

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

**Eighty-First Session
May 26, 2021**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 9:10 a.m. on Wednesday, May 26, 2021, Online and in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/81st2021.

COMMITTEE MEMBERS PRESENT:

Assemblyman Steve Yeager, Chairman
Assemblywoman Rochelle T. Nguyen, Vice Chairwoman
Assemblywoman Shannon Bilbray-Axelrod
Assemblywoman Lesley E. Cohen
Assemblywoman Cecelia González
Assemblywoman Alexis Hansen
Assemblywoman Melissa Hardy
Assemblywoman Heidi Kasama
Assemblywoman Lisa Krasner
Assemblywoman Elaine Marzola
Assemblyman P.K. O'Neill
Assemblyman David Orentlicher
Assemblywoman Shondra Summers-Armstrong
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

Assemblyman C.H. Miller (excused)

GUEST LEGISLATORS PRESENT:

Senator Nicole J. Cannizzaro, Senate District No. 6

STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Bradley A. Wilkinson, Committee Counsel
Bonnie Borda Hoffecker, Committee Manager



Karyn Werner, Committee Secretary
Melissa Loomis, Committee Assistant

OTHERS PRESENT:

Harold Wickham, Deputy Director, Programs, Department of Corrections
Nicholas Shepack, Program and Policy Associate, American Civil Liberties Union of Nevada
Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada
Jim Hoffman, Member, Legislative Committee, Nevada Attorneys for Criminal Justice
Yvette Williams, Chair, Clark County Black Caucus
Amanda Candelaria, Private Citizen, Reno, Nevada
Valerie O'Neill, Private Citizen, Boulder City, Nevada
Jodi Hocking, Founder, Return Strong: Families United for Justice for the Incarcerated, Reno, Nevada
Denise Bolanos, Private Citizen, Henderson, Nevada
Ayanna Oglesby, Private Citizen, Reno, Nevada
Nicole Tate, Private Citizen, Las Vegas, Nevada
Nicole Williams, Private Citizen, Reno, Nevada
Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office
John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office
Areli Rodriguez, Private Citizen, Sparks, Nevada
Leisa Moseley, Nevada State Director, Fines and Fees Justice Center
Benjamin Challinor, Policy Director, Faith in Action Nevada
Annemarie Grant, Private Citizen, Quincy, Massachusetts

Chairman Yeager:

[Roll was taken. Committee rules and protocol were explained.] We have two bills on the agenda today. We are going to take them in order. I will be called over to the Assembly Committee on Ways and Means at some point to present a bill there. If that happens, the Vice Chairwoman will take over in my absence. I will open the hearing on Senate Bill 22 (1st Reprint).

Senate Bill 22 (1st Reprint): Makes various changes relating to correctional institutions. (BDR 16-262)

Harold Wickham, Deputy Director, Programs, Department of Corrections:

I will give you the short version of the bill. I am sure we have all heard these bills ad nauseam. I also know you have more to do.

Senate Bill 22 (1st Reprint) was originally submitted by the Department of Corrections to modify the order of deductions from offenders' wages and nonpayroll deposits—already

approved in statute—to be consistent with the Marsy's Law provision incorporated into the *Nevada Constitution*, which prioritizes restitution payments to specific victims of crime. The bill before you today has been revised and now includes a total cap in deductions which may be applied.

Chairman Yeager:

Do we have any questions for the Department of Corrections? I had a chance to look into the bill, and I believe the Senate Committee on Judiciary vetted this bill very thoroughly and made some changes to the bill. Those changes related to the percentage of deductions. For the record, could you give us a sense of the provisions of the bill, how it started in terms of the amount that was allowed to be deducted, and how it came out of the Senate?

Harold Wickham:

The amendment [Amendment 349] includes a total cap on deductions, and this is for all offenders. It can be applied at 25 percent for nonpayroll deposits and 50 percent for payroll wages. That is for offenders who have a job within the facilities. Their payroll deduction is capped at 50 percent.

Chairman Yeager:

To clarify that and to ensure we have a clear record, essentially, if an offender is working while incarcerated, that deduction can be up to 50 percent. For other types of monies—and I think everyone is thinking of a family member putting money on someone's books so that the offender has that money at their discretion—the cap is a 25 percent deduction to satisfy restitution and other things the offender is responsible for.

Harold Wickham:

That is correct. It is 25 percent for deposits from family members and a 50 percent cap for wages.

Assemblywoman Nguyen:

This is more of a comment. I am really happy to see this bill presented here today. I know during our hearings for the Advisory Commission on the Administration of Justice, as well as the Nevada Sentencing Commission, during public comment, this topic came up over and over again. We heard stories about families putting money on their loved ones' accounts for them to buy things like toiletries and feminine hygiene products, just to realize that, after some of the restitution amounts were taken out, the money left would be equivalent to soap costing \$25. I am happy this bill is before us and has made its way in its current form. I appreciate the fact that we listen to the people who call in to tell their stories.

Chairman Yeager:

Are there any additional questions? I do not see any. We will take some testimony on the bill, then we will come back for concluding remarks. I will open testimony in support of Senate Bill 22 (1st Reprint).

