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

Eighty-Second Session
May 31, 2023

The Committee on Commerce and Labor was called to order by Chair Elaine Marzola at 2:14 p.m. on Wednesday, May 31, 2023, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4412 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 Nicole J. Cannizzaro, Senate District No. 6
Senator Rochelle T. Nguyen, Senate District No. 3
Senator Roberta Lange, Senate District No. 7
Senator Melanie Scheible, Senate District No. 9

STAFF MEMBERS PRESENT:

Marjorie Paslov-Thomas, Committee Policy Analyst
Sam Quast, Committee Counsel
Joe Steigmeyer, Committee Counsel
Cyndi Latour, Committee Manager
Julie Axelson, Committee Secretary
Garrett Kingen, Committee Assistant

OTHERS PRESENT:

Alisa Nave-Worth, representing DailyPay
Ryan Naples, Senior Public Policy Manager, DailyPay, New York, New York
Molly Jones, Vice President, Government Affairs, Payactiv, San Jose, California
Gerron Levi, Senior Vice President, Head of Government Affairs, American Fintech Council, Washington, D.C.
Paul J. Moradkhan, Senior Vice President, Government Affairs, Vegas Chamber
Garth McAdam, General Counsel, ZayZoon, Scottsdale, Arizona
Kouri Marshall, Director, State and Local Public Policy, Chamber of Progress, McLean, Virginia
Pete Isberg, Vice President, Government Affairs, ADP Inc., Roseland, New Jersey
Alice Jacobsohn, Director, Government Relations, PayrollOrg, San Antonio, Texas
Yvonne Chao, Director, Public Policy, EarnIn, Palo Alto, California
Jonathan Norman, Statewide Advocacy, Outreach, and Policy Director, Nevada Coalition of Legal Service Providers
Sandy O'Laughlin, Commissioner, Division of Financial Institutions, Department of Business and Industry
Layke Martin, Executive Director, Nevada Cannabis Association
Esther Badiata, representing Planet 13 Holdings; RNBW; and Jardín Premium Cannabis Dispensary
Will Adler, representing Sierra Cannabis Coalition
Brett Scolari, representing CPCM Holdings; Cura Cannabis Solutions; GreenMart of Nevada NLV LLC; and Clark Natural Medicinal Solutions
Scot Rutledge, representing Deep Roots Harvest; and Green Life Productions
A'Esha Goins, Founder, Cannabis Equity and Inclusion Community
Chelsea Capurro, representing Nevada Cannabis Association
Paul Larsen, Private Citizen, Las Vegas, Nevada
Tyler Klimas, Executive Director, Cannabis Compliance Board
The Honorable Michael Douglas, Chair, Cannabis Compliance Board
Riana Durrett, Private Citizen, Las Vegas, Nevada
Randy Soltero, representing Soltero Strategies
Fran Almaraz, Political Coordinator, Teamsters Local 631 and Local 986
Susie Martinez, Executive Secretary-Treasurer, Nevada State AFL-CIO
Marc Ellis, President, Communications Workers of America Local 9413
Cody Hoskins, Political Director, Service Employees International Union Local 1107

Sarah Collins, representing National Electrical Contractors Association
Misty Grimmer, representing Nevada Resort Association
Max Grinstein, Youth Legislator, Nevada Youth Legislature, Senate District No. 15
Nicholas Shepack, State Deputy Director, Fines and Fees Justice Center
Stella Thornton, Youth Legislator, Nevada Youth Legislature, Senate District No. 16
John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office
Annette Dawson Owens, School Readiness Policy Director, Children's Advocacy Alliance
Dora Martinez, Private Citizen, Reno, Nevada

Chair Marzola:
[Roll was called and Committee rules and protocols explained.] Welcome, everyone with us today. We are going to hear four bills: Senate Bill 145 (2nd Reprint), Senate Bill 195 (2nd Reprint), Senate Bill 234 (2nd Reprint), and Senate Bill 290 (2nd Reprint). I am not taking those bills in order. We will also work session a bill today. With that, I will open the work session on Senate Bill 275 (1st Reprint).

