreach program to help Nevadans protect themselves from crime and respond to media inquiries. The Constituent Services Unit is responsible for attending to all complaints, concerns, and questions sent to the Office of the Attorney General. Constituent Services Unit staff processed more than 18,000 emails and complaints in 2019 and over 32,000 emails and complaints in 2020. This does not include the thousands of phone calls and walk-ins to the office.

The Administrative Division also houses the Chief Financial Officer, who oversees fiscal analysts, tort claims administration, and the Grants Unit. The Grants Unit is currently administering seventeen grants for a total of nearly \$16 million. The Grants Unit manages several federal programs focusing on supporting victims of domestic violence and sexual assault, elder exploitation, and youth gang suppression. The Grants Unit has developed close relationships with local, state, and federal agencies, victim service providers, and others to administer grants across our state.

Aaron Ford:

Jessica Adair is very important to the office. She oversees every operation component that you can imagine. Thank you very much, Jessica.

Looking forward, it is clear that we, as elected officials, have a lot of work to do in order to build trust in the community. Our nation and our state are divided, and trust in our government is broken. Many of our neighbors trust what they read on the Internet more than the people who live in our communities and the people who are elected to represent them. As I have often said, as representatives of the government, there are three types of communities in which we must seek to build trust. We must augment trust in communities that have always believed in government. We must restore trust in communities that have historically trusted the government, but that trust has been broken. We must create trust in communities that have never trusted the government in the first place. In the next two years of my term as Attorney General, my special focus is to restore, augment, and create trust in this agency and the state. We will do so by doing our job to the best of our ability every day, providing the best client service, being transparent about our agency, following through on our commitments, always making decisions based upon what is in the best interest of Nevada, and when Nevadans are in need, we will continue to answer their call. Thank you very much for having me. I look forward to working with each of you. I am happy to entertain any questions.

Chair Flores:

Attorney General Ford, it is always a pleasure to have you here. I want to personally thank you and the folk around you, as you understand how important they are, for all the work they have done during this pandemic. There is no question that you all have been stepping up, doing great work in the community. I want to thank you for that. I know we still have a lot of work to do, but you are committed to that task. Thank you; we appreciate your service. We have a few questions.

Assemblywoman Black:

My question relates to the opioid crisis. According to an article in *The New York Times* on February 3, 2021, 49 of 50 states have settled with McKinsey & Company for their role in the opioid crisis, which, myself included, affects a lot of lives. In addition to the 49 states, Washington, D.C., and five territories all settled. Could you explain to this Committee why Nevada is the only state in the nation that did not settle this portion of our case, and do you know something about it that we or the other states do not?

Aaron Ford:

Absolutely. Assemblywoman Black, it is great to meet you, and congratulations on your win.

Let me take the second part of your question first. Yes, I know something about this case that you do not and that other states do not. That is that our state law is a lot more favorable for our being able to protect and provide abatement services to our citizenry, our residents, those who have been greatly affected by the opioid crisis. We are still in conversations with McKinsey & Company on this issue. What we would not do is take an amount that was insufficient to address the issues that were probably caused partially by McKinsey. Stay tuned, Assemblywoman Black, in that regard. If we are able to come to a settlement, we will do so. If not, we have a lawsuit pending that will include them, and we will be recovering after we win that lawsuit. I am entirely confident of that. Hopefully, that answers your question. Again, stay tuned.

Assemblyman Matthews:

I have a question regarding the Office of Military Legal Assistance (OMLA). I am glad to see you continue that program. I am glad to see that Mr. Nic Danna is continuing to work hard in that role. I know that one of the challenges that comes up often with our veterans community is information on how to gain access to some of the services that are offered to them. I am wondering what systems are in place in your office to make sure that our veterans are aware of the OMLA, whether they know how to access those services. Is there something that you do in conjunction with the Department of Veterans Services? What kind of communications apparatus do you have in place to make sure that our veterans know about this program?

Aaron Ford:

It is great to see you again, Assemblyman Matthews. You and I used to correspond quite frequently when I was in the State Senate and you were already at Nevada Policy Research Institute. Congratulations to you on your win as well.

I am going to elicit some support for this answer. I will say briefly, though, that we absolutely have partnerships throughout the entirety of our state with veteran-based organizations, pro bono-based organizations, and we do our own advertising. Mr. Danna, who still serves our country in the military, is great in this particular arena. Jessica Adair, my chief of staff, can offer some more insight.

Jessica Adair:

I am so glad you asked that because I like to talk about the Office of Military Legal Assistance. It is one of my favorite programs in this office. I am really proud of Special Assistant Nic Danna as well as our program manager, Brian McDonald, who has done yeoman's work developing this program and expanding it. One of the exciting things that we did prior to COVID-19 was develop a partnership with the Department of Veterans Services and with the U.S. Department of Veterans Affairs (VA). Specifically, when they have quarterly clinics where they go to the VA locations where veterans are already receiving

services, in partnership with the Department of Veterans Services, they set up fairs where people can come get information about a variety of services, as well as health care assistance, financial assistance, housing assistance, et cetera; not just pro bono legal assistance from the OMLA, but our Bureau of Consumer Protection attends also. Oftentimes, veterans are victims of scams specific to veterans and military families. It is really an exciting program because they have been able to work with the veterans community, here in Nevada and federally, to get all those services to the veterans.

In terms of public outreach, we work with our communications department as well as local media to advertise those clinics, and we are always available by phone. If anybody has a question of OMLA, they can call our OMLA staff directly; they will connect them with pro bono legal assistance or provide that legal assistance or offer a referral to resources that they may need that are not necessarily related to legal assistance.

Assemblywoman Torres:

Could you talk a little more about the allocation of the Violence Against Women Act (VAWA) Sexual Assault Services Formula Grant Program (SASP) and the STOP [Services, Training, Officers, and Prosecutors] Violence Against Women Formula Grant funds; how much of that is going into victim services?

Jessica Adair:

This is another one of my favorite things to talk about. I know that your attaché has been in touch with our grants manager on those programs specifically.

Our office is a statewide administrator for VAWA funding. It is a federal program grant. The way that it is different from a grant in which our office has to apply for and be awarded funding is that we are awarded VAWA funding every year so long as the state is meeting the terms of the grant, like every other state. That allocation from the federal government is essentially population-based. We receive our notification from the federal government that we have received that program grant every year. There are two different kinds of funding from VAWA. As you indicated, there are STOP and SASP grants; STOP is dedicated towards domestic violence funding and SASP is dedicated to sexual assault funding. Each of those grants is a little different in their terms and conditions as well as the specified amount that has to be given to different categories of grantees as determined by the federal government.

Once we get that amount, we put out a notice of solicitation. We announce that publicly through a press release. We also will advise service providers and law enforcement agencies across the state. There is a percentage of the STOP grant set aside to be awarded specifically to law enforcement agencies. After we put out the solicitation, we receive the applications. We also do webinars so our applicants are successful—these federal grant applications, as you can imagine, are very tedious and cumbersome—we do the webinars so they understand what a successful application looks like. Once we get all those applications, we have a committee of folks who are knowledgeable on these issues. That committee meets for about two days. We review all the applications. Using a scoring mechanism from the federal

government, we score all of the applications. After that, we make determinations as to who has submitted successful applications and, within the parameters set by the federal government, how much money we can distribute. I will note that both STOP and SASP are intended to be seed grant funding. A big part of the application is a grantee's ability to show that it is able to continue a sustainable funding mechanism beyond the life of that grant, which frankly can be very difficult for grantees, when they receive some funding for one year and then they have to go somewhere else to continue funding that program.

I would be happy to send you more information about that solicitation. I believe we will be putting that out in March. I was very happy to be part of the committee that reviewed those grants on the last go-around, and the STOP program, specifically, is a fantastic program, particularly for the state of Nevada where we have such high rates of domestic violence. Our service providers and law enforcement agencies across the state are doing incredibly groundbreaking work on these subjects. It is really exciting to be able to fund that work.

Assemblywoman Torres:

I would appreciate that information, at your convenience.

Assemblywoman Brown-May:

My question is relative to consumer protection and how it relates to eviction efforts. So many residents in Assembly District 42 whom I represent are really concerned about this issue. I know you have been very robust in responding to eviction issues. Can you share your philosophy and perhaps some of the great results that we can look forward to in the future, as well as what you have accomplished to date?

Aaron Ford:

Congratulations, Assemblywoman Brown-May, on your appointment. I am looking forward to working with you. When I was in the Senate, Assembly District 42 was in the northern part of Senate District 11, so I am very familiar with that district and that area. They are in very good hands with you.