Nicholas Shepack, Program and Policy Associate, American Civil Liberties Union of Nevada:

This is something we have been working on since last September. Families started contacting us after finding out that deductions of anywhere from 80 percent to 90-plus percent were being taken out of their deposits. The Board of State Prison Commissioners asked the Department of Corrections (NDOC) to work with the Office of the Secretary of State to come back with something more reasonable. What we ended up presenting at the last Board of State Prison Commissioner's meeting was an 83 percent deduction. We have grandmothers, wives, and children calling us crying because they are unable to afford to put money on the books. They have stopped sending in money. What we have come up with here is a solution where families can put money on the books of their loved ones, and that money gets spent in the NDOC stores. What people are buying from the books is very basic stuff. The NDOC recoups a bunch of this money on the back end, and it will allow families to support their loved ones. Through the pandemic, with no visitation, one of the only ways a family could show support for someone in the inside was to put money on their books to ensure they could have some of these basic comforts.

It has been months of devastating testimony from lots of families. The Board of State Prison Commissioners has put a stop to the discussion until this legislation either passes or fails. It is up to all of you to ensure that our families can keep connected with their loved ones who are currently serving time with the Department of Corrections. This is an extremely important bill, and we urge you to support it.

Chairman Yeager:

Before you step away, I want to take a moment to thank you for all your advocacy this session. I want to say that, as a social worker, you bring a perspective that is greatly valued, having to deal with these types of issues on a day-to-day basis. On behalf of the Committee, we want to thank you for your work and for always being at the hearings.

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

We are here in support of Senate Bill 22 (1st Reprint). I think Mr. Shepack said it best, so I will also urge you to support this bill.

Chairman Yeager:

I will take a moment to say that I really appreciate that, throughout this session, you have done a great job of being concise and brief in your comments. I could always count on you to make sure you said what needed to be said and nothing more. As Chair, I want to thank you for that.

Is there anyone else who would like to testify in support of Senate Bill 22 (1st Reprint)?

Jim Hoffman, Member, Legislative Committee, Nevada Attorneys for Criminal Justice:

The Nevada Attorneys for Criminal Justice (NACJ) supports Senate Bill 22 (1st Reprint). We opposed the initial version of this bill very strongly, but as amended into the first reprint, this is a good piece of legislation.

COVID-19 has been very hard for incarcerated people. If they want to buy extra toilet paper or soap to wash their hands more often, they need money either from their families or from their wages to do that. If they cannot buy those things, they cannot protect themselves when 80 percent or 90 percent of their money is being confiscated. Senate Bill 22 (1st Reprint) is a commonsense bill that lets incarcerated people have a modicum of human dignity while still allowing NDOC to collect money for restitution and other purposes. This is a good compromise, so NACJ supports it.

Yvette Williams, Chair, Clark County Black Caucus:

We are in support of Senate Bill 22 (1st Reprint) with the incorporated amendment. We are happy that compromises were made. Our members—and those who are very passionate and who have folks incarcerated—will be very happy with the amendment and with the Committee for passing this bill forward to the floor for a vote.

Amanda Candelaria, Private Citizen, Reno, Nevada:

I am here in support of Senate Bill 22 (1st Reprint). In past sessions, I read my own statements regarding this bill, but today I am the voice of my fiancé who is currently at Northern Nevada Correctional Center. His words are this:

Good morning to everyone who is listening. I have been incarcerated for 16 years within NDOC and I am currently fighting a wrongful conviction. Due to budget cuts, the quality of the food in this place has been unhealthy and, at times, unbearable to say the least. My family and my fiancé have been generous enough to send money when they can, so I can get hygiene products and healthier food options. With deductions being as high as they currently are, I have asked them not to send any more money, which leaves me without basic necessities. My restitution is not my family's burden to carry. There is no way I can ask them to send me \$100 of their hard-earned money when I am only going to receive \$10 of that. I am asking you to please have empathy on all of us inside these walls and pass Senate Bill 22 (1st Reprint) so we can continue buying the necessities we need to survive in this place. Thank you for your time and have a blessed day.

Valerie O'Neill, Private Citizen, Boulder City, Nevada:

My son is incarcerated in the Department of Corrections, and I am here to speak in support of Senate Bill 22 (1st Reprint). I want to take two minutes of your time to describe the devastation that this bill would prove to protect us from families and incarcerated people. We are desperately seeking caps on these deductions as a means to be protected from the state. We understand Marsy's Law and that the restitution is due in full in a timely manner. We also understand what happened on September 1, 2020, when they began the 80 percent deductions and gutted the accounts of people who were incarcerated and took money that the family sent. Those first few days were not required by Marsy's Law. Then we fought and won some relief, and they turned around and did it to us again on March 1, 2021. Right now, according to the Board of Prison Commissioners, the deductions were supposed to be 50 percent, but NDOC is deducting 50 percent and another 31 percent in other types of

restitution, including capital improvements, court fees, and others. Ultimately, the deductions are back at 80-plus percent.

There are two immediate issues. As stated, we need protection from the state. Currently, we are forced to rely on the reasonableness of the director and the oversight of the Board of Prison Commissioners. Neither of them has fulfilled their roles and obligations to the families or the incarcerated people. Second, the current plan for deductions is self-defeating because the vast majority of families and people are not going to send money because we cannot afford to do it. My son would never allow me to send him \$100 for him to get \$13 when I am already raising my granddaughter—his daughter. We no longer send money, and they are forced to find other means to survive. Does this not defeat the purpose, because now they get no restitution? It makes no sense. These caps are the only hope we have left. Please pass Senate Bill 22 (1st Reprint).

Jodi Hocking, Founder, Return Strong: Families United for Justice for the Incarcerated, Reno, Nevada:

I am the founder of Return Strong and also part of an impacted family. I am here to testify in support of Senate Bill 22 (1st Reprint). These deductions without caps have been devastating and in ways that are much deeper than just the dollar amount. I frequently say that two things can be true: we can do what is right and required for victims and be fair and just to people who have been convicted of a crime. We do not have to do both, only one or the other. This bill gives us the opportunity to say that we choose both accountability and grace.