Senate Bill 275 (1st Reprint): Revises provisions relating to manufactured home parks. (BDR 10-958)

Marjorie Paslov-Thomas, Committee Policy Analyst:
[Read from work session document, Exhibit C.] Senate Bill 275 (1st Reprint) revises provisions relating to manufactured home parks. It is sponsored by Senator Daly. It was heard on May 29, 2023, and there are no proposed amendments.

Chair Marzola:
Are there any questions? [There were none.] I will entertain a motion to do pass Senate Bill 275 (1st Reprint).

ASSEMBLYWOMAN JAUREGUI MADE A MOTION TO DO PASS SENATE BILL 275 (1ST REPRINT).

ASSEMBLYWOMAN MONROE-MORENO SECONDED THE MOTION.

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

THE MOTION PASSED. (ASSEMBLYMEN HARDY, KASAMA, AND YUREK VOTED NO. ASSEMBLYMEN O'NEILL AND YEAGER WERE ABSENT FOR THE VOTE.)

I will assign the floor statement to myself. That ends our work session. I will now open the hearing on Senate Bill 290 (2nd Reprint), which provides for the regulation of employer-integrated earned wage access providers and direct-to-consumer earned wage access providers.

Senate Bill 290 (2nd Reprint): Provides for the regulation of employer-integrated earned wage access providers and direct-to-consumer earned wage access providers. (BDR 52-9)

Senator Nicole J. Cannizzaro, Senate District No. 6:
I am pleased to be here with you today to present Senate Bill 290 (2nd Reprint), which seeks to regulate and establish a framework for earned wage access providers, or what we may refer to as EWA providers, and EWA products and services in Nevada. One of the reasons this is a pertinent conversation relates directly to what we see in so many of our own communities. Many people struggle financially, and as we often discuss, they live paycheck to paycheck. Unfortunately, in 2022, 64 percent of Americans were living paycheck to paycheck, which is up 11 percentage points from 2021, according to a recent LendingClub Bank report. In addition, 47 percent of those earning more than $100,000 per year reported living paycheck to paycheck, which is a 13 percentage point increase from a low of 34 percent in July 2021.

Seventy-four percent of Americans would experience financial difficulty if paychecks were delayed by just one week. For Nevadans who are living on a tight budget, everyday events are not always compatible with pay periods, and in this modern age, workers are demanding access to their already earned wages. That is something we are seeing in our communities, and it is starting to pop up, and this bill seeks to address that with a regulatory framework.

As some of you may know, I grew up in a family that definitely lived paycheck to paycheck. My parents were a bartender and a waitress. Sometimes that meant when the paycheck was on the way, there was not extra money. I have done that myself prior to becoming a full-fledged attorney. I had situations where I, too, was working in the restaurant industry and lived paycheck to paycheck. In that situation, even the smallest life event can cause an issue because you are waiting for that money to come in and that can be devastating. Sometimes it is a matter of asking your folks for a little bit of money so you do not bounce checks. Sometimes that could even be something like $5 so you can put it in your account so the check does not bounce. Sometimes it is a matter of digging through the sofa for spare change. These are the kinds of things that everyday Nevadans face. That is real when you are living paycheck to paycheck.

For anybody who has ever had to live paycheck to paycheck, you know something like a flat tire that might cost a few hundred bucks can cause a serious disruption in your life. That could be your transportation to work. That can be your transportation for your kids to get to and from daycare or school. Without that extra money, when you do live on such a tight budget, those become real devastating setbacks for so many Nevada families.

As you may know, earned wage access services provide workers with an opportunity to access their net pay they have earned to date before the traditional payday, helping them to address financial emergencies or unexpected expenses. This innovative financial service provides a benefit to employees who need immediate access to wages they have already earned. I think that is an important piece for what we are trying to establish with

S.B. 290 (R2). These are wages employees have gone to work and earned, and we are simply trying to ensure they can access those wages for instances where they may need a little bit of cash just to get them through.

