

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

**Eighty-Second Session
May 3, 2023**

The Committee on Commerce and Labor was called to order by Chair Elaine Marzola at 12:03 p.m. on Wednesday, May 3, 2023, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, 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/82nd2023.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Elaine Marzola, Chair
Assemblywoman Sandra Jauregui, Vice Chair
Assemblywoman Shea Backus
Assemblyman Max Carter
Assemblywoman Bea Duran
Assemblywoman Melissa Hardy
Assemblywoman Heidi Kasama
Assemblywoman Daniele Monroe-Moreno
Assemblyman P.K. O'Neill
Assemblywoman Selena Torres
Assemblyman Toby Yurek

COMMITTEE MEMBERS ABSENT:

Assemblyman Steve Yeager (excused)

GUEST LEGISLATORS PRESENT:

Senator Roberta Lange, Senate District No. 7
Senator Scott Hammond, Senate District No. 18
Senator Pat Spearman, Senate District No. 1

STAFF MEMBERS PRESENT:

Marjorie Paslov-Thomas, Committee Policy Analyst
Sam Quast, Committee Counsel
Joe Steigmeyer, Committee Counsel

Minutes ID: 1049



Cyndi Latour, Committee Manager
Julie Axelson, Committee Secretary
Garrett Kingen, Committee Assistant

OTHERS PRESENT:

Stephen Aichroth, Administrator, Housing Division, Department of Business and Industry
Tim Whitright, Deputy Administrator, Housing Division, Department of Business and Industry
Susan L. Fisher, representing Nevada Housing Alliance
Mendy K. Elliott, representing Nevada Housing Coalition
Ashley Garza Kennedy, Principal Management Analyst, Government Affairs, Department of Administrative Services, Clark County
Connor Cain, representing Nevada Bankers Association
Dylan Keith, Assistant Director, Government Affairs, Vegas Chamber
Brian Reeder, representing Nevada Credit Union League
Sandy O'Laughlin, Commissioner, Division of Financial Institutions, Department of Business and Industry
Scott J. Kipper, Commissioner, Division of Insurance, Department of Business and Industry
Justin Worthington, Insurance Regulation Liaison, Division of Insurance, Department of Business and Industry
Elizabeth MacMenamin, Vice President of Government Affairs, Retail Association of Nevada
Michael D. Hillerby, representing American Council of Life Insurers
James L. Wadhams, representing Black Diamond Insurance Company
Marcus Allen, Owner, Masterpiece Barber School, Las Vegas, Nevada
Antinette Maestas, Secretary-Treasurer, State Barbers' Health and Sanitation Board

Chair Marzola:

[Roll was called and Committee rules and protocol were explained.] Welcome, everyone. Today, we will hear four bills: Senate Bill 40 (1st Reprint), Senate Bill 57 (1st Reprint), Senate Bill 355 (1st Reprint), and Senate Bill 386 (1st Reprint). I will now open the hearing on Senate Bill 40 (1st Reprint), which revises provisions relating to manufactured housing.

Senate Bill 40 (1st Reprint): Revises provisions related to manufactured housing. (BDR 43-270)

Stephen Aichroth, Administrator, Housing Division, Department of Business and Industry:

I am proud to introduce and present Senate Bill 40 (1st Reprint), which is what we are referring to as the manufactured housing modernization bill. Ultimately, it will streamline our operations and expand our Lot Rent Subsidy Program eligibility requirements. The Housing Division, and specifically Mr. Tim Whitright, who is my copresenter in Las Vegas,

has worked a number of years in the creation of this bill, engaging many of our manufactured housing ecosystem partners to ensure we are capturing their needs. I will now turn it over to Mr. Whitright in Las Vegas to present the bill.

Tim Whitright, Deputy Administrator, Housing Division, Department of Business and Industry:

I am pleased to outline the key points and benefits of S.B. 40 (R1). However, before going through that, I want to briefly mention that 17 of the 26 amendments involve primarily just one amendment, and that is to establish a consistent reference to a certificate of title. Current statutes refer to a title as both a certificate of ownership and certificate of title. Today's presentation [[Exhibit C](#)] will deal with the remaining sections involving various and more substantial amendments.

Again, as noted in our overview, the Housing Division has worked over the past four years to develop a culture of partnership in our role in regulating manufactured housing for the state of Nevada [page 2, [Exhibit C](#)]. We have listened to our partners and customers and have collectively developed the framework for what is now represented in S.B. 40 (R1). Our goals include enhancing communication and coordination with our partners and customers, increasing efficiency and effectiveness, creating and supporting customer-friendly processes, reducing consumer costs, and removing barriers. I want to say that again: removing barriers to the use of existing and future technology to help us achieve these desired improvements.

Senate Bill 40 (1st Reprint) will improve and support service to the public by allowing electronic distribution, submittal, and processing of applications, the supporting documents, as well as the delivery of those products [page 3]. This will positively impact licensing, titling, permits and inspections, plans review, reporting, and other related manufactured housing functions. For example, the use of email for sending, accepting, and processing will enhance communication and coordination and provide greater access to our services. Customers will be able to complete applications, make payments online, and submit via email. Applications and documents can also be sent to multiple parties to ensure there is coordination. The use of this current technology will eliminate or reduce travel, fees, mailing and postage, and limit incidents of lost mail and the documents within that mail while saving time.

In supporting partnerships, S.B. 40 (R1) will positively impact our industry professionals, including dealers, manufacturers, lenders, title companies, lien holders, and our government partners such as our assessors' building and planning departments [page 4]. These amendments allow for electronic submittal of forms and reports, such as the dealer report of sale and expanded methods for providing endorsements by our county assessors. Our Lot Rent Subsidy Program customers will also be impacted by S.B. 40 (R1) as contained in section 18 within the amendments.

This particular amendment regarding lot rent subsidy will benefit these applicants by creating a more equitable and expanded income eligibility criteria. The determination of income eligibility as it pertains to the income should be based on actual local housing conditions and costs rather than a single income level for the entire country.