I am going to answer that briefly, but I am going to offer my second assistant, Christine Jones Brady, the opportunity to add more because she oversees that division. We were busy. We were very busy, especially at the outset of COVID-19 when the Governor issued his eviction moratorium. We fielded tons of questions from apartment complexes that did not understand and from some that did understand but wanted to break the rules, and then also from landlords and tenants who were trying to find ways to work together. We kept a lot of people in their homes. It was hard to "Stay home for Nevada" when you had no home to stay in. So, the eviction moratorium was a very big component of what our Bureau of Consumer Protection had to oversee.

Christine Jones Brady:

One of the things we did, as Attorney General Ford indicated, was field a lot of calls. Our lines remain open to talk to people during this time. Our main goal initially was to support local law enforcement and local communities who were dealing directly with either people

who were objecting to their eviction or landlords who were trying to evict someone who maybe was breaking the law—there was a balancing act that we did. Our goal was not to arrest people, not to throw landlords in jail, or anything like that. Our goal was to serve as a community liaison, prosecute if we needed. I think we came away with one or two prosecutions of illegal evictions, but mostly we were trying to prevent evictions and encourage the landlords and the tenants to work together with law enforcement to make sure that people were able to remain in their homes during a very contagious period of COVID-19.

Aaron Ford:

I will wrap up this answer by also indicating that we gave \$2 million of emergency rental assistance funds to try to help people during this time period. We also put out information in English and in Spanish to try to help folks and moved these translations into other main languages in our state as well. We were actively involved and engaged to try to help folks with eviction issues, and we remain engaged at some level, although now it is more of a federal issue than it is for our state.

Chair Flores:

I think there is not a member on this panel who did not have the opportunity to hear from both sides of that conversation. It was so difficult for us to have to ensure Nevadans could stay home and at the same time make sure that landlords were not in a financial situation where they were at risk of a whole host of things that I think we still see manifesting now and we will see manifesting later. It is a hard line to walk, but we are doing the best we can.

Assemblywoman Anderson:

I have two questions. I am one of those weirdos who really enjoys reading the whole policy book. There is great information in the Biennial Report [[Exhibit E](#)]. The first question has to do with the page [page 21, [Exhibit E](#)] where your office stated that it looks like there are going to be more housing issues coming up with mortgage and possibly other sorts of litigation around that. Can you expand upon that, or is that something that is going to be coming attractions, and you would just want to let us know that it will be coming up a little bit more?

Aaron Ford:

This is predominantly a warning to let you know that this is coming. Helping to draft the report was Jessica Adair, but also involved in this conversation was Christine Jones Brady. I will give them an opportunity to chime in.

Christine Jones Brady:

Some of those numbers are estimates because they are relative to unemployment rates. There are some calculations that the division was able to make where, if there were so many people who have lost their jobs, then they could anticipate a certain number who would be at risk of losing their houses.

Assemblywoman Anderson:

That makes sense to me. The second question has to do with the COVID-19 responses. I want to bring up how much I appreciate the work that you all did on Open Meeting Laws and allowing meetings to be done virtually. Do you think that there are going to be some long-term changes that need to be made to Open Meeting Laws because of the lessons learned from this to allow for more accessibility for testimony via Zoom, et cetera? Or do you feel that the current language is appropriate?

Aaron Ford:

I am going to preface Kyle George's and Jessica Adair's responses. They work in this area. As a general matter, COVID-19 has taught us a few things about being efficient and being effective while having to work from home. We have had to do that. We remain essential to the assistance of Nevadans. The Open Meeting Law work that we did with the Office of the Governor and others to ensure that the state's work continues with a level of transparency was important in that regard. I will let my southern team speak up on this.

Jessica Adair:

I worked closely with first assistant Kyle George on this issue, and I do not want to steal the thunder of one of your fellow Committee members whom we have been working with on this particular issue, in particular any possible legislative solution. One of the things that we learned in terms of how we can do better is increasing transparency in the government by using virtual technology so that more people can participate in public meetings. We field many complaints when we have public bodies that meet in one physical location. Most of the state cannot travel to attend that physical meeting, there is not a means to attend virtually or telephonically, and sometimes that meeting happens at a time that is quite inconvenient for most of the public, either during the day or sometimes in the evening. If a person has children, they have to find child care in order to attend that meeting. So, we have actually had a really great experience with these public meetings meeting virtually. We want to ensure, for one, that even though we have virtual meetings, there is a mechanism for those who do not have Internet access to still participate in those meetings; two, that we have a mechanism to ensure public comment. That was one thing that public bodies had to figure out how to deal with at the beginning of this pandemic, especially when we did not have the technology that would accept public comment. The experience that we have right now in this legislative hearing is one that shows that we actually can use technology in a way that allows public participation. Anyone can watch from home or from work without having to travel to a part of the state that might be remote for them if they lived in eastern Nevada, for example.

Assemblyman Ellison:

Mr. Ford, I know you have worked really hard on a lot of these programs. I was on one or two of them. Can you tell us what is going to go on in the future with the people who are going after children? The truckers were helping; you were helping; and all these people are trying to stop the gathering up of children and moving them out of the country.

Aaron Ford:

I believe you are asking about human trafficking, is that right?

Assemblyman Ellison:

Yes. We have talked several times about human trafficking. I know that a lot of people have worked on this. You seemed to have taken this very personally and were following it really well. Can you tell us where you are going to go from here?

Aaron Ford:

I can offer some insight on that. I will also pick on Jessica Adair who has been recently engaged and involved in that area as well.

We have a criminal prosecutor here who works specifically in child exploitation issues to the extent it overlaps with sex trafficking, human trafficking, and children. She is actively engaged in that. We have an ombudsman officer as well who works, as I have indicated, not just on domestic violence but on human and sex trafficking as well. Two days ago, I filmed another public service announcement (PSA) with beer wholesalers; we are going to put out another PSA about how they can help us spot human trafficking going on in the areas in which they walk. Last week, I did a PSA with Uber, talking about sex trafficking so that they could see and be able to report instances when they see it going on. The truckers, as you have indicated—I have not worked with them as of late, but we have worked with them in the past and put out information as much as we could to help shed some light on the fact that it is taking place and to let them know what the warning signs look like. I have spoken to children, youth groups, on this issue. You are right, we are intimately and actively involved in trying to eradicate human and sex trafficking. Unfortunately, Nevada remains at the top of the list when it comes to that. I had a conversation—I will keep it to myself with whom—but we are looking for other local law enforcement to engage with community partnerships to effect this and address this as well.

So, that is what the future looks like. We will continue moving forward on trying to prosecute these cases, on trying to work on the, what we call, demand side of this, get in with pimps who oftentimes help lead us to the human trafficking side of things, and ensuring that we vigorously enforce the law in that particular arena. I have Jessica Adair who works with our ombudsman, I have Christine Jones Brady who works with our prosecutors, and I will give them both the ability to chime in if they would like to.

Assemblyman Ellison:

One other question before I get the other answer: Is there a way to increase the penalties for those who are caught exploiting children and women, to where they might think twice before they do this?

Aaron Ford:

I will answer that very briefly. That is on you all. That is on the Legislature to make a determination in that regard. I will say that there is a general consensus that these folks need to be punished. They need to be dealt with. So, to the extent there is an appetite for it, we can absolutely engage in a conversation around that. I believe that we attempt to do that as well. That is a great question.

Jessica Adair:

To the latter part of your question, we did have a bill last session that this legislative body passed that strengthened laws that dealt with the solicitation of children specifically. We were really excited to work with the Legislature last session on that issue. If you have another bill that addresses those subjects, we would be happy to talk to you about that.

One of the best parts of my job is working with our Ombudsman for Victims of Domestic Violence, Nicole Reilly. She is working very diligently across the state on this issue. The fact of the matter is that most trafficking occurs in our backyard, and most traffickers are our neighbors, unfortunately. So, that is really what we need to focus on. When Attorney General Ford talks about focusing on the demand side, that is one thing that Nicole Reilly and local law enforcement agencies have been working on. What we mean by that is focusing on the buyers, those who are seeking children. How we do that is through sting operations that, based on the bill that we passed last session, we are able to with online advertisements. We do not have to use any actual human child in order to do these sting operations. A law enforcement officer will post an advertisement, a person seeking that advertisement will show up at a house, and they are arrested. They have a wonderful operation in northern Nevada with the Human Exploitation and Trafficking team, and our office is part of that task force. They picked up 28 folks last fall who were specifically seeking children in northern Nevada. We are trying to expand that area where we have that task force to bring in other local law enforcement agencies. Of course, public information and outreach is a big part, so when people see signs of trafficking, something that does not quite look right, they know what to do and they know whom to call. That is a huge priority of this office.