Earned wage access services began with the development of the gig economy. But this interest has spread to employers and employees in traditional businesses. If there is anything the COVID-19 pandemic has accelerated, it is the demand of earned wage access in lieu of traditional bricks-and-mortar businesses. For example, one in six grocery workers now have access to earned wage access services.

While earned wage access pay may offer benefits to both employers and employees, there are consumer protections I think we must consider. In Nevada, we lead on consumer protection. One of our most important roles as legislators is to protect Nevada consumers from unscrupulous and dangerous products and services. We have a long history of thoughtful, balanced financial regulation in this state and that should continue with these applications as well. That is why we have introduced S.B. 290 (R2). This legislation leads the nation in regulating a new promising market alternative that has the power to bring much-needed relief to hardworking Nevadans, particularly in these difficult times of record-high inflation as families are struggling and banks are closing. We need to find safe, secure means for Nevada families to avoid predatory credit finance.

Senate Bill 290 (2nd Reprint) authorizes both direct-to-consumer and employer-integrated providers to apply for licensure as an EWA provider through the Department of Business and Industry's Division of Financial Institutions (FID). The application process requires EWA providers to disclose consumer protection and data privacy policies; identify fee schedules, which must include a no-cost option for EWA users; and otherwise demonstrate to FID they are competent to obtain a license to provide EWA services to Nevada users. Senate Bill 290 (2nd Reprint) requires licensees to submit annual compliance reports and imposes other rules and policies that will enable FID to assert effective and ongoing regulatory oversight. This objective in this bill is to establish that regulatory framework for these providers and services that holds the service providers accountable, protects consumers, and facilitates the development of an important financial services sector that meets unique needs of Nevada employees and employers alike.

We have worked very closely with FID from the very beginning of this process, and we appreciate the agency's time and engagement to develop this bill with stakeholders. We have worked with consumer protection advocates, industry participants, and, of course, FID to ensure the proposed framework will protect consumers while allowing an innovative financial service industry to thrive in Nevada.

Senate Bill 290 (2nd Reprint) includes language that ensures FID will have the tools it needs to enforce consumer protection provisions, oversee license applicants, and otherwise ensure the playing field for this industry is fair for businesses and consumers alike. These tools

include rigorous background checks and fingerprinting requirements, audited financial statement reporting, annual licensee reporting, and the authority to investigate alleged bad actors, assess penalties, and revoke licenses.

Senate Bill 290 (2nd Reprint) borrows from applicable existing statutes which FID oversees to replicate proven regulatory oversight language and enforcement provisions. As we continue to develop the language in this bill, we have recently drafted some additional technical language regarding the nationwide multistate licensing system and included the related technical changes FID has requested, and that will be included in this bill as amended.

What I would like to do, Madam Chair, is turn the presentation over to my copresenters. I am happy to be here with the Committee, and, of course, once we are done presenting, I will be happy to answer any questions. With your permission, I would like to turn the presentation over to the copresenters.

Alisa Nave-Worth, representing DailyPay:
I will go over the bill section by section. Then I will turn this over to Ryan Naples, who is from DailyPay, and Molly Jones, who is from Payactiv, two of the industry leaders, and then we will stand open for questions.

Section 1 of the bill identifies the title of *Nevada Revised Statutes* that is being amended, which is Title 52. It governs trade regulations and practices. Sections 2 through 11 identify key EWA definitions. Sections 2 through 15 define key terms and concepts that are essential to understanding EWA services and that distinguish EWA services from other types of financial products. Notable definitions include section 4, which defines "earned but unpaid income" as salary, wages, or other compensation an employee has already earned but has not been paid to the employee. This definition is key to distinguishing EWA products from loans and other lending-related financial products and services.

Sections 3 and 7 define two primary types of EWA models. Direct-to-consumer EWA services is the type of product that does not rely on employer-provided wage and income data. Section 8 defines employer-integrated EWA services as the type of product that relies on employer-provided wage and attendance data.