I have talked about customer service, and I say it is about customer service. Let us talk about that for a moment [page 5]. Senate Bill 40 (1st Reprint) is a step on the path toward next-level customer service. It is about improving the experience for everyone through communication, coordination, efficiency, accuracy, convenience, and cost reductions to our consumers. Technology plays a big role in our customer service vision. This is why technology is key, as noted in our presentation [pages 6 and 7, [Exhibit C](#)]. To allow for online titling services, we must remove existing barriers that prevent us from using technology. As an example, section 26 repeals current language that requires the use of pen ink on paper in order to complete a titling process. Senate Bill 40 (1st Reprint) removes this language and instead supports electronic transactions including county assessor endorsements, which is just one example of many that improves customer service.

There are benefits of going digital [page 8]. I would like to walk you through one of the benefits—the county endorsement process as it currently exists—and then draw a comparison to what the process will look like upon approval of S.B. 40 (R1). Today, every title transfer requires the endorsement of the county assessor in which the home is located. The endorsement provides proof that taxes are paid and allows the assessor to update the responsible taxpayer records.

Currently, the applicant must travel to the assessor's office and present their paperwork for pen ink signature. If taxes are owed, the applicant must pay before the paperwork will be signed. Once the paperwork is endorsed or signed, the applicant must either travel to the Housing Division office to present the completed, signed, and notarized application and pay the \$60 Housing Division title transfer fee, or mail the documents with a check to the Division office. Once received by the Division, the paperwork is scanned and the hard copy is sent to our Carson City office where it is assigned for processing.

Senate Bill 40 (1st Reprint) would allow that same applicant to use technology to accomplish the same tasks with minimal travel and cost [page 9]. The application can be filled out online, then emailed to the assessor for endorsement. If taxes are owed, counties have online payment options. Once endorsed, the assessor will email it back to the applicant. The applicant, in this one portion of the process, must print the page and bring it to a notary for signature. The applicant can access the Division's online payment portal to pay the Housing Division's title transfer fee. That completed, signed, notarized, and endorsed paper along with the receipt can all be scanned and emailed to the Housing Division and can be easily tracked, and in many cases a delivery and read receipt can also be included. The title transfer application submittal process is accomplished with one travel trip, and that was to the notary, saving time and money and avoiding any incidents of lost mail and any of the original documents that would have been contained therein.

Regarding benefits to customers, S.B. 40 (R1) will reduce or eliminate the hardships to applicants, including those from out of state or even outside the country, to our rural communities and to our applicants with low income and/or physical disabilities. Real-world examples include applicants who have to take time off from work that in many cases results in a loss of income and traveling literally hundreds of miles in our rural communities. I do mean that literally. There are applicants who must travel more than 100 miles each way to get either to our office or to an assessor's office. Then there are persons who are physically incapable of traveling altogether. More examples include applicants who depend upon public transportation and the limited service schedules and who pay the fee for that transportation or fees to pay express mail service, or who experience the loss of mailed items and all of the original documents contained, or loss of interest rate locks or even a failure to close escrow on sales of manufactured homes.

I mentioned earlier a lot rent subsidy [page 10, [Exhibit C](#)]. I want to talk about that a little bit more as well. The Housing Division offers affordable housing assistance to persons with low income that helps reduce the cost burden of space rent within manufactured home parks. Applicants are currently required to income qualify using only the federal poverty guidelines, and those guidelines apply to all 48 contiguous states. Senate Bill 40 (1st Reprint) creates a more equitable income criteria that recognizes regional housing costs and availability differences specific to Nevada in addition to that federal poverty guideline. This will expand eligibility while still focusing on our most underserved populations. A real-world example here is that federal poverty guidelines will oftentimes favor the larger households—whereas the home income limits, which are specific in this case to the state of Nevada and regions therein, would favor the smaller households. Again, this does expand the eligibility for our Lot Rent Subsidy Program applicants.

We have been talking about technology [page 11]. We can finally offer you a glimpse of what is possible in our endeavor to provide more efficient customer service. The Division is developing instructional videos to be accessible online 24/7 wherever Internet is available. Videos could be played and paused as the viewer completes the form section by section with very detailed instructions. In fact, those who want to catch a glimpse of actual next-level exceptional customer service can contact our Division, and we are happy to share with you a sample of the title transfer instruction video. I believe on that slide, you have my direct phone line as well as email, and I would be happy to provide that to anyone who is interested. Thank you for listening to the presentation, and I am certainly happy to answer any questions of the Committee.

Assemblywoman Jauregui:

In regard to section 18, which is the subsidies for the monthly space rent, I know with some of the changes we are making, it is going to allow the administrator to change the monthly income, the qualifications, and you are going to do it through regulations. I was hoping you could walk us through what kind of criteria you are going to use. I am not too worried because we are going to see the regulations come before the Legislative Commission, so I know we will get to participate there. I was hoping you could walk us through the criteria you are going to use when establishing the monthly household income.

Stephen Aichroth:

We will be using U.S. Department of Housing and Urban Development home guidelines. Those are published annually, and as Deputy Administrator Whitright discussed, they are actually more significant, particularly in those one- and two-person households. They are a little bit higher, so we are going to be able to accommodate more folks in there to be eligible for the subsidy. Currently, I think there are 93 households in the Lot Rent Subsidy Program. It has decreased over time. We will be looking at expanding this to allow for those home incomes. To give you an idea, the federal poverty level for an individual from 2022 sits at \$13,590, so you would have to be below that to receive funding. In Las Vegas in 2022, it would bump up to \$17,200. We hope to get a few more people qualified to take advantage of this program.

Assemblywoman Jauregui:

I appreciate your doing that. I have a follow-up to that because I know there is also the assets component for someone to qualify for that subsidy. I know in these parks, sometimes the space rent can be really high. Sometimes it is as much as what somebody would pay for an apartment. Have you thought about possibly increasing that too? I know one of the qualifications on there is that these families or households not have assets valued more than \$12,000. That could be a paid-off car. If they have a paid-off car, that would disqualify them from being able to access these subsidies. I was wondering if now or in the future, there has been any consideration for raising the assets as well as the income level?