I want to share a personal example of the impact of these deductions. My husband has a history of seizures. At the beginning of March, he had a seizure while climbing onto the top bunk and fell into a hot pot. The hot water gave him third-degree burns. We are impacted by the restitution deductions at 83 percent. This is how the emergency broke down. He needed emergency care that we could not afford because, if I sent \$85 for the doctor, the NDOC would be required to take the deduction and leave him with \$14.45. In order to cover the cost of that one doctor visit, I would need to send \$510 to leave him with \$85. This bill does not protect medical money. It does put a cap on the deductions, so I could have sent \$170. That is still a lot, but it would have been better.

I know that we talk about necessities such as deodorant and shampoo, but today I hope that at the end of this testimony, we remember that there are wives, families, futures, and stories behind every deduction. This bill protects us all from relying on NDOC to be reasonable or for the Prison Board of Commissioners to govern NDOC. You are all elected officials, and I hope you champion this cause because many of us live in your districts. We are some of your most vulnerable constituents, and we need your help. We are counting on you. Please pass this bill.

Denise Bolanos, Private Citizen, Henderson, Nevada:

I am a member of Return Strong. Since last fall, we have collectively spoken about these garnishments at many different public comment opportunities. The reality is that there is no other place we could speak. We scrambled to take everything we have to say and somehow

say it within two minutes or less. Now we are here. I have personally given an example of how the \$120 I send to my husband each month to help meet his needs has become unattainable for me because I now need to send five times that amount for him to receive it.

The most recent example I gave illustrated how a mistake on my part—shipping a package to the prison—would have cost my husband \$15 for the return shipping. I would have needed to deposit \$86 to clear that \$15, so we simply let it go. There are endless dollar amount examples from people both inside and outside prison that give you a glimpse of how this impacts the already financially and emotionally strained community.

This statewide financial decision that was likely made in a boardroom has impacted the lives of people, such as a 32-year-old mother living in a two-bedroom apartment with three kids and an incarcerated husband who looks out her window every morning to make sure her car is still there and that it has not been repossessed because she is behind on payments. Despite having a full-time and part-time job, she still struggles every month. That mom is me. I urge you to support Senate Bill 22 (1st Reprint) so that people who have kids to feed, clothe, and house—and are so often at the end of their ropes—have one less thing to worry about.

Ayanna Oglesby, Private Citizen, Reno, Nevada:

I have loved ones incarcerated with the Department of Corrections. I am here to share a letter from an incarcerated member of Return Strong who wrote to us regarding their personal experiences with the deductions, and it provides a very concerning example of why we need these caps added to Senate Bill 22 (1st Reprint). The writer says:

I am writing in regards to 50 percent deductions being taken from my paycheck working in Prison Industries. I want to be very clear that while the Prison Board of Commissioners approved a 50 percent deduction, NDOC is taking 100 percent of what I make, 100 percent. I am left with nothing, absolutely nothing. I depend on what I make. It is my only income. I do not have support from outside of prison, and I have a very long sentence. I use my pay to survive just like you do. I buy toiletries and hygiene, like tampons, soap, toothpaste, and deodorant. The prison does not provide those things.

In September 2020, when they first started taking 80 percent from my paycheck, they left me with \$2 per paycheck. Now, since March, when they began deductions again, I am left with absolutely nothing. This is the breakdown of an \$85 paycheck: restitution, \$45; court-ordered fines, \$2.55; United States Court of Appeals Ninth Circuit, \$2.55; room and board, \$20.83; prison improvement fund, \$4.25; victim crime fund, \$4.25; savings, \$8.50. If you add that up, it comes to exactly \$85. Before the Prison Board of Commissioners intervened, at least the 80 percent went to restitution, but now it is 50 percent towards restitution and then all of these fees. Why are inmates paying for capital improvements, and where do we see any improvement? For God's sake, the kitchen at Southern Desert has not had hot water in over five years.

We need you all to help us. I am here to ask you again to please support Senate Bill 22 (1st Reprint). Thank you for your time. We are Nevada Strong and Battle Born, and with that I close.

Nicole Tate, Private Citizen, Las Vegas, Nevada:

I am calling in support of Senate Bill 22 (1st Reprint). Previously enacted deductions, stated to be due to Marsy's Law, hit many people hard, especially due to the pandemic. Many people out of work face evictions and other monetary issues further complicated by the need to provide money for things like food and hygiene products to their incarcerated loved one. While stating that this was due to Marsy's Law, it has been discussed in many other meetings of the Nevada Legislature that there is no stated amount in Marsy's Law to be taken, and thus the reason for this bill.

While I am not personally affected by the deductions in Administrative Regulation 258 [Inmate Fiscal Procedures for Inmate Banking], which is NDOC's deduction schedule, I have been through deductions similar to this. In December 2018, my husband broke his neck and fortunately, suffered no permanent damages that we know about at this point. However, we were left with a bill of at least \$5,000. I never knew the full amount because it was never provided to us. Due to the deductions to pay for this bill, in addition to the other deductions taken, if I deposited \$100, he would get a little more than \$20. That \$20 let him buy food, hygiene products, and other necessities, which due to the high cost of these items, did not go far. To say I was relieved when that bill was finally paid off is an understatement.