Section 9.2 defines the types of fees the licensed providers may assess to provide EWA services to a user. Section 10.5 defines "proceeds" as the payment of earned but unpaid income. Section 10.6 defines the providers in this space.

Section 12 is the critical section. It is the requirements to obtain a license to provide EWA services. Section 12 makes it clear that any entity must obtain a license from FID to provide EWA services in Nevada; must disclose their terms and conditions to do so; must offer a zero-cost EWA option; must abide by federal Automated Clearing House (ACH) rules; must provide sufficient data and privacy protection policies; and must disclose the fee

schedule. An applicant must identify whether it operates as a direct-to-consumer or employer-integrated EWA provider. Section 12 also clarifies that FID has the discretion to modify the application requirements through the rulemaking process.

Section 13: any additional application criteria, which covers all the fingerprinting and background checks necessary to become a licensed EWA provider in the state of Nevada. Section 13 ensures the businesses that apply for an EWA provider license do not have any history of consumer protection violations or misconduct in other states. Earned wage access license applicants are required to disclose any instances of making false statements, prior license revocations, and any instances of fraud or other material misconduct.

Sections 16 and 17 impose standard bonding requirements. Sections 18 through 24 give FID critical regulatory tools and oversight. This gives them the ability to audit and investigate EWA licensees, investigatory hearings, audits, and investigations and administrative hearings, and the ability to suspend or revoke a license if probable cause exists to show a licensee has violated the EWA rules of Nevada.

Section 25 governs consumer complaints. It authorizes an EWA user or any other consumer to file an administrative complaint with FID if it is believed that EWA rules have been violated. Section 28 requires annual regulatory reporting of FID. This requires providers to submit annual reports to FID. Earned wage access providers must report audited financial statements and a copy of any complaints, provided it is filed against such a provider.

Section 31 covers consumer protection rules and practices and outlines affirmative requirements. It says EWA providers must enact consumer complaint policies that are uniform and approved by FID. Earned wage access providers must clearly disclose terms, fees, and conditions to users and must allow EWA users to cancel a subscription at any time and at no cost to the user. Earned wage access providers must comply with all privacy and data protection laws. Earned wage access providers that allow tips or gratuities must provide certain disclosures to users concerning the use of those funds. Earned wage access providers must not accept payment of fees from a user via credit card and may not require a user's credit report or credit score to determine eligibility for EWA services.

Section 31 further clarifies that EWA providers must not charge late fees, interest, or any other penalty or charge for a user's failure to pay outstanding fees. Earned wage access providers may not file suit against users or collect outstanding fees. These nonrecourse aspects of EWA regulation are an important consumer protection feature that distinguishes EWA products from other predatory and high-interest financial products and loans.

Section 32 allows FID to adopt administrative rules and regulations. Sections 33 through 35 importantly distinguish EWA services and products from loans and other financial products. It clarifies that EWA providers are not lenders and EWA products are not loans.

Finally, section 37 establishes important effective dates, including the time in which FID must commence the regulatory administrative rulemaking process, and also allowing existing EWA providers that are operating under a memorandum of understanding or other temporary arrangement with FID to continue to operate while that process is established. It also establishes an automatic sunset date that requires the Legislature to revisit EWA statutes and determine in the future if it wishes to extend or revise the EWA rules S.B. 290 (R2) proposes. With that, I will turn the presentation over to Ryan Naples from DailyPay.

Ryan Naples, Senior Public Policy Manager, DailyPay, New York, New York:
DailyPay is one of several EWA providers in Nevada. As an industry, I am joined this afternoon by Molly Jones from Payactiv in person, and remotely by Yvonne Chao from EarnIn and Garth McAdam from ZayZoon, whom we will be hearing from later. Together, we are testifying in support of S.B. 290 (R2).