Stephen Aichroth:

Certainly that would be some of the items we could take care of via regulation. It is one step at a time to get to this point. I think the first step is to increase the eligibility because we do not want to stress the program so much that we cannot provide the maximum benefit to these folks. I would have to say that in 2025, we would come back and change some of that in statute.

Assemblywoman Kasama:

I think this is a great bill to expand eligibility so we can help more people. I think that is a wonderful thing. I did notice under section 18, subsection 1, paragraph (e), it does say which assets are excluded. It currently says one motor vehicle and a few other things. Whether we address more in the future, that might be good too.

During the presentation [[Exhibit C](#)], when it talks about the software program, is that a software program that has already been used in other states or jurisdictions and has been shown to work well? It sounds like that is going to be a whole new program that is adopted.

Stephen Aichroth:

I will defer to Mr. Whitright because he is in that every single day.

Tim Whitright:

The software program currently used for manufactured housing operations actually does exist in other states. However, with respect particularly to titling, I believe we are the only user in the United States that I am aware of. There are other licensing uses. I believe it is also used in at least one other agency here in Nevada.

To make sure I am answering the question, the bill looks to, as I mentioned earlier, remove any barriers to existing and future technologies. Our interest is that if other technologies or other software that may not exist now come into being, we want to make sure we do not have any barriers to using those in seeking efficiency and customer service.

Assemblyman Yurek:

My question comes out of section 19, and it looks like we have made some considerable changes here to reduce the number of sections a mobile home has to have and the square feet. I was hoping you could help contextualize that change.

Stephen Aichroth:

Effectively, what we are trying to do is ensure we can accompany more product into this. I think you will hear testimony in support shortly to explain better exactly what that number generates, but we are trying to make sure we capture, clarify, and match it up with existing product that is out on the market.

Chair Marzola:

Are there any additional questions? [There were none.] We will move to testimony in support. Is there anyone wishing to testify in support of S.B. 40 (R1)?

Susan L. Fisher, representing Nevada Housing Alliance:

First off, I would like to thank Mr. Aichroth, Mr. Whitright, and also Director Reynolds for allowing us to use section 19 to do an amendment to the bill. We are very supportive of the bill as a whole. There are some very important streamlining and changes they have made that will make it easier for dealers. They have eliminated some multiple steps in making it easier to submit records electronically. That is really important for our dealers as well. It helps us hold down costs, which we can hopefully pass on to our purchasers.

What we did with section 19 of the bill, this is creating parity. As it stood, when it said, "more than one section," it had a limitation, saying in section 19, subsection 2, paragraph (a), subparagraph (5), that the home must "consist of at least 1,200 square feet of living area unless the governing body" prohibits that. We want to make sure the local governmental entities still have some control over it. By limiting the minimum size to 1,200 square feet, you could not put a smaller manufactured home on a property as an accessory dwelling, because a lot of places will limit the size of the accessory dwelling to under 1,200 square feet. Therefore, we did not have parity with site-built or modular homes, and you cannot tell the difference between modular homes and manufactured homes. They look exactly the same and they are built almost exactly the same. Actually, they are both the same as

site-built homes as well, but we get to bring ours in and set it on the property. This creates parity and removes the discrimination against manufactured homes. I would be happy to answer any questions.

Mendy K. Elliott, representing Nevada Housing Coalition:

[Read from written testimony, [Exhibit D](#).] I am here on behalf of Christine Hess, the Executive Director of the Nevada Housing Coalition. We are here to express our support for S.B. 40 (R1) as amended that will streamline processes for Nevada's lead housing agency, the Nevada Housing Division, and also expand housing affordability and stability for more extremely low-income Nevadans. As importantly, the increased efficiency in the process will also be felt by the Nevadans interested in applying for this program, saving them time and money and travel.

According to the National Low Income Housing Coalition, 81 percent of our extremely low-income Nevadan renter households pay more than half of their income on their housing costs. That represents nearly 80,000 households in Nevada. While the changes proposed by Senate Bill 40 (1st Reprint) cannot solve this crisis, every Nevadan and family who can move from housing insecurity to a place of housing stability makes a difference to that individual or the family and ultimately our state's future prosperity. We very much appreciate your hearing the bill today, and we appreciate your support.

Chair Marzola:

Thank you for your testimony. Is there anyone else wishing to testify in support? [There was no one.] We will move to testimony in opposition. Is there anyone wishing to testify in opposition to S.B. 40 (R1)? [There was no one.] We will move to neutral testimony. Is there anyone wishing to testify in neutral on S.B. 40 (R1)? [There was no one.] Mr. Aichroth, would you like to give any final remarks?

Stephen Aichroth:

I want to thank you for your time and consideration of the bill.

Chair Marzola:

Thank you for being here today. I will now close the hearing on S.B. 40 (R1). I am going to take the bills out of order just a little bit. I will now open the hearing on Senate Bill 355 (1st Reprint), which revises provisions relating to financial services.

[Senate Bill 355 \(1st Reprint\)](#): Revises provisions relating to financial services. (BDR 55-59)

Senator Roberta Lange, Senate District No. 7:

I am here with Senator Scott Hammond. Thank you for the opportunity to present Senate Bill 355 (1st Reprint), which is a bill that addresses the licensure and regulation of financial institutions in our state. As we know, Nevada relies heavily on financial institutions to keep its economy running. The institutions provide vital services to businesses and individuals alike, including loans, savings accounts, and investment opportunities. However,

the licensing process for these institutions is sometimes seen as overly burdensome and time-consuming, which can discourage potential new entrants into the market. This is particularly concerning given the changing nature of the financial sector and the many new fintech firms and online lenders entering this space. If Nevada wants to remain competitive in the changing landscape, we must ensure our licensing process is streamlined and efficient.