Finally, in 2019 our ombudsman, working with other national groups on this issue, put together a law enforcement summit on human trafficking issues and human trafficking investigations. We did that summit here in Las Vegas, and then we did the same summit up north so that folks up north could attend. That summit was certified by the Nevada Peace Officers' Standards and Training so law enforcement officers could get continuing education credits for attending. It was a wonderful opportunity to start that conversation or continue that conversation with experts in this field. There are a lot of great law enforcement agencies who are working with us and victim service providers who are really interested in how we can continue to move this forward for this year.

Assemblyman Ellison:

I think that is important and I think the information, when we get it out to the public, is important. Mr. Chairman, I do not know of any bills that are available out there. I do not know if we can find somebody with a committee bill that could address this, but I think it is spreading dramatically across not only our state, but the country. So, it is something you might want to think about, or you might know somebody who could help us do that.

Aaron Ford:

The U.S. Interstate 80 corridor has proven to be a problem for us in this particular arena. We are absolutely open for discussions around this issue. We will remain involved in it. In years

past we have worked with the Sands Corporation, the Venetian. They sponsored a conference for us, or a gala and a fundraiser. COVID-19 did not allow us to do it last year, but we intend to continue working with them as well.

Chair Flores:

Assemblyman Ellison, there is likely a place where we can all sit down and have a conversation about this here in the Nevada State Assembly. I am sure there would be folk who would be willing to work alongside of you.

Attorney General Ford, thank you as always. Welcome home. Members, I encourage you to reach out to their office; they are incredibly accessible, and they have a lot of information to share. This is just the beginning of the conversation. With that, I close out the hearing from our Attorney General and open up the presentation by the Office of Labor Commissioner, Department of Business and Industry. Labor Commissioner Shannon Chambers, welcome.

Shannon Chambers, Labor Commissioner, Office of Labor Commissioner, Department of Business and Industry:

There is a lot to cover with the Office of Labor Commissioner. In the interest of time, there are some issues that I know typically come before the Committee on Government Affairs that I will focus on, but I wanted to give a big picture of our office and what we do and how we do it [page 2, [Exhibit F](#)].

The Nevada Labor Commissioner is responsible for the wage and hour laws in the state of Nevada. We enforce all the overtime, minimum wage, employment practices laws, and we also have a carve-out for breaks and lunches, making sure that employers and employees are following the law in those areas. We also are responsible for paid leave in Nevada, which came about last session under Senate Bill 312 of the 80th Session. I will talk about that later.

We have 20 total staff. To give you a perspective, we have had 20 total staff since 1999. We are a General Fund agency. That is one of the issues—we typically do not grow, but we always grow in responsibility. We have to work through those issues and do what we can to maximize efficiencies and effectiveness and investigations. We do not get to keep any fines or administrative penalties that we issue. So, if there is a perception out there that we are going after employers and we are fining them to keep the penalties or the money, we do not. It all goes to the General Fund. I just want to make sure that is clear to everybody.

We have three main responsibilities [page 3, [Exhibit F](#)]. We regulate private sector employment and—the topic that I am going to focus more on today in this Committee—we are responsible for public works projects, prevailing wages on public works projects, and the Apprenticeship Utilization Act, which came into effect starting January 1, 2020.

We also regulate private employment agencies, which are your temporary employment agencies, your LaborMax, your Manpower. We also license them. We have about 176 of those in the state right now. It is growing in the state of Nevada, mainly in northern Nevada with a lot of the giant warehouse companies and manufacturing companies moving to

northern Nevada and out to the Tahoe Reno Industrial Center. That is an active area, and we expect that to grow going forward.

I am not going to go through each and every single one of these [page 4, [Exhibit F](#)], but this will give you a big idea of how much responsibility the Office of Labor Commissioner has, with 20 employees and 9 investigators across the entire state. We have a lot of statutory and regulatory responsibilities. The one thing that was taken away in 2017 is apprenticeship. Apprenticeship is now under the Office of Workforce Innovation (OWINN) in the Office of the Governor, which manages the State Apprenticeship Council that moved to OWINN in 2017. For Committee members who are not aware, there is a budget proposal in play right now to move OWINN to the Department of Employment, Training and Rehabilitation. There has been some talk about moving the State Apprenticeship Council back to the Office of Labor Commissioner because of the Apprenticeship Utilization Act, and that might be something that gets discussed during this session.

I will just touch on these definitions [page 5, [Exhibit F](#)] very quickly. An employer in the state of Nevada is somebody who has control or custody, governs the place of employment and type of employment over an employee. An employee is somebody under that control and custody and is working in that location.

Independent contractors and how independent contractors are treated and whether they should be employees is a huge topic. It has been a huge topic for decades, and in the past four or five years it has been an even bigger topic. Last session, the Nevada Legislature passed Senate Bill 493 of the 80th Session, which created the Task Force on Employee Misclassification. We are now meeting and are going to develop a report to the Nevada Legislature that got delayed from last session due to COVID-19. I was on a call yesterday with the federal government, the United States Department of Labor. They are transitioning to a new presidential administration. That transition has already happened, but they have to fill the cabinet positions; there is a new U.S. Secretary of Labor who is going to come on board, Marty Walsh, and they have already stopped some of the Trump Administration's opinion letters, not only on independent contractors, but also on some of the issues involving tips. What I am trying to say about this issue is stay tuned, and the Labor Commissioner will continue to follow it. This definition [page 5, [Exhibit F](#)], however, is valid law. The definition you are looking at right here the Labor Commissioner does use along with the other legal guidance, not only from the state side and federal side—but essentially, an independent contractor is somebody who works for a person and performs a service for a fee but can govern when they work, how they work, the methods they work. I am simplifying it here, but this issue is a huge issue and probably could take up a whole hour; I definitely wanted to bring it to your attention. California passed Assembly Bill 5 (2019) a couple of years ago in an attempt to make individuals like Uber drivers and DoorDash drivers employees. Proposition 22 was put on the California ballot last year and the voters voted that down. I wanted to point that out and make sure that you are all aware of that, and we will continue to follow that from the Labor Commissioner's Office.

Minimum wage in Nevada is another big topic, and it is now a topic at the federal level. I will go through this very quickly [page 6, [Exhibit F](#)]. Prior to Assembly Bill 456 of the 80th Session, the minimum wage in Nevada was set forth in the *Nevada Constitution*, and it still is. So, A.B. 456 of the 80th Session and the *Nevada Constitution* work together. There is what is called the two-tier system, so if you offer health insurance you can pay the lower rate; if you do not offer health insurance you have to pay the higher rate. An employer cannot use tips to offset any of those amounts. So, unlike any other states and federal law, in Nevada, for any employee who receives tips, those tips cannot be used by the employer to offset the minimum wage.

Senate Bill 192 of the 80th Session defined what type of qualified health insurance had to be offered or made available. There are very specific requirements that employers have to follow when they are offering or making that health insurance available in order to pay that lower rate. Also, I want to make it very clear that all the employers have to do is offer; they do not have to provide the actual insurance. There was a case in 2016, the Hancock case [*Nevada Labor Commissioner v. Hancock* 132 Nev. Adv. Op. 76 (2016)], that was decided by the Nevada Supreme Court that said all the employer had to do to meet the intent of the *Nevada Constitution* and the intent of Assembly Bill 456 of the 80th Session is offer qualified health insurance.

The other issue that Assembly Bill 456 of the 80th Session took care of was exemptions to the minimum wage that were put in statute by the Nevada Legislature [*Nevada Revised Statutes* (NRS) 608.250]. The Yellow Cab case [*Thomas v. Nevada Yellow Cab Corporation* 130 Nev. Adv. Op. 52 (2014)] said, No, you cannot have any exemptions to the minimum wage in statute. The only valid exemptions are those in the *Constitution*, which are: a worker under the age of 18; workers employed by a nonprofit for after-school or summer employment; or a trainee. There is also an exemption for collective bargaining agreements. Typically, a collective bargaining agreement has a higher minimum wage rate anyway; that is why there is the exemption to the minimum wage in the *Constitution*.

This is what Nevada's minimum wage looks like right now, as of 2020 [page 7, [Exhibit F](#)]. The new rate will go into effect July 1, 2021, and then as you can see, it will go up each July. The Labor Commissioner publishes a bulletin every April telling Nevada employers that the minimum wage rate is going to go up in July, here is exactly what it is going to be. We will start that process again this April and notify Nevada employers what the increase is going to be. We will also be watching the federal side of things. Part of the Biden stimulus plan is a potential increase in the minimum wage. We will watch that and see what ultimately gets passed and how that may impact these rates. The language in the *Constitution* says if the federal rate goes higher than the current state rate, then the federal rate would be what is applied. So we will continue to watch that issue.