As of today, more than 100,000 employees in Nevada have used our products and over 600 in-state businesses have offered EWA to their workers [page 2, Exhibit D]. Earned wage access is popular with businesses because it reduces employee turnover, absenteeism, and the time to fill open jobs. It is popular with employees because Americans today expect life on demand. In addition, as you have heard, two-thirds of Americans live paycheck to paycheck, and bills and emergencies do not wait for an employer to run payroll. Earned wage access companies solve these disconnects by facilitating access to early earned wages, not future wages, for either no fee or a very low fee. We keep people from needing to take on debt.

While each EWA company is slightly different, we all share a few key characteristics. First, all EWAs are based on wages earned. Workers can only access their own money they have already worked for. We are not providing credit. Because our product is not a loan, no EWA provider charges interest or late fees. All EWA products are also nonrecourse. If an employer fails to make payroll, the risk is on the EWA provider, not the worker. There is also no requirement to repay, no collection activity, and no credit bureau reporting for nonpayment.

While there are usually some small costs associated with EWA, at least one no-cost option is offered by most EWA providers, such as through a debit card or next-business-day ACH bank transfer. A nominal processing fee of about $3 for instant delivery to any bank account is also common. Without EWA, available options to access funds quickly can also be very costly, especially without good credit. They typically include overdrawing a bank account for a $29 fee, a pawn loan's $150 fee, or a $500 payday loan's $924 fee over four months [page 4].

In 2021, DailyPay commissioned independent research that showed how 95 percent of our users previously reliant on payday loans no longer use them after gaining access to EWA [page 6, Exhibit D]. This resulted in savings of between $630 and $930 per year per user, and the results were equally positive for frequent overdrafters [page 8]. Independent research commissioned in 2022 corroborated these findings as well. Since EWA is not credit, our industry conducts no underwriting and does not base its low transaction fees or access to

wages on creditworthiness. We also do not charge these low fees in installments. For these reasons an annual percentage rate, which would be misleadingly high even with our low fees, is incongruous to how EWA is structured. These rates, therefore, do not represent the actual cost and potential savings available to EWA users.

Similarly, compared to our industry's best practices, Nevada's current lending law permits more fees, debt collection, and other activities that could harm a consumer's credit score and overall financial health. For these reasons, designating EWA as a consumer loan or credit would bring the very same detrimental debt product practices that EWA is designed to help employees escape. Earned wage access is best regulated as a separate and distinct financial product, which helps free workers from cycles of debt and not get trapped in the same cycles.

Since 2021, the EWA industry has worked with a broad coalition in Nevada in order to finalize the bill before you today. We are especially grateful for the hard work of the Nevada Legal Aid society and FID for collaborating with us in this legislation, which includes strong, first-in-the-nation consumer protections specifically tailored for EWA that ultimately represents a compromise bill that all parties can support. The EWA industry and DailyPay are supportive of S.B. 290 (R2) for these reasons, and on behalf of both, I want to thank you all for your time. I am also happy to take any questions.

Molly Jones, Vice President, Government Affairs, Payactiv, San Jose, California:
Payactiv is an employer-integrated EWA provider. Thank you, Senator Cannizzaro. Thank you as well to Senator Lange and Assemblywoman Jauregui for your leadership on this issue. It is nice to be back in Carson City, and I want to thank you all for how accessible you have been on this issue and for your engagement in learning about it as well. On S.B. 290 (R2), we have appreciated the opportunity to work extensively with many stakeholders, including Legal Aid for constructively engaging in these discussions.

Over half of Nevada workers live paycheck to paycheck and even more lack an emergency fund to weather a financial shock like a medical bill or car repair. This can be devastating to workers and their families. By enabling workers to access their own already earned wages at little or no cost, EWA provides a critical lifeline for these thousands of Nevadans.