Another area that requires attention is the regulation of protections for senior citizens and vulnerable persons in Nevada. While regulations are already in place to protect these consumers and ensure financial institutions are operating in a safe and sound manner, these regulations must be updated to reflect the changing nature of the industry. With the rise of digital technology, many lenders are now able to provide loans to borrowers without ever meeting them in person. While this can be a convenient option for borrowers, it also raises concerns for fraud and identity theft. As such, there is a need for clear regulations to ensure remote lending is conducted in a safe and secure manner. By streamlining the licensing process, updating regulations, and ensuring safe and secure remote lending, Nevada can continue to attract new entrants into the financial sector and support the growth of the economy.

With that, I will turn it over to Senator Hammond who will go through the sections of the bill.

Senator Scott Hammond, Senate District No. 18:

I am going to go over the sections of the bill starting in section 1. Section 1 removes the requirement for applicants to provide a physical address for the main office of the proposed depository institution during the licensing process. Instead, the Division of Financial Institutions can require the applicant to provide a general location and submit the physical address before commencing business operations. This change acknowledges the growing trend of digital and remote banking services and streamlines the application process.

Section 3 extends existing provisions governing actions a financial institution may take to report known or suspected exploitation of older or vulnerable persons to include specific procedures a financial institution may take to temporarily delay and request a disbursement from, or a transaction involving, an account of an older or vulnerable person.

Section 16.5 provides that a person is not required to accept a power of attorney if another person reports or knows about suspected exploitation or delays transactions due to such suspicion. In section 5, the legislation permits employees of licensed lending businesses to work remotely provided they adhere to certain requirements. This measure adapts to the changing landscape of work, allowing businesses to adapt and innovate their operation.

In sections 6 through 8, they outline additional requirements and restrictions to ensure data security and maintain operational integrity for remote employees. Section 17 of the bill exempts licensed lending businesses from existing data breach notification requirements, while section 9 establishes specific notification provisions tailored to the financial industry.

In the event of a data breach, the licensee must notify affected residents after discovery or notification of a breach of security of the data. Section 10 mandates any licensee required to notify more than 500 residents due to a single breach must also notify the Attorney General.

One other point of business we want to bring is that we have talked several times and made a couple of amendments. There is another proposed amendment coming from Clark County [\[Exhibit E\]](#). We are going to have Ashley Kennedy come up during testimony, and she will present that amendment to you. We consider it a friendly amendment to the process. That is all I have right now.

Senator Lange:

Before we open it up for questions, Madam Chair, we worked over the interim and had several meetings with stakeholders for the past two years, pulling together the information to be able to do this bill. Senior financial literacy and making sure seniors' money was protected in institutions were of paramount importance to us. You will see a big focus on that in the bill. With that, we are happy to answer questions.

Chair Marzola:

In section 3, subsection 5, on page 5 where it states the financial institution would be immune from civil, criminal, and administrative liability, in paragraph (b) it says "delaying"—which I completely understand, delaying a requested disbursement so they would be immune—but then it says, "or not delaying."

Senator Hammond:

That is the amendment [\[Exhibit E\]](#) that is going to be presented to you from Clark County. They are going to address that. As I said, we consider that a friendly amendment.

Chair Marzola:

Are we deleting that part?

Senator Hammond:

I would rather let Ms. Kennedy explain it to you. I think what she wants to do is amend it a little bit to provide immunity if a financial institution does delay the disbursement of assets upon receiving a report of known or suspected exploitation. She wants to talk a little bit about that because she wants to make sure we are still taking care of those folks in case there is a delay. I am hesitating because I really wanted her to explain it when she comes up.

Chair Marzola:

She is actually right behind you. Do you want to come up here?

**Ashley Garza Kennedy, Principal Management Analyst, Government Affairs,
Department of Administrative Services, Clark County:**

Our amendment [\[Exhibit E\]](#) is not on the Nevada Electronic Legislative Information System, but we have it here. I am testifying on behalf of the Clark County Public Guardian's Office, which is tasked with protecting the social well-being and economic welfare of individuals

who are legally incapable of managing their affairs. What our amendment seeks to do is to amend section 3, subsection 5, paragraph (b), which is what you were mentioning, Chair. What we want to do is strike "or not delaying." This would ensure that an institution is immune from liability for delaying the disbursement of assets if there is known or suspected exploitation of a senior. We support that immunity. We want to make sure if somebody is potentially being exploited, or we know they are being exploited, that we are protecting their assets from being disbursed.

Chair Marzola:

That completely answers my question, and I appreciate that amendment [\[Exhibit E\]](#). Are there any additional questions? [There were none.] We will move to testimony in support of S.B. 355 (R1). Is there anyone wishing to testify in support?

Connor Cain, representing Nevada Bankers Association:

We are in support of S.B. 355 (R1). As you heard, this bill covers many different topics. I would like to focus my testimony on one of the topics we spent a considerable amount of time discussing this interim, which is how to enhance the tools that financial institutions have to protect Nevada seniors against financial exploitation.

As many of us know, our seniors are vulnerable targets for fraudsters. They are trusting of others, often live independently from family members, can be mentally or physically vulnerable, and like me, can be technologically challenged. As a result, adults 65 and older lost more of their savings to fraudsters than any other age group. In fact, 1 out of every 5 adults over 65 have been victimized, with women nearly twice as likely as men to be victims.

Under existing law, when a financial institution—and more specifically, its officers or employees—knows or expects exploitation of an older vulnerable person, it must report that exploitation to the Aging and Disability Services Division, Department of Health and Human Services, and local law enforcement. This bill does not change that duty. What it does is add an additional tool these folks can use to protect their customers by providing them with a safe harbor to temporarily delay a suspicious disbursement or transaction.

The Nevada Bankers Association appreciates the time and effort the bill sponsors have invested in S.B. 355 (R1), not only this session, but as you heard, throughout the interim, and encourages your support.