For those who are affected by these deductions, this bill will be a lifesaver. Putting a cap on family deposits would give the ability for those who help out their incarcerated loved ones to once again do so. Quite frankly, many do not have the funds to be able to provide what is needed and the vast majority have simply stopped sending it. The passage of this bill would also allow families who provide the funds for simple human needs to not be destitute in the process. It is not the responsibility of the families of those incarcerated to pay the debt of the crime or the incarceration. I sincerely hope you pass this bill, and I appreciate all you have done this legislative session.

Nicole Williams, Private Citizen, Reno, Nevada:

I am here to express my support of Senate Bill 22 (1st Reprint) and the caps on deductions. I would like to share a letter from an incarcerated person that was sent to Return Strong:

Hello. I am incarcerated at Lovelock Correctional Center, and I work in the Silver State Industries Garment Factory. I will first explain how this impacts me now. I will start with the breakdown of my last pay statement, for which I was charged \$2 to get a copy of to send to you. My pay was \$172.68, minus \$86.30 for restitution, \$8.63 for capital improvements, \$42.31 for room and board, \$17.21 for savings, \$8.63 for victims' compensation, \$5.18 in court fees, and \$4.08 for child support. At the end, I am left with \$0.34.

While this is disturbing, I also must help you see how it is impacting my ability to successfully parole, as well as impacting the bonds I am working on healing with my children and family. I am paying \$4.08 for child support. Prior to these deductions, I was sending another chunk of money to my kids every time I got paid. My ex-spouse has now applied for welfare to help support the family because I am not helping her anymore.

Like others, I use my pay for sustaining myself inside prison. I have also been aggressively working to save for my parole, but when NDOC took the deductions in September, they gutted my savings account. I recently reestablished contact with my children after 14 years and have been building relationships with them through consistent phone calls that I pay for in order to show them the changes I have made. I am a different person. I want them to learn to trust me and to show them I love them and that they can count on me. Now that these deductions hit, I am left with pennies and our phone calls have ended. This has deeply impacted my loved ones and I have had to put a lot of time into making amends in those relationships. Now, do I call my kids, my 74-year-old father, my 69-year-old mother, or my siblings? The state leaves me in indigent status, but because I work in Prison Industries and technically earn a wage, I am not allowed to claim indigent status.

I want you to understand that, while there is an impact due to money, there is a deeper impact when you leave people destitute. All of the bonds and pieces of humanity that keep us human are ripped from us, and we are left as shells of who we should be to focus solely on survival and not growth.

I am here today representing my family and our support of Senate Bill 22 (1st Reprint). Please pass this very important piece of legislation.

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

Thank you for allowing me to testify in support of this very important bill. You have heard from all of the individuals who called in regarding the significant need, so we urge your support.

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

I am just going to say ditto.

Chairman Yeager:

I will give one last call for any testimony in support. I do not see any, so I will close support testimony. I will open it up for testimony in opposition. Is there anyone in opposition?

Areli Rodriguez, Private Citizen, Sparks, Nevada:

I am actually in support of the bill. I was slow in unmuting myself. I am in support of Senate Bill 22 (1st Reprint). Last fall, a friend of our family was released from prison. He had been in for seven or eight years and had saved all his money to be prepared to get housing. He was disabled when he was released, but he knew he would get disability to survive. He was saving his money so that when he got home, he could set up housekeeping and be in a good place to make the transition into the community. He also received a stimulus check. That money was supposedly being held by NDOC and would be given to him when he was released. However, they started the deductions and for the first deductions, they took not only new money coming in, but also everything in his accounts. He had saved about \$1,600 from money sent to him throughout his incarceration and his stimulus check. They left him only \$200 or \$300. He left prison and ended up in a homeless shelter with no money, no home, no food, and no way out. He had focused on turning his life around when he got out. Instead, he is now dead. He killed himself because he had no hope left in the end. He told his friend that he was left no choice. Please pass Senate Bill 22 (1st Reprint) to protect families and incarcerated people and to leave some hope that they can survive all of this financially and literally.

Chairman Yeager:

That will be characterized as supportive testimony. I will now go back to opposition testimony. Is there anyone in opposition? [There was no one.] I will close opposition testimony and open it for neutral testimony. Is there anyone who would like to testify in the neutral position? [There was no one.] I will close neutral testimony. I will hand it back over to the Department of Corrections for concluding remarks.

Harold Wickham:

In the interest of brevity, I just want to say thank you for all you do, and to the Committee for all your hard work on this and many other bills that you work on.

Chairman Yeager:

I will close the hearing on Senate Bill 22 (1st Reprint). Committee, given that we are in the last week, we will move into a work session on Senate Bill 22 (1st Reprint). I am looking for a motion to do pass Senate Bill 22 (1st Reprint).

ASSEMBLYWOMAN BILBRAY-AXELROD MOVED TO DO PASS
SENATE BILL 22 (1ST REPRINT).

ASSEMBLYWOMAN SUMMERS-ARMSTRONG SECONDED THE
MOTION.

Is there any discussion on the motion? I do not see any discussion.

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

I will give the floor statement to Assemblywoman Bilbray-Axelrod.

We will move to the next bill on our agenda. I will open the hearing on Senate Bill 219 (1st Reprint).

Senate Bill 219 (1st Reprint): Revises provisions relating to offenses. (BDR 14-249)

Senator Nicole J. Cannizzaro, Senate District No. 6:

I am pleased to be here to present for your consideration Senate Bill 219 (1st Reprint), which removes provisions to suspend drivers' licenses as a result of an inability to pay court-imposed fees and fines. With me today is Leisa Moseley, who will give some presentation to the Committee. I would first like to give a brief overview of the bill.