Nevada is also unique—I hate to keep using that term, but we are. Our minimum wage is tied to daily overtime. We have this formula in Nevada statute that says that if you are making less than one and a half times the minimum wage, you qualify for what is called daily overtime. That is for work over 8 hours over a 24-hour period. So, there is a lot of clarification that we have to give employers on this issue because the federal standard for overtime in most of the other states is over 40 hours in a week. Nevada is again unique with this over-8-hours in a 24-hour period. We sit down with employers and go through their schedules and explain to them, depending upon if they are offering health insurance or not offering health insurance, if their employee is making less than \$12 per hour or less than \$13.50 and working more than 8 hours within a 24-hour period, they may have to pay daily overtime. Since I have been the Labor Commissioner and going back to 2015, there has been discussion about potentially revising or eliminating the daily overtime requirement in Nevada. The last bill that tried to do that was in 2015 with Senate Bill 193 of the 78th Session, which ultimately did not pass. I want to bring that to all your attention.

The four-tens (4/10) exception we do allow; as long as employers and employees work a consistent 4/10 schedule, that is absolutely allowed. With the COVID-19 public health crisis, we are seeing a lot more of the 4/10 schedules and a lot more of the flexible 3/12-type of schedules, and the Labor Commissioner does not have any issue with those types of things as long as the employees are being paid what they are owed and as long as overtime is being paid, depending upon the over 8 hours or over 40 hours in a week.

I will go over these [page 9, [Exhibit F](#)] quickly to get to the public works side of things. We also enforce many of the labor practices in the state of Nevada:

Record keeping. In Nevada, you have to keep basic records of employees and wage data for two years. There have been previous proposals to increase that to five years. That has not happened. Deductions. We also enforce deductions in the state of Nevada. Nevada has a very strict requirement that you cannot take a deduction out of an employee's paycheck unless it is for a specific pay period, purpose, and amount. The term "blanket deduction" does not work in Nevada. If you have insurance deductions or child care or child support that you owe, we will follow a court order or some type of an official document so that an employer does not have to do that every single paycheck, but the goal of this provision is so that employees know exactly what is coming out of their paycheck.

- Breaks and lunches. We enforce breaks and lunches in the state of Nevada. Employers can request a waiver of breaks and lunches as long as it is in writing and the employees agree to it. We do grant those, and in the time of COVID-19 we are seeing a lot more requests to waive breaks and lunches. People will either want to work and get home, or they want to pick up more hours, so we are more than willing to look at those requests and to grant exceptions when it is appropriate.
- In Nevada, if you are terminated by the employer, the employer has to issue your paycheck within three business days. If you resign or quit, your paycheck has to be issued within seven business days. In COVID-19, we are seeing a lot of issues with employers terminating employees and their paychecks not being issued within those three business days. We try to work with employers. Some of them are having valid

financial issues; some just do not quite know what they need to do, so we try to do as much education as we can and make sure that they comply with those requirements.

- We do also enforce the semimonthly payday. We are seeing some delays in that as well in businesses and companies that went from being open, to being shut down, to being open again, to being at 25 percent. So, again, we try to work through some of those issues with the employers, try to make sure that they absolutely follow the law, but certainly also do understand that there are definitely some financial considerations sometimes that go into what is going on here, and with businesses reopening and shutting down.

These were the labor and paid leave bills that impacted the Labor Commissioner last session [page 10, [Exhibit F](#)]. This is not all of them.

- Paid leave in Nevada. Starting January 1, 2020, employers in Nevada with 50 or more employees now have to provide paid leave. To make it clear, it is not sick leave, it is called "paid leave" in the statute. The law started out as a paid sick leave bill and ultimately, when it was passed, ended up as a paid leave bill. I just want to make that clear—a lot of people still think it is a paid sick leave bill; it is not—it is a paid leave bill. That bill provided some exemptions for employers that are already providing paid leave that met the minimum requirements of the new law, so there was some trade-off there, but paid leave is a big topic on the federal side: potential new emergency federal paid sick leave. The previous emergency paid sick leave on the federal side, the Families First Coronavirus Response Act, expired December 31, 2020. Employers can still do that, it is optional; but the Labor Commissioner is going to keep watching that issue to see where that goes.
- The marijuana testing bill. We essentially took over enforcement of that bill. That has to do with certain positions and whether an employee can be denied employment for testing positive for marijuana. It depends on the position, whether it is a safety position or operating equipment, but we have enforced that bill and we have had around ten complaints involving that bill that we have resolved.
- Reporting sick time. This was a bill that basically said if you call in sick, your employer cannot make you come to the office to prove you are sick. That is all that I am going to say about that bill.
- I have talked about Assembly Bill 456 of the 80th Session and the increase to the minimum wage.
- There is also a joint resolution [Assembly Joint Resolution 10 of the 80th Session] that is still out there to increase the minimum wage that could be passed in 2024 and put to a vote of the Nevada voters.
- Senate Bill 192 of the 80th Session, I mentioned. That was the requirement for qualified health benefits.
- There is the Employee Misclassification Task Force. That was Senate Bill 493 of the 80th Session. As I said, we had our first meeting January 25, 2021. That task force did not get appointed until the beginning of November 2020. A lot of things got delayed because of COVID-19. We are going to be meeting again at the end of February 2021.

Bulletins and Guides [page 11, [Exhibit F](#)]. The Labor Commissioner is required by law to publish many different bulletins and guides for Nevada employers. We also expand upon that in a voluntary way to provide employers with guidance and information, and we do a lot of outreach. Pre-COVID-19, we were doing 30 to 40 seminars every fiscal year or every year. We are still doing those online, but we find that due to our staffing levels, the more education we can do up front providing Nevada employers with all the good information helps us in terms of not getting as many claims and complaints—because there are a lot of new employers in the state of Nevada and a lot of new employers from outside the state.

These are our required postings [page 12, [Exhibit F](#)]. Every single session since I have been Labor Commissioner since 2014, we get a new required bulletin, and we are more than happy to implement these requirements and to publish these bulletins. But this gives you an outline of every single required bulletin that an employer is required to post in its office for Nevada employees. We have been getting a lot of interesting questions from employers because of COVID-19 because people are not coming into the office. Where can I post these? Where can I send these to my employee who is teleworking or who is not coming into our office every day? The guidance we provided is to send these all as a link, and we have those links, have a form that the employees sign so they acknowledge that they have seen these and that they have been posted. We worked through that, and that seems to be working very well.

What happens when a claim or complaint is filed [page 13, [Exhibit F](#)]? The Labor Commissioner is bound by law to provide the employee with the right to file a wage claim and the employer to respond to that wage claim. An investigation then takes place and a determination gets issued. Both parties then have the right to respond to that determination. Depending upon how that process goes, the claim can be resolved very quickly, or the claim can go on, sometimes to an actual hearing before the Labor Commissioner; that is rare in your typical minimum wage or overtime case. Typically, what happens is employers either realize they have made a mistake or the employees realize that they made a mistake, and the issue is able to be resolved. The employee gets paid and the matter is resolved, and it stops there.

I want to make clear that there is a process to all of this, and the Labor Commissioner does not have any authority to shut a business down. Believe me, I get that all the time—Why can you not go out there and shut them down? Why can you not take their license? The Labor Commissioner does not have the authority to do that. We certainly report violations to the Office of the Attorney General and the Office of the District Attorney, but under the Office of Labor Commissioner, I do not have that authority. There was discussion of possibly providing additional authority to the Labor Commissioner to issue a cease and desist if we had an employer that had numerous wage claims or different things like that. That was discussed in 2015. That did not go anywhere. I want to make sure that the Committee knows what authority we have and what process we have to follow.

Public works and prevailing wage [page 14, [Exhibit F](#)]. This is typically something that would be heard and seen in the Assembly Committee on Government Affairs, and since I have been Labor Commissioner, I have done presentations to this Committee on this topic.

I have tried to update the Committee members on all the changes and laws every session. There are quite a few bills that impact public works and prevailing wage, such as last session's Apprenticeship Utilization Act.

To simplify it, every project currently in the state of Nevada that is over \$100,000 and is funded with public funds is considered a public works project. In 2019, Assembly Bill 136 of the 80th Session changed that amount to \$100,000 from \$250,000. The bill also included charter schools in the public works definitions, so if there is a charter school and the project is over \$100,000, it is now considered a public works project and the public body—in the law it is called the awarding body—who is actually building that project or awarding that project has to obtain what is called a public work project number from the Nevada Labor Commissioner. I am aware that there is a bill out there right now, Assembly Bill 99, that is to potentially change the public works project amount. Each session that I have been the Labor Commissioner, that is an area where some people have wanted to go higher, some people have wanted to go lower. Our office adjusts based on what gets passed by the Legislature.