Dylan Keith, Assistant Director, Government Affairs, Vegas Chamber:

We would like to thank the sponsors as well as the stakeholders for their work on this bill. We are specifically in favor of this bill for the protections that Mr. Cain was going over. We kindly ask for your support.

Brian Reeder, representing Nevada Credit Union League:

Similar testimony, Nevada Credit Union League would like to encourage your support and thank the bill sponsors, particularly for the collaborative efforts to protect seniors from fraud and abuse.

[A letter in support, [Exhibit F](#), was submitted but not discussed and will become part of the record.]

Chair Marzola:

Is there anyone else wishing to testify in support? [There was no one.] We will move to opposition testimony. Is there anyone wishing to testify in opposition to S.B. 355 (R1)? [There was no one.] We will go to neutral testimony. Is there anyone wishing to testify in neutral on S.B. 355 (R1)?

Sandy O'Laughlin, Commissioner, Division of Financial Institutions, Department of Business and Industry:

I am here in neutral and to answer any questions. [There were none.] I did work with Senator Lange and Senator Hammond on the bill.

Chair Marzola:

Is there anyone else wishing to testify in neutral? [There was no one.] Senators Lange and Hammond, would you like to give any closing remarks? [There were none.] We will now close the hearing on S.B. 355 (R1). I will now open the hearing on Senate Bill 57 (1st Reprint), which revises provisions to insurance.

[Senate Bill 57 \(1st Reprint\)](#): Revises provisions relating to insurance. (BDR 57-272)

Scott J. Kipper, Commissioner, Division of Insurance, Department of Business and Industry:

[Read from written testimony, [Exhibit G](#).] It is my honor to be here today representing the Division of Insurance and to present Senate Bill 57 (1st Reprint). I am joined today by Justin Worthington, the Division's legislative liaison. Very briefly, a little bit of background: The insurance industry has a significantly large footprint in the state of Nevada and has grown from \$11 billion in written premiums in 2012 to now over \$22 billion in 2021, and it continues to grow. The premium tax from that level of premium is the fourth-largest contributor to the state's General Fund with \$1.2 billion of revenue being projected by the Economic Forum for this biennium. The Division of Insurance is not a General Fund agency; rather it is an enterprise-funded agency that assesses a fee to those entities the Division regulates for our budget.

The Division of Insurance regulates approximately 1,700 insurers that are admitted to do business in our state, along with an additional 150 captive insurers that are domiciled in Nevada. The number of licensed producers or insurance agents in Nevada has increased by

over 100,000 over a two-year period, growing from approximately 150,000 licensed producers in 2020 to now over 250,000 producers. The insurance industry employs over 40,000 Nevadans, and those jobs generate well over \$2 billion in annual wages.

I will now provide you a brief review of the changes proposed in this bill. Because the bill addresses numerous chapters in *Nevada Revised Statutes* Title 57, we have provided you an explanation table for S.B. 57 (R1) [\[Exhibit H\]](#), which is a summary of each of the changes in the sections of the bill along with the corresponding rationale for each change.

Section 1 changes the current requirement for health carriers submitting a copy of every provider denial letter to the Commissioner to now submitting a report that summarizes those provider network denials, and to make a copy of every denial letter available to the Commissioner upon request. We believe this will create greater efficiencies in the marketplace for carriers and for the Division.

Section 2 has been deleted by amendment. Section 3 removes the phrase "threatened act" and adds the language "that is related to the business of insurance" in subsection 2. This section also moves the deadline to hold a hearing from 30 to 60 days to accommodate anticipated workload. It also provides the Commissioner shall issue a final order in a contested case within 45 days after the close of the hearing of that contested case. These changes are necessary to simplify important deadlines, which will ensure the Division can effectively manage cases.

Section 4, on which the Division worked closely with the Office of the Attorney General, makes confidential, with certain exceptions, additional records and information relating to an investigation for the prosecution of insurance fraud. It requires such records and information to remain confidential during and after the conclusion of the investigation and places the responsibility of release on such records on prosecuting attorneys, not just the Attorney General. The new requirements are necessary because criminal investigations are sensitive and disclosing investigative information could potentially undermine case prosecution.

Section 4.2, as a matter of practicality in this modern environment, authorizes a paperless option regarding electronic delivery of health plans. Accordingly, covered persons of a health plan, as defined in this section, must opt out of electronic delivery of notices to be delivered by the U.S. Postal Service. Before consenting on behalf of a covered person, a plan sponsor must also confirm by reasonable means that the covered person routinely uses electronic communications during the normal course of employment. Importantly, this section provides exceptions for cancellation, nonrenewal, and termination notices. Sections 4.4, 4.6, and 4.8 add references regarding section 4.2 and reflect necessary statutory references.

Section 5 revises the terminology used to describe fees in *Nevada Revised Statutes* (NRS) 680B.010 to match the language used in statute. The amount of such fees remains unchanged, and the section also removes duplicative fees. The change will allow regulated entities to better understand and interpret requirements for these license types.

Section 7 provides the Commissioner has discretion to require a managing general agent to file and maintain a surety bond with the Commissioner. The Commissioner will also have discretion to require a surety bond of managing general agents because of the direct contractual relationship between an insurer and a managing general agent.

Section 8 requires a third-party administrator (TPA) to notify the Commissioner within 30 days of changes to the administrator's members, owners, directors, or officers, along with changes to their physical location, mailing address, electronic mail address, or legal or fictitious name.

Section 9 revises NRS 683A.025 to provide clarity that any person who administers a program of pharmacy benefits for an employer, insurer, internal service fund, or trust must be licensed as a third-party administrator. Many pharmacy benefit managers (PBMs) have already obtained a Nevada administrator's license, so this clarification will be helpful to properly enforce relevant statutes for all PBMs.

Section 10 simply makes a conforming change to reference section 8 of this bill. Section 10.5 makes a conforming change to reference the exception found in NRS 683A.086, which corresponds with section 13 of this bill.