For today's purposes, I want to talk first about some background information. Today, driver's license suspensions are a frequently used tool to enforce collection of criminal justice debt. Criminal justice debt refers to the accumulation of fees and fines that a defendant acquires while being processed through the justice system. These fees and fines can be imposed for anything from restitution to make a victim whole to punitive fines designed to be a deterrent from any future wrongdoing. Even when a person is convicted and incarcerated, these fees and fines do not simply disappear. When combined with other costs of living—such as rent, mortgage payments, credit card debt, insurance payments, and child support—the additional cost of criminal justice debt can be difficult or impossible to pay. One estimate by the United States Census Bureau in 2012 puts fees and fines collected by state and local governments at more than \$15 billion per year. This is when collection enforcement, such as the suspension of drivers' licenses, is introduced. When people lose their drivers' licenses, they often lose their job or have trouble finding work. Therefore, they are unable to satisfy that debt. Because people need to drive to get to work, to get to a doctor's appointment, or to provide transportation for their children, they often drive on a suspended license.

In the state of Nevada, this form of transportation is quite common for most individuals. We are not a state that has the same kind of public transportation that may exist in other places. You can see how this can become quite the cycle. If they are stopped by law enforcement, they are again charged with driving on a suspended license, which is a ticket which may include, of course, additional fees and fines associated with that. As a result of not being able to pay fees and fines, they are essentially accumulating more fees and fines. The resulting cycle of debt and prolonged criminal justice system involvement disproportionately burdens our low-income communities.

Senate Bill 219 (1st Reprint) is an effort to curb the cycle of debt acquired by defendants, reduce the burden on court dockets, and keep our roadways safer. This bill aims to stop the suspension of a driver's license based on an individual's inability to pay their criminal justice debt. Section 1 of this bill removes the authority of the court to suspend a driver's license of a defendant or to prevent a defendant from applying for a driver's license. When Senate Bill 219 (1st Reprint) goes into effect on October 1, 2021, section 4 requires Nevada's Department of Motor Vehicles (DMV) to immediately reinstate a driver's license or the

ability to apply for a driver's license for individuals subject to suspension of a driver's license because of delinquent fines and fees. What I would note here is that this is specific to the inability or where someone is not paying those fines and fees. This does not wholesale remove the ability to suspend drivers' licenses in cases such as a DUI where that is prescribed statutorily, or where someone may have so many points on their license that they fall within the parameters of the DMV's ability to suspend drivers' licenses anyway.

Section 4 also states that the DMV cannot charge fees for reinstatement of a driver's license or require a defendant to undergo any physical or mental assessment for eligibility purposes. One of the other things that is notable about this is that when you do have to go reinstate your driver's license because you cannot pay fees, it is not simply enough that you have paid off court fees, but you must also pay an additional fee in order to reinstate your license.

Similar legislation has been introduced in several states—Mississippi, Montana, New York, North Carolina, Tennessee, and Virginia—to eliminate the practice of suspending or revoking drivers' licenses for unpaid court-imposed fines and fees. What we are seeking to do is to say there are other enforcement mechanisms that the court can utilize when someone is not paying fines or fees and to say that simply revoking someone's driver's license, requiring them to then pay another fee to institute their driver's license again, and to also create a situation whereby they are likely to drive around on a suspended driver's license incurring more tickets and fines and fees, is a cycle that we want to break. That is what this bill is designed to do.

With that, I would like to turn it over to Ms. Moseley to continue the presentation.

Leisa Moseley, Nevada State Director, Fines and Fees Justice Center:

I will not go into very much detail because I do not think I need to. You have all heard this before. We presented with Assemblywoman González on her version of this bill, Assembly Bill 151. There is not much that is different. I will just avail myself if there are any questions.

Chairman Yeager:

I know this is a policy committee, but my question is on the fiscal aspects. I noticed that the bill went through the Senate Committee on Finance. In section 3.5 of the bill, there is an appropriation made from the State Highway Fund to the DMV in the amount of \$15,000. I assume that is the cost that they said it would take for them to notify people that they are eligible to have their driver's license reinstated. I want to confirm that on the record.

Senator Cannizzaro:

That is correct. For the Committee's edification, the fees and fines that are paid through the reinstatement of the driver's licenses go to the State Highway Fund. This is the impact to the Highway Fund with respect to the \$75 being waived and not collected, mostly waived. For the not being collected part, obviously this is a fee that supports a service that is provided by the DMV that we know is an agency that works very hard to comply with all of the things they have to do and has had an extraordinarily tough year, as so many have. Because they

would no longer be in the business of having to suspend drivers' licenses and reinstate them, that service that they provide will no longer be needed. The fines going forward will no longer be needed to support that as an action they take. The money you see being appropriated in section 3.5 is from the Highway Fund to the DMV in order to pay for what you indicated, which is the notifications going out to anyone who has their driver's license suspended if it was suspended under the provisions of what currently exists in the *Nevada Revised Statutes* (NRS) that we are seeking to change in Senate Bill 219 (1st Reprint). They would need to come in and get processed for a new license.

The court fines and fees would still be due and owing. One of the things we have heard on this particular piece of legislation is how we deal with the enforcement mechanism. Again, that is something the courts have plenty of ways to enforce besides the suspension of a driver's license.

Chairman Yeager:

I will let members know that I am going to pop over quickly to present a bill, and I will be back. The Vice Chairwoman will take over for a moment. [Assemblywoman Nguyen assumed the Chair.]

Assemblywoman Hansen:

Regarding the changes, other than the appropriation, what is different? Is there anything other than what we heard before on Assembly Bill 151 that I need to take note of?