The awarding body also has the duty to bid the project and use the prevailing wage rate in effect at the time the project is opened for bids. The Nevada Labor Commissioner calculates those prevailing wage rates, and the public body has to award the project using those rates. When they award the project, the contractors and subcontractors that are working on that project then have to file what is called "certified payroll reports." What they are certifying is that they are working on this project and that they are paying the correct prevailing wage rate for that particular job classification—they certify that under penalty of perjury. That gets submitted to the awarding body. In a typical situation, the project gets built, the issues are none, and everything goes fine. In the case where things do not go right and contractors, subcontractors, and awarding bodies do not follow the law, then it becomes a potential investigation before the Nevada Labor Commissioner or before that awarding body. So, there are two tracks that it can take, but I can tell you as Labor Commissioner, at least 90 percent of public works projects go just fine with no issues. The law gets followed and the schools get built and the road gets built and everything is fine. It is that 10 percent that causes a lot of issues and a lot of potential problems.

Contractors [page 16, [Exhibit F](#)] if you are working on a public works project, you have to follow public works laws. You have to pay the applicable prevailing wage rate for that job classification and for that employee. One of the issues that we see on public works projects and where a lot of the claims and complaints come from is potential misclassification of workers. I will just use this example because it is a valid example on a public project and is public record. There was a project where it was all vertical construction, so think of building a building going upwards. They were building a steel building and all the work that they were doing—at least 99 percent of it—was ironworker work. When the awarding body went to look at the certified payroll reports, they discovered that everybody was getting paid as a laborer and not as an ironworker. That turned into an investigation that came to our office. Obviously, we would go after the back wages, and then we have the ability to potentially issue any penalties and, worst case scenario, we can actually disqualify a contractor from

working on a public works project—on the first violation for three years, on a second violation for five years. In the past year, we disqualified five contractors. We do not take that decision lightly. It is typically something where we are looking at a contractor who has maybe had a violation several times or is actually doing something very intentional to try to get around the law. What is interesting about how claims and complaints come into our office is they can come in through the unions or trade organizations. They can also come from other contractors. The majority of the complaints we get are from contractors who are complaining about another contractor who is not following the law. It is always interesting, and that is just part of the process. The key point I want to highlight here—and we definitely have this conversation with the prime and the general contractors—is under Nevada law, if you have a subcontractor that does not pay its employees or does not pay them properly, then ultimately that prime or general, or what the law calls the "original" contractor, could be liable for all of those things. So, we really emphasize to contractors: know who your subcontractors are and know what they are doing because this can really put a contractor in a bad situation.

Prevailing wage [page 17, [Exhibit F](#)]. We calculate prevailing wage under the Office of Labor Commissioner. Senate Bill 243 of the 80th Session that was passed in 2019 changed that process a little bit. We used to do it county by county. What was happening was, depending upon the survey process, we were getting comments from a lot of the smaller counties that they were having to use the rate from Washoe County or the rate from Clark County. Senate Bill 243 of the 80th Session changed that process and established what are now called four "prevailing wage regions." You have two urban regions, Clark County and Washoe County; then you have what they call the Northern Nevada Rural Region, which is all the other counties in northern Nevada; and then you have the Southern Nevada Rural Region, which is all the other counties in southern Nevada.

The other thing that was changed is we do not calculate prevailing wage every year; we now calculate it every other year. We calculated it in 2019; we will now calculate it again in 2021. We do that through a survey process. We moved the survey process online starting in 2015. I sought some funding from the Nevada Legislature to make that process an online process, and that was approved. For perspective, by having the survey process online, we have gone from around 700 surveys during the prevailing wage survey period to over 1,500. More contractors are participating, more awarding bodies are participating, and that helps balance out the rate. Again, we will calculate those new rates in 2021.

- The school projects rate. That is gone. The 10 percent reduction in the prevailing wage rate on school projects happened in 2015. That was eliminated pursuant to Assembly Bill 136 of the 80th Session.
- I mentioned the charter schools. They are now considered subject to public works laws if the project is over \$100,000.
- If a project goes over 36 months, then an adjustment has to be made to determine what needs to happen, whether higher prevailing wage rates need to be part of a change order because the project has gone over 36 months.

Again, a lot of activity on the public works side and there always is. Last session brought a lot of changes to bring that public works amount back to \$100,000, bring in the charter schools, and change how we calculate prevailing wage.

Who is required to be paid the prevailing wage rate [page 18, [Exhibit F](#)]? Essentially, it is anybody who is employed at the site of the project who is necessary in the work of the project and who is actually at the site of the work of the project. One of the issues that we have had, and there is a case going on right now, is we occasionally will have a contractor who will set up a work yard or something just ten feet away from the actual public works project, and then say that they are not going to pay prevailing wage to all the workers working at that site because it is actually not on the project. What the law says is: if you establish anything specifically like a tool yard, a batch plant, a borrow pit, or any location that is established specifically for that public works project, you have to pay prevailing wage when that work is performed on that location. We do have a case right now that is going up to the Nevada Supreme Court on that very issue, and we will have to see what happens there.

The Labor Commissioner passed a regulation package last year that talks about service providers, and this is the best way I can describe it: if you are a Sani-Hut driver and you drive on the project and you drop off a Sani-Hut and you drive off, that is not what prevailing wage is intended to cover, so the Labor Commissioner specifically excluded those types of things and called them service providers. There was a bill last session, Senate Bill 340 of the 80th Session, that attempted to subject deliveries on public works projects to prevailing wage. That did not pass. The Labor Commissioner attempted to clean up that issue to say that if you are truly a service provider, then you are not entitled to prevailing wage.

The other issue with prevailing wage is Nevada has a requirement that you can offset the prevailing wage if you provide bona fide fringe benefits [page 19, [Exhibit F](#)]. I will make it simple. Let us say the hourly rate is \$40 and you provide \$10 in bona fide fringe benefits. You can take that \$10 off of the hourly rate because you are providing a bona fide fringe benefit. Assembly Bill 190 of the 80th Session defined what a bona fide fringe benefit was, because we had some situations where contractors were claiming bona fide fringe benefits, and we would do an investigation, and we would find out that the benefits were not actually going to the employee. So, A.B. 190 of the 80th Session attempted to define what a bona fide fringe benefit was. It also has an annualization requirement, meaning that you need to take out that bona fide fringe benefit the same every month. You cannot just do it on one project and not do it on another. That went into effect July 1, 2019. We have done a lot of education and training on what a bona fide fringe benefit is and how you have to report it and what you have to do to annualize it. Nevada absolutely allows an employer who is working on a public works project to claim bona fide fringe benefits.

Apprentices do not have to be paid the applicable prevailing wage rate [page 20, [Exhibit F](#)]. The reason for that is because they are an apprentice and the State Apprenticeship Council approves a specific rate for apprentices. It may be 40 percent of what the journeyman makes, or it may be 50 percent, depending upon what year of their apprenticeship they are in, but

they are exempt from being paid prevailing wage. The issue with apprentices is they do have to be registered in the state of Nevada. You cannot just call somebody an apprentice or call them a trainee; they have to be registered with the State Apprenticeship Council. We have had that issue with contractors who say they are apprentices, or that they have been their apprentices for five years, and we say, Are they registered? And they say, No. Well, technically, under Nevada law they are not registered apprentices. The Labor Commissioner does not handle the registration of apprentices or the registration of programs, but we do have to verify that registration piece in terms of the exemption for prevailing wage.

Design professionals are another exemption that is not something we see a lot of. They are typically your professional architects, land surveyors; most of those people are making more than prevailing wage anyway. That is an obvious exemption. I mentioned the service providers that we took care of with the 2019 regulation package. There are different rates for a foreman, general foreman, and journeyman on all these projects. Those are all set forth in our prevailing wage rate and are publicized so that everybody knows what they need to pay.

Similar to the complaint process for wage and hour complaints, there is a very specific complaint process for public works complaints [page 21, [Exhibit F](#)]. The unions, trade organizations, contractors—basically anybody off the street—has a right to file a complaint with the Labor Commissioner alleging violations of the public works and prevailing wage laws. When we get those complaints, there are two things we can do. We can investigate them ourselves or, according to the law, we can have the awarding body go out and do the initial investigation, and then we do the follow-up investigation. What is unique about the Labor Commissioner as well is that we have the ability to issue penalties against the awarding bodies. If we find that an awarding body is not following the law, the Labor Commissioner can conduct our own investigation and issue a penalty against an awarding body. We have done that. It does not go over well.