Sections 11 and 12 revise requirements for an out-of-state applicant for an administrator certificate of registration to include in their application the authorization document issued by their home state and requiring the applicant to comply with all applicable provisions of NRS Title 57 and related regulations to renew their authorization. These revisions will enable the Division to verify out-of-state licenses and ensure compliance with Nevada law.

Section 13 clarifies that subcontracting out administrator duties is not permitted between a third-party administrator and an unlicensed third-party administrator. The proposed changes generally will ensure that TPAs meet their obligations, and if an issue arises, the Division can adequately address the issue.

Section 14 adds language allowing the Commissioner to require an applicant for a license as a managing general agent to submit a copy of any contract between the applicant and each insurer the applicant will represent as a managing general agent, in addition to meeting the bond requirements contained in section 7.

Sections 15, 19, and 36 authorize the Commissioner to renew a temporary license as a producer of insurance, independent adjuster, and exchange enrollment facilitator for an additional period of 180 days under circumstances such as concluding certain estate matters or completing tours of duty in the military.

Sections 16 through 18, 20, and 40 through 42 revise provisions concerning the licensure of insurance consultants, business entities, adjusters, insurance agents, and firms or corporations to clarify and standardize the circumstances in which an agent of an insurer is required to designate a natural person to represent the agency or to be responsible for the agency's

compliance with the laws and regulations governing insurance. The term "appointment" is also removed from the statutes in favor of the term "sponsorships" because the Division views these terms as unique and distinct, which will also allow regulated entities to better understand and interpret the requirements of each license type.

Section 21 was deleted by amendment. Section 22 prohibits individual and small group health plan benefit insurers who have removed a prescription drug from a formulary from adding that prescription drug back into the formulary in a higher cost tier in the same plan year in which it was removed, except at the times and under the circumstances provided for under existing law. Current statutory language provides a loophole that enables the carrier to remove a drug from this formulary and then add it back. This section would then effectively close that loophole.

Section 23 reduces the minimum allowed rate for determining annuity nonforfeiture benefits from 1 percent to 0.15 percent to help ensure insurer solvency and to bring Nevada's annuity nonforfeiture rules in line with the National Association of Insurance Commissioners model law updates.

Section 24 allows for the sale of contingent deferred annuities in Nevada by clarifying that this type of annuity—which is designed to provide guaranteed lifetime income payments if an investment account is exhausted during the life of the annuitant—is not subject to nonforfeiture rules because contingent deferred annuities are not designed to accumulate value.

Sections 25 and 27 relate to prepaid contracts for funerals and cemetery services and clarify the requirements of NRS 683A.301 apply to an applicant for a certificate of authority. The intent behind this change is to ensure the names of funeral and cemetery sellers are not deceptively like existing entities.

Section 26 requires a person to have a good business and personal reputation to qualify for an agent's license to sell prepaid contracts for burial services on behalf of the seller. Most licensees under NRS Title 57, including a funeral agent, are required to have a good business and personal reputation, so this language standardizes the requirement for sellers of burial contracts.

Section 28 replaces the definition of the term "health benefit plan" in NRS 689C.075 with the definition used in NRS 687B.470 to promote statutory consistency and reduce potential confusion.

Section 29 clarifies that the provisions regarding confidentiality and disclosure of certain records and information that apply to traditional insurers also apply to captive insurers domiciled in Nevada.

Sections 30 through 32 move the annual filing deadline of the statement of financial condition for various types of captive insurers from March 1 to June 30. This change will allow captive insurers to provide annual report filings using audited financial information.

Sections 33 through 35 make conforming changes necessitated by the renumbering of the fees table included in section 5.

Section 37 provides that *Nevada Rules of Civil Procedure* do not govern the provisions set forth in NRS 696B.250 regarding the commencement of a delinquency proceeding petition or order to show cause, which is necessary because each is extremely time sensitive.

Section 38 eliminates duplicative statutory language regarding the powers of the Commissioner as a receiver, rehabilitator, or liquidator of an insurer. The intent is to remove potential confusion regarding language of authority and compensation of those hired in receiverships, and to ensure the NRS is consistent with Uniform Insurers Liquidation Act and Insurer Receivership Model Act.

Section 39 adds language to clarify that when a receiver is to be appointed in delinquency proceedings for an insurer, certain persons who may be appointed and certain staff who may be employed in relation to the delinquency proceedings serve at the pleasure of the Commissioner.

Sections 43 and 46 establish that only a bail enforcement agent is authorized to take certain actions with respect to the apprehension and surrender of a defendant. Section 43 also removes the term "dwelling" in favor of the term "structure." The changes are necessary because bail enforcement agents and bail agents continue to use unlicensed persons to locate and apprehend defendants. Bail enforcement agents must meet very specific qualifications to engage in locating, apprehending, and surrendering defendants who have failed to appear in court. These qualifications, which include rigorous training, distinguish the bail enforcement agent from the bail agent.

Section 44 provides that a bail agent who improperly causes the surrender of a defendant to custody is not entitled to collect any fees related to the surrender. Section 45 prohibits a bail agent, general agent, bail enforcement agent, or bail solicitor from allowing any person other than a licensed bail enforcement agent to participate in the functions of a bail enforcement agent.

Section 47 removes the phrase "threatened act" from existing language in NRS 315.725(9). The revision signifies a necessary change in conforming with section 3.

That concludes my introduction of S.B. 57 (R1). We look forward to answering questions of the Committee members, and I appreciate your patience as we read that into the record.

[A supporting document, [Exhibit I](#), was submitted but not discussed and will become part of the record.]

Assemblywoman Torres:

Thank you for taking the opportunity to meet with me last week ahead of this presentation. I did have one specific question regarding section 43 of the bill, which is also on page 43. I noticed we have some language in there regarding bail enforcement agents. As I look at that, I see we are striking the language that notes if an individual violates the provisions of this section, they would be "guilty of a misdemeanor." What teeth would the bail enforcement agents have to follow the provisions?

Justin Worthington, Insurance Regulation Liaison, Division of Insurance, Department of Business and Industry:

To your question, I think that is something I will have to look into and then get back to you as soon as possible.