Senator Cannizzaro:

Senate Bill 219 (1st Reprint) is structured differently, although we are trying to accomplish the same goal. Wholesale, there is a deletion of the NRS that provides for the court's authority to suspend drivers' licenses. We are not delving into how different cases may be treated or how different court fines and fees may be treated. This just says that the court, aside from DUIs or some other traffic violations that lead to suspension of the driver's license, for the nonpayment of fines and fees, this is not a mechanism that can be utilized. That is the simplest way of putting it.

Leisa Moseley:

I would just echo what the Senate Majority Leader said. What we liked about this version of the bill is that it deletes the entire section of the NRS that allows for license suspensions for minor traffic violations. That is the main difference.

Assemblywoman Kasama:

I like the intent of the bill because I would rather someone have their car and be able to continue working so they can make money and pay any fines that are due. I do question why in section 1, subsection 3(b), you are deleting the entire thing, since it says, "If the court determines that the defendant has the ability to pay the amount due and is willfully avoiding payment" You are striking that. I do not understand. If a person has the ability to pay and they are choosing not to, it seems that should remain in the statute, and the section for

community service should remain for flexibility since people have work. It seems to me that those areas should remain in there, and I agree with the other areas.

Senator Cannizzaro:

I think that is a common thing when we see the language in this bill to note. Most people probably share that concern. If someone is willfully avoiding paying court fines and fees, why cannot we suspend their license? The answer to that is twofold. First, in my conversations with a lot of the judges on how this works is that, although it requires a court to make a determination if someone is willfully avoiding payment of fines and fees, how it operates is that it is an automatic suspension. They are not making those types of determinations. I think that is important to note. When people's drivers' licenses are suspended for nonpayment of fines and fees, it is happening in our courts automatically. It is not happening because there has been an evidentiary hearing in which evidence has been presented that someone has x amount of dollars and is just not paying. That is the first piece. When we read the statutory language, this is not operating the way we believe it is working. It is an automatic thing that happens without the court's discretion.

The second piece is if someone is not paying their fines and fees, and they are willfully not doing so, and the court were to engage in that process, the court has other mechanisms by which they can hold someone in contempt. They can impose community service. They can impose additional requirements on that individual. From an enforcement mechanism standpoint, there are other ways in which to ensure that people who are paying can pay. When it comes to fines and fees, there are ways to get judgments of convictions so they can be collectible. There are other things that courts have at their discretion, including the broad authority with respect to contempt of court. If you are willfully not doing what the court has asked and ordered you to do, that is wholly within the court's discretion to be able to do. Because this does not operate the way in which we believe it is operating, I think this solves the issue, which is the more common piece. People who are there for traffic tickets and can pay their traffic tickets do not want to keep coming to court to tell them why they are not paying their traffic tickets. They want to pay that and be done with it and have the court case closed. People who are not paying their fines and fees, generally speaking and anecdotally, it is because they cannot pay them since they do not have the money. That is what we are trying to solve. I do not think that by saying we have this one less thing we can do in terms of suspending a driver's license is the way we are going to get people to come in and pay those fines and fees when there are other enforcement mechanisms.

With respect to community service, the court still has the broad discretion to order community service when people are ordered to pay fines and fees. That happens quite frequently for misdemeanor traffic tickets if they cannot pay fines and fees. That is always something the courts can impose. This would not restrict that authority. Again, if they were to impose community service as a condition and that individual were not to complete that community service, there are other mechanisms the court can use for enforcement since they have the broad discretion for holding people in contempt and imposing more requirements if they need to.

Assemblywoman Kasama:

Thank you for that clarification, but what you are saying is that the court is not handling their job correctly based on the statute. If it says it is due to their inability to pay, and they are not looking at that, I still feel uncomfortable removing that from statute. Either we add language that forces the court to properly observe this or whatever the case may be, or we need to figure out how the courts could better handle that. I feel uncomfortable removing that section from the statute.

Leisa Moseley:

In 2019, Assembly Bill 434 of the 80th Session was passed. Among the things it did was to mandate that the courts use the ability to pay assessments before adjudicating any traffic cases. With that, what we should have seen between that time and now is driver's license suspensions going down in some cases. In some courts, we did see that, but in some we did not. That statute will still be in place and courts will still have the ability to do that assessment. I do not think this takes away that ability because that statute will still be there.

Assemblywoman Kasama:

What statute section is that?

Leisa Moseley:

I do not know that off the top of my head. Maybe someone in here could find out. It was Assembly Bill 434 of the 80th Session.

Vice Chairwoman Nguyen:

We have legal counsel here, and I will ask him to look into it. We will follow up if we have an answer shortly.

Assemblywoman González:

I have a comment. Thank you for the work you have done on this bill. The fact that we had similar bills speaks to how prevalent this issue is in our community. I want to thank you for the work that has been done.

Leisa Moseley:

And thank you. I will agree with you. The fact that we had two powerful women bring this bill forward speaks to the fact that when you have women in power and legislators, things get done. I am happy to have worked and presented with both of you on this bill. I look forward to getting this done this session to bring relief to Nevadans and to help them get their licenses back so they can get back to taking care of their families, to getting to work, and to getting their children to school.

Vice Chairwoman Nguyen:

It is a testament that we have heard this twice now. Mr. Wilkinson has an answer to Assemblywoman Kasama's concerns about the section in statute.