I will give you an example of that. The bidding process in a public works project is a public and open process. We have had awarding bodies who try to award contracts as sole source contracts. They may know a contractor, or their brother-in-law may be a contractor, so they award the contract to one contractor, and the other contractors do not get a chance to bid on that project. A complaint instantly gets filed with our office and we do the investigation. Depending on the findings, we could issue an administrative penalty. It goes through the process: investigation, determination, the parties have a right to file an objection, then it can go to a hearing. Depending upon the decision of the Labor Commissioner, it can then go to judicial review, and if nobody likes that decision, it can go to the Appellate Court and then all the way to the Supreme Court. These cases, if it is a big complaint, will typically go on for several years. That is why we try to emphasize to everybody that the faster we can address these issues while the project is ongoing, the better it is for everybody, because once we get in the court process these cases can take years to resolve. Unfortunately, when that happens, sometimes some of the workers are gone, sometimes the contractors are gone; so trying to go back to fix things is not as easy as it could be if things had been caught right up front.

Senate Bill 207 of the 80th Session, the Apprenticeship Utilization Act [pages 22-24, [Exhibit F](#)], came into effect January 1, 2020. The concept of apprenticeship utilization and trying to get more apprenticeships on public works projects—not just on public works projects but to expand apprenticeship in general—has been around since I have been the Labor Commissioner. That has been a big topic. It was a big topic under the Trump Administration. The U.S. Department of Labor issued what they call the State Apprenticeship Grants. Nevada received one of those. The Labor Commissioner did not get any of that money. This has been around since I have been the Labor Commissioner.

The Apprenticeship Utilization Act was introduced in the 2019 Session. It went through various conversations and various amendments. What was finalized was: if you have a horizontal construction project—think of a road—for every job classification or craft on that project—I will use for example laborers—if you have more than three laborers out there, then you are going to have to have 3 percent of those labor hours being worked by an apprentice. On vertical construction, it is 10 percent. The way this law is triggered is there have to be more than three workers of the same craft or type of work performed. If you have fewer than three, you are not subject to the Apprenticeship Utilization Act. The issue then becomes, what does "more than three" mean? What if I have four different people out there during the scope of the project, and there were never actually three at one time? That is not what three means. I went back and pulled the testimony about what more than three means. The sponsor of the bill, Senator Chris Brooks, said in his testimony that more than three is a crew of more than three for a specific period—a longer period of time, more than one day. The Labor Commissioner is looking at minimal work or periods where there were never actually four out there; it has to be a crew of more than three that is consistently performing work out there, day to day or week by week. I know that there are contractors and subcontractors who do not like some of the provisions of Senate Bill 207 of the 80th Session and that there is not a fine plane of does it have to be more than 40 hours or can it be 20 hours? I certainly appreciate those comments and that might be something going forward in regulation that we clarify, but the Labor Commissioner has really tried to put out a lot of guidance on this bill. We have created a lot of forms for this bill. We have created an entire website on this bill. I have issued three advisory opinions on this bill to try to help contractors and subcontractors comply with it.

The other unique feature of Senate Bill 207 of the 80th Session is it has a waiver process. A contractor can go to the awarding body and say, No, I cannot get any apprentices in this jurisdiction; or, There is no apprenticeship program in this jurisdiction; or, I talked to the apprenticeship program and they told me that there are no apprentices available. They can provide that information to the awarding body. The awarding body can then come to the Labor Commissioner who can grant a waiver from the Apprenticeship Utilization Act to that contractor. In 2020 we granted over 100 waivers from the Apprenticeship Utilization Act. Again, this can only be based on sufficient documentation that a request was made or that there simply were no apprenticeship programs within that jurisdiction. We are granting waivers, typically within 24 hours. We want to make sure that these projects move along and that contractors and subcontractors know that they either need to comply with this or they do not. That process seems to be working well. We have not had one single denial of the

granting of a waiver, and we have not had anybody appeal, which I consider to be a good thing. We try to make sure that all the documentation is in line before we grant a waiver. We are enforcing this bill. We have had some complaints and claims where contractors have not complied with this bill at all and have had more than three workers out there on the same craft week upon week. Then we get a complaint and we do an investigation, and then we take appropriate action after that. This bill is a very busy bill for our office, between questions and waiver requests and compliance questions, but we are managing it well. We have really tried to reach out to the contractors on all sides and with the awarding bodies to try to make this work.

To give you some statistics about our office [page 25, [Exhibit F](#)] for the past two fiscal years, July 1, 2018 through June 30, 2020:

- We processed over 6,929 wage claims.
- We collected over \$2 million in wages.
- There were over \$465,000 in penalties that went back to claimants.
- We had 170 prevailing wage claims, and we collected about \$700,000 in wages and about \$149,000 in penalties.
- Over 1,500 public works project numbers were issued.
- 148 Apprenticeship Utilization Act waivers were granted.
- Collecting administrative penalties and fines of \$373,000 was a record for us. When I started as Labor Commissioner in 2014, we were collecting zero. All that money goes back to the General Fund. As I said earlier, we do not issue penalties and fines to have it come to our agency; it goes to the General Fund. Anytime we do that, the employer always has the right to appeal.
- We licensed 171 private employment agencies; we are up to 176 now and expect that to grow.

To give you a perspective on the employment numbers [page 25, [Exhibit F](#)], which we get from the Department of Employment, Training and Rehabilitation (DETR), they are down on the private employment side by about 7.6 percent and on the construction side about 7.4 percent. The belief is that these are specifically tied to COVID-19 and that these numbers will go back up once we get through that whole issue. I am certainly not going to predict a time line on that. The interesting thing about our office is, as the economy grows, our wage claims go up; as the economy contracts, our wage claims go up. It is an interesting dynamic, but it is something that happens in our office.

I will go through these slides quickly in the interest of time. What have we done with COVID-19 [page 27, [Exhibit F](#)]? We put out a lot of bulletins to Nevada employers reminding them about Nevada employment laws and what they had to do. We have been doing a lot of outreach with various employee organizations and employer organizations to try to jump on calls to answer questions. It has been a very busy time for us just on the questions side.

We also issued a reminder [page 28, [Exhibit F](#)] that Nevada employers had to follow Nevada labor laws, that we had no authority to suspend those. Having said that, we obviously were

very reasonable, and are still being reasonable, with time lines and with people who either have had COVID-19 or knew somebody who did or whose business was closed. We are granting extensions and trying to provide as much ability for all sides to participate in the process. Our claim filings and our records requests are all online, so we really have not slowed down in processing any claims. Our office, under the Governor's directive, is not open to the public. However, we are scheduling meetings with claimants or employers by appointment if we need to do that, with social distancing. We have not stopped at all. That has been very effective, and up to 85 percent of our claims are filed online. I am very proud of that; that went into effect in 2015, and we were ahead of the curve on that.

We issued a telework guide [page 29, [Exhibit F](#)]. This has been very good. Believe it or not, there have been a lot of claims involving telework, things that employers did not think about as they had employees start teleworking. For example, we had a wage claim come in saying, I am having to print all these documents at home, and I had to buy printer cartridges. Should not the employer cover this? I bring that up as an example of some of the issues for employers and employees to talk about, to reengage in the employer-employee relationship, because a lot of this stuff is new. The more employers have policies and procedures, the better off it is right up front.

We also issued this guidance [page 30, [Exhibit F](#)]. There was a trend happening where, as businesses were starting to reopen, employers were asking their employees to sign release of liability agreements saying that they would not sue the employer if they got COVID-19, or they would not sue the employer if they were exposed to it. There is still a lot of discussion about this issue. Senate Bill 4 of the 32nd Special Session that was passed in 2020 provided some liability protections for public accommodations facilities, but—the bigger discussion—for entities that are outside of S.B. 4 of the 32nd Special Session, this is the guidance that we put out. The main one is not under our jurisdiction. You cannot require an employee to waive their right to workers' compensation. That is very specific in Nevada law.

We continue to put out guidance and bulletins. The most recent one that was just posted yesterday is about leave for vaccines. That is the next evolution as the vaccines become available. The question for the employer is, Are you going to require it? Are you not? If you are going to require it, you have to provide some type of leave for the employee to get it. If you are not, you still should have some type of a policy where you allow employees to either utilize leave or flextime to get the vaccines. There is going to be a lot more to come on that topic, probably not only at the state level but also at the federal level. That is the next step in COVID-19 guidance that has come from our office.

Here is all our contact information [page 31, [Exhibit F](#)]. I absolutely love interacting, whether it be with claimants or employers. The only time when I typically would not get involved is if there is an active claim or investigation where I may need to do the hearing. I am more than accessible; so is my staff. I will be more than happy to answer any questions and work with all of you. Thank you for the opportunity today. A lot of these topics I could do an hour on alone—I gave you the big picture. We have a lot to do in our office and enjoy doing it.