Assemblywoman Jauregui:

Thank you, Commissioner, for also meeting with me before the hearing today to get most of my questions answered. I want to take the opportunity to go over some of the questions we had in our meeting to put them on the record. I am sure some of my colleagues might have the same questions, specifically around section 3, where we talked about extending the hearing date from 30 days to 60 days and requiring the Commissioner to have a final order within 45 days. My concerns around that area were if someone is being charged with an allegation of improper conduct, and because it is an alleged charge, they would still be allowed to practice, produce, or sell insurance. As I shared with you, my concern is that someone might be out of work for more than three months, and people out of work still have to pay bills. So again, they would still be allowed to practice because we are taking it from 30 days to 60 days and then giving an additional 45 days for the Commissioner to come out with the final order. I wanted to put on the record that they would still be awarded full due process and allowed to continue to perform their work while this is an ongoing process.

Scott Kipper:

You are quite right in your interpretation. Although I am not a lawyer, you are innocent until otherwise proven guilty, so an agent or anybody who would be subject to such a hearing would be able to continue to perform their functions under their license as we license them during the interim period, during the hearing, and until the Commissioner does provide a resolution to that case.

Chair Marzola:

Are there any additional questions? [There were none.] We will move to testimony in support of S.B. 57 (R1). Is there anyone wishing to testify in support?

Elizabeth MacMenamin, Vice President of Government Affairs, Retail Association of Nevada:

I come to the table in support of the Insurance Commissioner's legislation, S.B. 57 (R1), specifically sections 9 and 22 dealing with prescription benefit manipulators. Nevada is woefully behind in regulating and doing anything with these entities that are being held accountable in other states. I look forward to their being held accountable and possibly

bringing down prescription drugs for your constituents and for the patients in Nevada, because they are the players that are creating some of the problems we see today. I thank the Insurance Commissioner for this. This is a tiny step. Let us see what we can do to Nevada to help them rein in these entities.

Michael D. Hillerby, representing American Council of Life Insurers:

We are in support of the bill, in particular the sections on annuities the Commissioner outlined. The model acts and the hard work of the National Association of Insurance Commissioners are important. They make sure companies that serve customers in a variety of states have some consistent rules, but even more important, make sure that you retain your sovereignty over state laws and the Commissioner maintains his powers over the regulated entities. I am happy to be here to support the work the Division does in this bill.

[A letter in support, [Exhibit J](#), was submitted but not discussed and will become part of the record.]

Chair Marzola:

Is there anyone else wishing to testify in support? [There was no one.] We will move to testimony in opposition to S.B. 57 (R1). Is there anyone wishing to testify in opposition?

James L. Wadhams, representing Black Diamond Insurance Company:

I apologize for the lateness of this. I am actually in support of this bill, but we do have an amendment [[Exhibit K](#)], which technically makes me in opposition. It is a housekeeping item that allows nonresidents to apply to be bail agents, not bail enforcement agents, but bail agents. They have to be licensed in their own state. The language is very similar to what this Commissioner himself adopted in the 2011 Session for nonresident adjusters. This is housekeeping and clarifies the reciprocity with other states, and I would appreciate the Committee's consideration of this. I am happy to continue to work with the Commissioner.

Chair Marzola:

Is there anyone else wishing to testify in opposition? [There was no one.] We will move to neutral testimony. Is there anyone wishing to testify in neutral to S.B. 57 (R1)? [There was no one.] Mr. Kipper, would you like to give any closing remarks?

Scott Kipper:

We wish to thank the Committee for their indulgence today, and if there are any questions, we look forward to answering them at any time.

Chair Marzola:

Thank you for your presentation today. I will now close the hearing on S.B. 57 (R1). I will now open the hearing on Senate Bill 386 (1st Reprint), which revises provisions relating to barbering.

Senate Bill 386 (1st Reprint): Revises provisions related to barbering. (BDR 54-874)

Senator Pat Spearman, Senate District No. 1:

Last year, I had someone come to me and tell me about a glitch in terms of licensing for barbers and wanted to get a bill that would clarify that. Unfortunately, in the bill you have before you, some of the language is still confusing. In an effort to make sure everyone understands, there are two tests to be taken. The first one is when you graduate. When you graduate and pass that test, then it is my understanding you become an apprentice. After 18 months, you take a test to become a registered barber. When it says apprentice, we need to strike that. I would like to go down south to Mr. Marcus Allen, if that is okay with you.

Marcus Allen, Owner, Masterpiece Barber School, Las Vegas, Nevada:

We have the State Barbers' Health and Sanitation Board to explain the terminology we would need to use for this.

Antinette Maestas, Secretary-Treasurer, State Barbers' Health and Sanitation Board:

We had heard the cries of our schools and our licensees that there was probably some unfair practice with this law, so we wanted to get it changed. I understand test anxiety. You go to school for 1,500 hours, you graduate, and you take your first exam as an apprentice barber. If you failed it, the way the law was written, you had to go back to school for 250 hours. With the help of Senator Spearman, what we have done is, they would get four times to take the exam within a six-month period before they would have to go back to school.

The only amendment I would like to see done on this is in section 1, subsection 2, where it talks about a cosmetologist. That is a crossover and is somebody who is already licensed as a cosmetologist. They go to barber school for 400 hours. They take their exam as a registered barber. By definition, when you see the word "barber," that means a registered barber. An apprentice is "apprentice barber." A crossover tests as a registered barber.

We would like to see the same wording that is in section 1, subsection 3 for "apprentice barber" to be in with a crossover, so they could take it the first time and then three times again within a six-month period.

In section 1, subsection 1, where it talks about "barber," that is a registered barber. After you go to school, you take your exam, pass it, and go to work in a barbershop for 18 months. You work with a registered barber. After that, you come back and take your registered exam. If you listen to the people on the street, they call it "master," but it is technically "registered barber." They never have to go back to school for that. They continue working in a shop for three months and take it again.