Bradley A. Wilkinson, Committee Counsel:

The statute you are referring to is NRS 176.0643, which was enacted last session. It provides that, for the purposes of NRS Chapter 176, a person who commits a minor traffic offense is presumed to be indigent and not to have the ability to pay a fine, administrative assessment, or fee if the person receives public assistance, resides in public housing, or has a household income less than 200 percent of the federally designated level signifying poverty. I believe that is the statute you are referring to that the court would use.

Vice Chairwoman Nguyen:

I am looking for additional questions. I do not see any, so I will begin testimony in support of the bill.

Nicholas Shepack, Program and Policy Associate, American Civil Liberties Union of Nevada:

I believe the Committee did a good job of vetting this legislation with Assembly Bill 151 when we heard it the first time. You made the good decision to pass that bill out, and I trust that you will pass this one out. Maintaining a driver's license is necessary for Nevadans to maintain work and to pay their fines and fees. By eliminating the removal of drivers' licenses for minor traffic violations and the inability to pay those tickets will benefit many Nevadans and will increase the amount of money recuperated as people are able to get to work.

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

I am here in support of Senate Bill 219 (1st Reprint). You may remember back in February two of our Mass Liberation leaders, Yesenia Moya and Leslie Turner, helped present a very similar bill, but they were unable to make it today. This is an important policy to stop criminalizing poverty, and we urge your support.

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

Our neighbor state, Arizona, recently passed this legislation unanimously through their house and the Governor signed it into law because in Arizona, they recognize that what happens when you get a ticket and you get your license suspended, you start cycling into poverty. You are going to get another ticket if your child has to go to the doctor, and as most of you know, you cannot walk anywhere and the bus takes hours to get anywhere, so you are going to drive. If you have to go to work and you do not want to lose your job, you are going to drive even if your license is suspended. This keeps people at work and keeps people taking their children to school and to the doctor. It will let them get back on their feet and eventually pay the fines and fees without suffering the license suspension that could result. We strongly urge the passage of this bill.

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

We recognize that this is an extremely important step in ending the criminalization of poverty. As you heard us testify previously, driver's license suspension for failure to pay a fine or a fee creates a vicious cycle of crushing debt and prolonged involvement with the

legal system. I will add to what we heard that this is not only good fiscal policy, but we also believe this will enhance public safety and ensure people are not being forced to make the decision whether they are going to drive to work. This allows for more people to be employed, to take care of their families, and not to have to make the decision whether to pay their rent or the court fines and fees. We believe this is very important. I would add that what we are forgetting about is the tow truck fees and all the additional fees when someone is arrested for driving with a suspended license. They then really enter into the criminal justice system and crushing debt, having to pay for the tow truck and having to be reimbursed for the jail fees. It just continues and continues. We urge your support.

Benjamin Challinor, Policy Director, Faith in Action Nevada:

We echo everything that has been said. The mountain of fees just becomes too much for families to handle. We urge your support.

Vice Chairwoman Nguyen:

Is there anyone else for testimony in support?

Yvette Williams, Chair, Clark County Black Caucus:

I am very excited to speak in support of Senate Bill 219 (1st Reprint). We were before this Committee in support of Assembly Bill 151 when it was presented. As you know, this has been a long road around these driver's license suspensions just this session alone. The Clark County Black Caucus has been working on this for well over a decade, educating the community around the issue of driver's license suspensions and how it impacts families and disrupts lives and criminalizes individuals for the inability to pay fines and fees.

We are excited to work with the Fines and Fees Justice Center this session on both of these bills. I want to thank the Senate Committee on Finance that unanimously passed this bill out of committee with 100 percent bipartisan support. I hope that this Committee will do the same.

I was disappointed and—I know you have heard a lot of testimony on how this impacts people—disturbed as a Nevadan and an advocate in the community to see how some of these fiscal notes derail good public policy. I was disappointed that the DMV provided a fiscal note of up to \$7 million that was contested on many occasions; however, during the Senate hearing, we found that it was only going to cost \$15,000. These issues were raised, but somewhere along the line we need to think in terms of how we are going to hold our public agencies accountable for these fiscal notes to make sure they are accurate. That did derail our progress with Assembly Bill 151. Our public agencies should be in the business of serving the public and not acting as a for-profit corporation. I hope this Committee will enthusiastically and 100 percent support Senate Bill 219 (1st Reprint) so we can get it on the floor and get it passed as quickly as possible. Nevadans are waiting for this. Hundreds of thousands of people are waiting for this and are being impacted by this. We really need relief.

Jim Hoffman, Member, Legislative Committee, Nevada Attorneys for Criminal Justice:
I had a whole spiel prepared, but I know everyone is busy, so I would like to thank the Senate Majority Leader and Ms. Moseley for bringing the bill. We support it.

Vice Chairwoman Nguyen:

Is there anyone else in support? [There was no one.] I will close support testimony and open opposition testimony. Is there anyone in opposition? [There was no one.] I will close testimony in opposition and open neutral testimony. Is there anyone who would like to speak in neutral? [There was no one.] I will close neutral testimony and go to closing remarks.

Senator Cannizzaro:

I want to thank the Committee for hearing this bill. I would be remiss if we did not acknowledge the truly powerful voices in this and the advocates. This kind of work does not happen without Ms. Moseley, and I am honored to have her up here with me and to have worked on this issue. She does a tremendous job and has done all the research and knows all the answers. I am lucky to have her here as backup and to answer the questions I cannot answer. She does very important work.

Leisa Moseley:

That was a pleasant surprise. It is my honor to have worked on this issue with so many advocates in our community, including Yvette Williams of the Clark County Black Caucus, Leslie Turner of Mass Liberation, folks from the American Civil Liberties Union of Nevada, and Assemblywoman González. This has been a long road, and it is time for Nevada to join other states that have enacted such legislation and brought some relief to their state. There is a benefit to our state with this.