Chair Flores:

Thank you for that presentation, Commissioner Chambers. Before we start with our line of questioning, I want to set some parameters for members and preface it by saying, number one, this is not the only time we are going to have the Labor Commissioner here. We are going to have opportunities to speak with her, especially on bills that are being presented that relate directly to her purview. Number two, I also want to make it clear that she mentioned a host of bills that will be coming before this Committee at some point. I ask that you refrain from asking questions relating to those Committee bills. We will have ample time to fully vet those once they come before us. Lastly, we have a lot of folk who intend to ask questions, so I ask that you try to limit them. I do not want to restrain you to one or two, I just ask that you try to limit your questions so that we can give the opportunity for everybody to get them on the record.

Assemblywoman Anderson:

Commissioner Chambers, that is a lot of information. I have a quick question on page 6 [\[Exhibit F\]](#). You mentioned that under-18s might come under the minimum wage items. Is there any other work that you do with the under-18s? One thing I realized or noticed as an educator, I was seeing more and more of our high school students being expected to work more than the 40 hours or 30 hours; I cannot remember the amount of hours the federal law states that under-18s can work. Is this department also doing those investigations, working with that, or is it others who were working on it for under-18-year-old workers who are expected to work longer than the 30 hours as defined by the federal government?

Shannon Chambers:

We do govern the employment of minors in Nevada. In Nevada, you can work if you are 16 or older. However, you can only work in certain occupations, and I am happy to have a follow-up discussion with you about that. We started to see that issue with the schools being "closed in hybrid," so we did actually work with the U.S. Department of Labor to put out some guidance to Nevada employers that they still really need to follow not only federal laws but the Nevada labor laws when it comes to minors in employment. The other issue is a school that is hybrid is open. The Nevada law specifically says that if a school is open and the child is working more than 40 hours a week, you have to get special permission from the Department of Education, Superintendent of Public Instruction, or you have to get permission from a judge. We have seen that issue, and it seems to have gone down now that a lot of the kids are back physically in school, or the hybrid model is more accepted now. We do regulate that, and we will continue to monitor that going forward.

Assemblywoman Considine:

Commissioner Chambers, that is a lot of information, and it folds right into my question. You stated that you have had the same number of staff since 1990. Meanwhile, our population has expanded, lots of new employers have come into Nevada. You stated that you work with employers, which is fantastic, resolving issues instead of penalizing them for just learning what they are doing or getting information or opening that door for them to reach out to you. But I know that is very time intensive. So, my question is, what is the effect of not having additional staff? Does that mean that there is a lack of enforcement, that

the time line for enforcement is getting longer? Do you feel like you are responding as quickly as you could if you had more staff? Also, specifically for my district, I am hearing of issues going on right now about wage theft claims. Are those getting to you, especially during COVID-19, and are you able to respond to those? What is that level of response?

Shannon Chambers:

If we had more staff, we would definitely have more visibility and we would have more ability to monitor not only public works projects but specific industries. As you know, I am part of an administration and part of a director and we are a General Fund agency, so the ability to request positions has to go through a whole process. I commit to you that I am working on some things in our budget to try to get an additional investigator, but by moving things online we have really not slowed down in the processing of wage claims. If there are specific individuals or whoever you know whom you and I need to follow up on offline, who say their claims are not being processed, I am happy to look into that. We are resolving claims. We are up to 83 percent of claims being resolved within 90 days, so we really have not slowed down. Where I would like to have more of a presence is being able to have an investigator who can go out and actually visit the location or visit the employer. I would like more, but I do not think we are not doing what our statutory and regulatory responsibilities are.

Assemblywoman Considine:

If you are looking for an investigator to go out, does that mean that currently you do not have enough investigators to go out to do all of that research?

Shannon Chambers:

No, we are still going out. COVID-19 has limited some of that. We still do have investigators who go out in the field, but obviously more would be better. To put it in the context of public works and prevailing wage, I am talking over 800 projects a year with nine investigators. We have to be very strategic about where we visit and whom we visit, so if we did have more, that would be something that would be very helpful, and it would also be helpful to us to work with other entities such as the State Contractors' Board and the Division of Industrial Relations, Workers' Compensation Section, for all of us to coordinate together to go out and visit industries where we know there may be potential issues.

Assemblywoman Considine:

Thank you for the work that you do for both the employers and the employees.

Assemblyman Matthews:

Commissioner, you noted in your presentation that our employers are dealing with what you call "valid financial issues." I would say truer words have never been spoken. Nevada's minimum wage is set to increase in stages going forward. This is obviously going to be happening at a time when our employers and business owners are struggling to recover. We all know also that one of the effects of a minimum wage increase is it essentially serves as an increase to the cost of labor to an employer. I wonder whether your office has done or has

access to any kind of analysis of what the economic effects would be of these minimum wage increases in this COVID-19-recovery context that we find ourselves.

Shannon Chambers:

We do not specifically do any analysis of that. I am aware of that conversation since I have been the Labor Commissioner. My guess is now, with the discussion of the federal minimum wage potentially going up, there is going to be a whole new analysis on that. I am happy to try to find whatever I have seen on that issue and provide it to you, but we do not do that analysis. We just implement what the Legislature passes and try to educate the employers about it.

Assemblyman Matthews:

I know there has been a lot of activity recently regarding prevailing wage requirements. I am wondering, similarly, if your office has any evidence, or is aware of any evidence, that expanding prevailing wage requirements actually leads to an increase in construction quality.

Shannon Chambers:

We do not specifically do that analysis. Since I have been Labor Commissioner, I have seen the analysis on both sides of that issue: to your point and the other side, that it is better for workers and better for the economy. I will absolutely try to get my hands on whatever I can and provide that to you, but we do not do that in this office.

Assemblywoman Duran:

My question is concerning the regulation of the private employment agencies. Are they the major employer and is there regulation of the amount of money that they can charge a person for finding them a job?

Shannon Chambers:

They are considered the employer. So when somebody goes in and signs up at a temporary agency, that employee agency is considered the employer. There is a maximum that they can charge for finding somebody a job, and that is approved by the Labor Commissioner. The amount depends on the structure and the position, so there is not an exact answer. There is a cap. The cap depends on the position, and we do enforce that. Since I have been the Labor Commissioner, I have not seen a single claim where an employee paid to get placed somewhere and was not placed or had a problem or an issue—that could be a contractual dispute. Under the licensing statutes of the private employment agency statutes, the Labor Commissioner can issue a cease-and-desist order and can assess administrative penalties, and we do that. Typically, what we see is the private employment agency will place the employee somewhere and then the employer pays the private employment agency and does not pay the employee. It is an area that is active, as I mentioned earlier. The bigger issue is unlicensed private employment agencies. In northern Nevada, you can drive around on a Saturday saying, Come in, apply, we are hiring today. So we will go out and do spot checks on those to find out if they are licensed.

Assemblywoman Duran:

Are private employment agencies responsible also for regulations that you had on page 9 [\[Exhibit F\]](#)? Can they not take unauthorized deductions out of employee paychecks? Are they required by law to follow that as well?

Shannon Chambers:

They are required to follow all labor laws in the state of Nevada. There are these entities now—this is probably going to be a bigger discussion in this session—there are a lot of companies out there offering human resources services. They are in this world where they are not a private employment agency, but they are not a full-scale recruiter. I am planning on working on that issue with some legislators on some other legislation, but temporary employment agencies, which is what these are known as, are required to follow Nevada labor laws—and we do enforce those. Some of the biggest administrative penalties assessed since I have been Labor Commissioner have been against private employment agencies for not doing what you are mentioning.

Assemblywoman Duran:

I would appreciate any data that you can send to us, and I would like to be involved in the conversation, if I may.

Shannon Chambers:

Of course.

Assemblywoman Torres:

Thank you, Commissioner, for the presentation on the work that you all are doing. I have a question specifically about [S.B. 207 of the 80th Session](#). Interestingly, I just met with a constituent who works a lot with women in trades. We had a conversation about the State Apprenticeship Council's work. I am wondering what work this council has done to reach out to diverse candidates, including women and women of color.

Shannon Chambers:

That is not under my jurisdiction. I can put you in touch with that group. That is no longer under my office so I would not have that data, but I would be happy to put you in touch with the people who would.

Assemblywoman Torres:

That would be really appreciated. A second question—I recognize that the office is understaffed, as a number of my colleagues have called out. You all are doing quite a bit of work with a small team. I really appreciate the work that you are doing for our hardworking Nevada families. Have you looked at other co-enforcement models that would allow for unions to be a part of that process, or workers coalitions, or legal providers, so that we can have them take off some of that load?