We would like to show support of this with those amendments made, and I am here to answer any questions you may have. Mr. Allen might talk on some of the reasons why six months was in there versus a year.

Marcus Allen:

We did run into a problem when we became a school in the state of Nevada eight years ago. Some of the students got test anxiety. They took a test, failed the test, and had to do a refresher course. Refresher courses take up to 250 hours and it is also \$3,000 at this present time.

I am speaking on behalf of not only my school, but the other schools here in the state of Nevada. We reached out and would like to have this changed and are for this. Also, with the six-month period, we would need that financial aid. All the barber schools together in Nevada are reaching out to get financial aid so more students will be able to go to school who could not afford it. Within the six-month period, we have to have a quota we have to meet to report back to the Department of Education. It would be best with the six months so the students can get to work faster than waiting for a whole year to get to work.

Chair Marzola:

Does that conclude your presentation?

Senator Spearman:

Yes, it does.

Assemblywoman Kasama:

I am surprised you did not have the opportunity to retake tests. I know with the real estate license, they are allowed to retake the test, so we are allowing that for another industry. I certainly support being able to do it in this industry as well, so thank you for bringing the bill.

Senator Spearman:

That was one of the things that came up when they asked me to carry the bill. They asked to change the law because in other professional licensing, there was an opportunity to re-take the test, but the way the statute is written right now, it did not allow for that in this industry.

Chair Marzola:

So I can visualize it correctly, if I go to school, take a test to graduate, and then start my apprenticeship, if I do not pass that test, instead of retaking it, I would have to go back to school at this point.

Senator Spearman:

Without this bill, yes. I will defer to Mr. Allen and Ms. Maestas if I got that wrong. The bill would allow for the retaking of the exam within a certain time period. When they graduate and take the exam, they are simply a graduated applicant. If they pass that, then they move into the apprenticeship portion. If they do not, they have six months to take it three more times.

Chair Marzola:

I guess I am in shock that someone would have to go back to school in order to retake the test. Thank you for bringing this bill forward. I do not think there are any other spaces where this happens, whether it is accounting, legal, or, as Assemblywoman Kasama said, real estate. I appreciate this.

Assemblywoman Torres:

Based off the conversation, I was thinking the same thing. It does not make sense that we have in practice that you have to go back to school to retake a test. I see there is still language that requires that. Is there any reason why we would still require individuals to get the 250 hours if it is more than six months after that initial examination? Could you walk through some of the reasoning on that?

Senator Spearman:

I am going to defer to Mr. Allen.

Marcus Allen:

First, we had it where there was a law that stated if you failed after taking the test one time, you would have to come back and do a refresher course. We opened the window because if in case you have test anxiety, you are nervous, you were not comfortable, or you did not study enough, you would not have to do that. We think it is very important if you failed at least four times that you come back to school because there is something you may have missed, and it is very important you get it back in school. As barbers, we deal with razors and clients, so we do not want someone to be failing that test and then go out into the field and put a razor on someone. You can cut them or hurt them really bad. We understand that a razor on someone's neck or anything like that could cause significant damage or injury. Most definitely, we would like for them to come back and do a refresher course after the four times. I hope I answered the question.

Chair Marzola:

Are there any additional questions? [There were none.] We will move to testimony in support of Senate Bill 386 (1st Reprint). Is there anyone wishing to testify in support? [There was no one.] We will move to testimony in opposition to S.B. 386 (R1). Is there anyone wishing to testify in opposition? [There was no one.] We will move to neutral testimony. Is there anyone wishing to testify in neutral on S.B. 386 (R1)? [There was no one.]

Senator Spearman, would you like to give any final remarks? [There were none.] I will now close the hearing on S.B. 386 (R1). I will now open up for public comment. Is there anyone wishing to give public comment? [There was no one.]

This concludes our meeting for today. Our next meeting will be Friday, May 5, 2023, at 1:30 p.m. This meeting is adjourned [at 1:17 p.m.].

RESPECTFULLY SUBMITTED:

Julie Axelson
Committee Secretary

APPROVED BY:

Assemblywoman Elaine Marzola, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is copy of a PowerPoint presentation titled "Assembly Commerce and Labor Committee: An Introduction of SB40," dated May 3, 2023, presented by Stephen Aichroth, Administrator, Housing Division, Department of Business and Industry.

[Exhibit D](#) is written testimony dated May 3, 2023, signed by Christine Hess, Executive Director, Nevada Housing Coalition, in support of Senate Bill 40 (1st Reprint).

[Exhibit E](#) is a proposed amendment to Senate Bill 355 (1st Reprint), dated May 3, 2023, presented by Ashley Garza Kennedy, Principal Management Analyst, Government Affairs, Department of Administrative Services, Clark County.

[Exhibit F](#) is a letter dated May 2, 2023, signed by Aviva Gordon, Chair, Legislative Committee, Henderson Chamber of Commerce; and Emily Osterberg, Director of Government Affairs, Henderson Chamber of Commerce, in support of Senate Bill 355 (1st Reprint).

[Exhibit G](#) is written testimony dated May 3, 2023, presented by Scott J. Kipper, Commissioner, Division of Insurance, Department of Business and Industry, regarding Senate Bill 57 (1st Reprint).

[Exhibit H](#) is a document titled "Section by Section Explanation for SB 57 – Regulation of Insurance," presented by Scott J. Kipper, Commissioner, Division of Insurance, Department of Business and Industry.

[Exhibit I](#) is a document titled "SB 57 NRS Title 57 Insurance," submitted by Justin Worthington, Insurance Regulation Liaison, Division of Insurance, Department of Business and Industry, regarding Senate Bill 57 (1st Reprint).

[Exhibit J](#) is a letter dated May 3, 2023, from Mark Sektnan, Vice President, American Property Casualty Insurance Association, in support of Senate Bill 57 (1st Reprint).

[Exhibit K](#) is a proposed amendment to Senate Bill 57 (1st Reprint), presented by James L. Wadhams, representing Black Diamond Insurance Company.