Thank you for considering this bill, and I hope you will pass the bill out unanimously and get this bill over to the Governor.

[[Exhibit C](#) was submitted but not discussed and is included as an exhibit of the hearing.]

Vice Chairwoman Nguyen:

We will close the hearing on Senate Bill 219 (1st Reprint). Since we are missing our Chairman as well as one of our other members, I am going to begin public comment. We may potentially take a short recess before we work session this bill. Is there anyone who would like to testify in public comment?

Annemarie Grant, Private Citizen, Quincy, Massachusetts:

Yesterday marked one year since the murder of George Floyd by Derek Chauvin. I do not want Nevada to forget their own George Floyds: 31-year-old Niko Smith was asphyxiated on August 29, 2015, by Washoe County sheriffs; 35-year-old Justin Thompson was killed on August 12, 2016, by Washoe County Sheriff's officers by asphyxiation; 30-year-old Kristofer Talancon was asphyxiated on October 15, 2016, by Sparks police; 33-year-old Micah Abbey was asphyxiated, Tasered, and beaten to death on December 25, 2011, by Reno police; 36-year-old Nicholas Farah was asphyxiated in a restraint chair on March 31, 2019, at the

Clark County Detention Center; 65-year-old Roy Anthony Scott was asphyxiated by the Las Vegas Metropolitan Police Department on March 3, 2019; 50-year-old Byron Lee Williams was asphyxiated on September 5, 2019, by the Las Vegas Metropolitan Police Department; 40-year-old Tashii Brown was asphyxiated by a chokehold on May 14, 2017, by Las Vegas Metropolitan Police Department; Wayne Ronald Bunch was hog-tied and asphyxiated by Reno police in 1999; 29-year-old Dustin Boone was asphyxiated by a chokehold on November 4, 2009, by Las Vegas Metropolitan Police Department; 32-year-old Daryl Hicks was killed by asphyxiation on December 16, 2003, by North Las Vegas police; and my brother, Thomas Purdy, who was 38 years old when he was hog-tied during a mental health crisis for 40-plus minutes as he begged for his life. He was asphyxiated on October 4, 2015, at the Washoe County jail. They removed him from life support on October 8, 2015.

Police reform must continue. Since the start of the session, seven people have lost their lives due to interaction with police in Nevada. I will never have my brother back. I speak out for the living so no one else will live this nightmare and never-ending heartache and no justice. Please continue efforts for police reform. I appreciate your efforts this session.

Vice Chairwoman Nguyen:

Is there anyone else for public comment? [There was no one.] I will close public comment. At this time, we will take a short recess. Chairman Yeager is next door, so please stay close. We will stand at recess [at 10:22 a.m.].

Chairman Yeager:

I will call the Assembly Committee on Judiciary back to order [at 10:35 a.m.]. One order of business that we still have on the agenda is a work session on Senate Bill 219 (1st Reprint). I am looking for a motion to amend and do pass with the amendment of adding Assemblywoman González as a sponsor on the bill. Do I have a motion to amend and do pass?

ASSEMBLYWOMAN NGUYEN MOVED TO AMEND AND DO PASS
SENATE BILL 219 (1ST REPRINT).

ASSEMBLYWOMAN GONZÁLEZ SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblywoman Kasama:

I want to put on the record that I will be voting yes to get it out of Committee. I would like the opportunity to look at this other statute. I am concerned and would encourage that we can still put in community service and the suspension of a license if a person willfully does not pay. Some of the provisions that were in there before would be great to see put back in. I am reserving my right to change my vote on the floor.

Chairman Yeager:

We will have to wait to receive the amendment, which will probably not happen today, so you have time to look at it. Please let me know if, ultimately, you decide to change to a no on the floor. I would appreciate that. Is there any other discussion from Committee members?

Assemblyman Wheeler:

I voted no on the very similar bill that we had earlier. I have come across some information since then from a few constituents, so I am going to vote yes on this out of Committee, but I reserve my right to change because I feel community service should go back in. I am not thrilled with someone taking someone else's bill either.

Assemblyman O'Neill:

I will go with ditto. We have talked a lot about reducing incarceration rates over the last several days, weeks, months, and years. I think community service provides a wonderful opportunity in lieu of incarcerating an individual. I will vote yes to get it out, but I reserve my right. Hopefully, we can get community service in lieu of incarceration into the bill.

Chairman Yeager:

Is there any further discussion? Seeing no further discussion, the motion is to amend and do pass.

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

I will assign the floor statement to Assemblywoman González.

That takes us through the agenda. Is there any discussion from anyone on the Committee? I do not see any, so in terms of where we go from here, we do have an agenda for tomorrow. We will start at 9 o'clock, and we have two bills on that agenda. As far as I know, we do not have any other bills in the Committee. There is a possibility we will get more on the floor, so make sure you pay attention to your emails and stay connected with your attaché as we go

through the next few days in case we need to have a Committee meeting. It may not be at our regular time, and it may be this weekend. Please be flexible as we get through the last few days of session. Thank you for your attention, and we will see you tomorrow at 9 o'clock. This meeting is adjourned [at 10:40 a.m.].

RESPECTFULLY SUBMITTED:

Karyn Werner
Committee Secretary

APPROVED BY:

Assemblyman Steve Yeager, Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a letter submitted by the National Association for the Advancement of Colored People Las Vegas Branch 1111, in support of Senate Bill 219 (1st Reprint).