Shannon Chambers:

Your questions are right on point. In January of 2020, which seems like an eternity ago, I was starting to have conversations about co-enforcement with some of the community groups and different organizations and the unions, and then COVID-19 happened, and that did not go anywhere. I certainly plan on bringing those conversations back. On the union side, especially in the construction trades, they work very actively with our office and are typically, besides contractors, the ones bringing complaints to our office, and they often perform the initial investigations of those cases, so that works very well. I would be happy to have a follow-up conversation with you as well about specific groups that we could partner with because I think your point is absolutely right on, and a lot of other states are having to do the same thing just because of resources and the budget situation.

Assemblywoman Torres:

I would appreciate any information on co-enforcement that can help us get ahold of these cases and manage them more quickly.

Assemblywoman Brown-May:

Thank you for the robust information that you have provided to us. My question is relative to the bulletins and guides and claim filing. How are we reaching multiple populations? For Spanish-speaking families that are very predominant throughout the Las Vegas area, the valley, and our entire state, and for people who are blind or visually impaired—how are we making sure that we have multiple languages and accessibility in all of our bulletins and communication? Please give us a little bit of information about that.

Shannon Chambers:

All of our bulletins and forms are in Spanish. I am the odd person out in my office in that I do not speak Spanish; all of my investigators in southern Nevada do speak Spanish. I also have a couple of individuals who speak Romanian and various other things. We do outreach as much as we can to different agencies serving the hearing impaired or blind. We are subject to the state rules in terms of our websites' compliance with the Americans for Disabilities Act (ADA); that is more of a resource issue. We try to comply with whatever the state mandate in ADA compliance is and what the Department of Administration, Enterprise Information Technology Services tells us to do. I cannot tell you anything specific that we have done, but we have all our bulletins and claim forms in Spanish versions, and we have a sufficient number of investigators who speak, especially, Spanish, and they are mainly in Las Vegas. I am happy to have a follow-up conversation if you have better ideas on how we could do that, and I would be happy to pass those ideas on to the state level, too, because we just follow what the state people tell us to do.

Assemblywoman Martinez:

How does the Labor Commissioner determine that a request to sacrifice breaks was requested by the employees and not the employer?

Shannon Chambers:

Request to waive breaks goes like this: we will get a request from an employer saying we want to waive the breaks and lunches for our employees, and everybody wants to do it. Then the follow-up question is, if everybody wants to do it, then they would be more than willing to sign something saying they know exactly that they are waiving their breaks and lunches and they know exactly what they are doing. Then we never hear from that employer again, because we always require that if an employer is going to do that, they have to document specifically the business need and they also have to document that every single employee signed and agreed to that. If that does not happen, we do not approve an exemption. Now, I am aware of employers doing this informally, outside of our office. We advise them not to do that; that you should always have something in writing and always have the agreement of the employee. We do grant those—it is probably up to about six this year—but we always require all the documentation to approve one.

Assemblyman Ellison:

You said in your testimony that most of the unions are bringing in the complaints, and that they then are doing most of the investigations. Is that not putting the fox in the henhouse? We are still a right-to-work state.

Shannon Chambers:

To clarify, I did say that the unions can bring complaints. Many of the complaints they bring, they have already done an investigation on. That does not mean that we do not do an investigation to see if the claim they are bringing is valid or not valid. That is definitely a legal requirement in our office, but under Nevada law, the unions and the trade organizations—and as I have said before, really anybody—have the right to file a complaint with the Labor Commissioner. Then we look at that claim and do our own investigation after that. I certainly do not want you to feel that we just take the union investigation and do whatever the union says. Believe me, I have been sued enough in this job because I did not do what the union said. We definitely go the next step to validate whatever the claim is and whatever the investigative findings are.

Assemblyman Ellison:

One of the problems that we are having in rural Nevada is trying to get workforce. In some of these small rural communities that have small projects that are prevailing wage, trying to comply with the apprenticeship program is ridiculous. We had a very large meeting that the Legislative Counsel Bureau (LCB) logged in on; both Senator Pete Goicoechea and I were there. Calling and trying to get somebody's permission to send somebody to a project for two or three days, or even a week or so, way out to rural Nevada to work with somebody on a Caterpillar, or a laborer for shoveling, or something like that—it is ludicrous to try to get that. The time it takes to get them to say that they do not have anybody who wants to go out there for a short period of time is kind of crazy. This is one of the things we have to deal with. You have places like Battle Mountain and Eureka and Ely and Wells and Wendover and Jackpot—it is just crazy to try to get somebody out there for short periods of time under the apprenticeship program.

Shannon Chambers:

Assemblyman, I am aware of those issues. As the Labor Commissioner I have been given a law that I have to enforce. I am trying to enforce it in the most reasonable, practical, and efficient way that I can. I am certainly aware of those issues, and we try to work on those issues on a case-by-case basis. I have done some work with some of the entities out in Elko to try to speed things along and some of the entities in Battle Mountain, but I will represent to this Committee that I do not want to carve out exemptions that do not exist in the law without having a healthy conversation with this body or without having it go through the regulatory process. Your comments are fair. I do not think they are new. You know, as this bill was going along, those were some of the concerns. I am happy to work with you and am happy to work with anybody to try to come up with some better rules or guidance, but I certainly do not want to be the Labor Commissioner who makes up rules and does not enforce the law without having that conversation with you and with this body.

Assemblyman Ellison:

I appreciate that. We have a problem and we have to fix it. I am hoping this body, during this session, can at least fix part of the problem, because you have to add it into your bid prior. So if you are awarded the bid, the problem comes in. The salary does not change—it is the trying to get somebody out or getting somebody to give you a waiver that is the problem holding up projects. I can see it working in large projects, but I cannot see it on smaller ones that are \$100,000 and above. I am hoping we can address this issue this session, and I am hoping that we can get the LCB involved with this because they were involved at the beginning. I thank you very much, and I really enjoyed your comments about it, because you can see the problems that are going on way out here in rural Nevada.

Shannon Chambers:

Understood, and I am certainly aware.

Chair Flores:

Members, thank you for your questions. As I have said, we will have the opportunity to revisit some of these topics. We will certainly be hearing a lot of bills where we will be asking the Office of Labor Commissioner to come in to give us guidance on what they are doing and what they are seeing on their end. With that, I am going to close out the presentation. Commissioner, thank you for being here. I look forward to working with you this session.

We will open up broadcast to public comment.

Evelyn Pacheco, Founder, Nevada Women in Trades:

I am neutral for Senate Bill 207 of the 80th Session. I thank Assemblywoman Torres for speaking on my behalf. I would like to amend and include a percentage of women in S.B. 207 of the 80th Session.

Chair Flores:

Thank you, Ms. Pacheco. I appreciate your spirit. I have had the opportunity on numerous occasions to share a conversation with you about getting more women in our trades and how important that is, how empowering it is for you to carry that badge proudly. Our Vice Chair also has a comment for you.

Assemblywoman Torres:

I want to make sure the Committee recognizes all the good work that Evelyn Pacheco does as founder of Nevada Women in Trades. She is also the first African-American female plumber in the state of Nevada. If we could have her here with us in northern Nevada, we would welcome her into our chamber, especially in honor of African American History Month. Also, she is a constituent of mine, so I am excited to hear her on the line. Thank you, Ms. Pacheco.

Chair Flores:

Are there any other callers? [There were none.]

Members, yesterday was Nevada Tribes Legislative Day, when we celebrate and recognize the American Indian contributions to the prosperity and diversity of Nevada and the United States as a whole. I forgot to yesterday, so I want to adjourn today in gratitude to the contribution of our tribes, namely and specifically in appreciation of all the tribal members who work in this building who every day make our jobs here a lot easier by their sacrifice and tireless work. I would like to adjourn in their honor. This meeting is adjourned [at 11:24 a.m.].

RESPECTFULLY SUBMITTED:

Geigy Stringer
Committee Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a document titled "Attorney General's Office Overview Presentation," dated February 10, 2021, presented by Aaron Ford, Attorney General, and other Attorney General's Office staff.

[Exhibit D](#) is an organizational chart titled "Nevada Attorney General's Office Organizational Chart Divisions," submitted by Aaron Ford, Attorney General.

[Exhibit E](#) is a document titled "2019-2020 Biennial Report, Office of the Nevada Attorney General," dated September 1, 2020, submitted by Aaron Ford, Attorney General.

[Exhibit F](#) is a copy of a PowerPoint presentation titled "Overview of Nevada Wage and Hour Laws and 2019 Legislation, Public Works, Prevailing Wage, and Apprenticeship Utilization Act & COVID-19 Bulletins, Guides, and Frequently Asked Questions," presented by Shannon Chambers, Labor Commissioner, Office of Labor Commissioner, Department of Business and Industry.