There are several characteristics of EWA that make it a responsible alternative to high-cost credit products. It is nonrecourse. It has no impact on a consumer's credit score. It comes with no inability to pay risk. There is no interest, no late fees or penalties. It has free and low-cost options for the user. It uses verified payroll data, and it is safe and trusted by employers. Without EWA, workers would have to turn to high-cost credit products like payday loans, title loans, pawn loans, and credit card debt. The Pew Charitable Trusts, a think tank, estimates it costs Nevadans $924 in fees over four months to borrow just $500 through a payday loan. In contrast, employees have multiple free options to access $500 of their earned wages, or they can pay an optional flat fee of $2.99 for expedited delivery. That is $924 for a payday loan or a maximum of $2.99 for EWA. It is clear EWA is a responsible alternative for Nevada workers.

This bill creates a number of strong consumer protections that do not exist today, including protections for models that cause overdraft, numerous safeguards not contemplated in existing credit laws, and many limits on fees. It bans all mandatory fees, interest, and late fees, and it requires providers to offer a free option for consumers to access their wages.

Thank you for the opportunity to testify today. We are glad to support this gold standard bill, and I am happy to take any questions. [Exhibit E, Exhibit F, Exhibit G, and Exhibit H were submitted and will become part of the record.]

Chair Marzola:
Does that conclude the presentation?

Alisa Nave-Worth:
Yes, it does. We are open to any and all questions and look forward to them.

Assemblywoman Hardy:
I met with most of you in the months before session to discuss this bill, which I think is a great idea. I have a couple of clarifying questions. As you stated, this is earned income they have earned or accrued. Is there a certain amount, hours or dollarwise, they must have before they can access it as an employee?

Ryan Naples:
Every company is set up a little bit differently. The way our company is set up is our system uploads several times a day, and an employee who chooses—because it is entirely voluntary—can look on their phone throughout the day while they are working to see how much they are earning, and they are able to take access if they choose when their shift is over or the day is over. It is not an amount they need to be able to earn up to. It is that the day has to be over. Again, it is entirely voluntary. I believe it is four times a day that our system uploads with time, attendance, and payroll data.

Assemblywoman Hardy:
That was my other question. I wanted to confirm this is voluntary by the employee. It is not a loan from the employer. This is money they have earned, their own money. Can you verify those two things?

Alisa Nave-Worth:
Yes, correct. It is 100 percent voluntary. In fact, the majority of employees do not necessarily access this, and folks who access the particular application do not necessarily access their own wages. They are learning in real time how their wage summary actually works as a financial tool.

It is absolutely not a loan, which is why we are here. It was determined that under the existing loan statutes of Nevada, this model did not fit, and therefore we needed a necessary regulatory model. There are lots of reasons why this does not necessarily match up to a loan,

but the fact this is not credit, it is your already earned wages and there is no recourse, all signals why we need S.B. 290 (R2) to create a regulatory structure that governs this new financial product.

Assemblyman Yurek:
Like my colleague, I want to thank you all for taking the time in the months leading up to arriving here for session to meet with us and explain this concept. I think it is an amazing concept and a way to leverage technology to give individuals, particularly individuals who, as you indicated, are living paycheck to paycheck to give them quick, ready access to their money and save them from what we know are some very harming and damaging predatory lending practices. I love the concept.

I realize this is a policy committee, and I do have a finance question. It is to ease people, even within my party sometimes, because as you are aware, taxes and all of that become a big deal. I know when we had discussed this, we talked about the licensure and the fees that are going to be associated or imposed by FID for the licensing. I want to make sure and confirm on record that the industry is okay with this level of licensing fees, and you all feel comfortable with that. Once again, thank you for taking the time to explain this and bring this bill.

Molly Jones:
That is correct. This bill creates a licensing system for EWA providers. It costs $500 for providers to obtain this license through FID. As providers, we believe this licensing fee is fair, and we support paying that fee. We view this as a cost of doing business and would not pass on that cost to Nevada consumers.

Chair Marzola:
Are there any additional questions? [There were none.] I do want to say thank you for bringing this bill forward. As someone who raised her son as a single mom putting herself through school, I was that person who lived paycheck to paycheck and did not know how I was going to pay things at times. I appreciate your bringing this bill forward without fees, without a recourse, and without late fees. Thank you for that because I think it gives individuals an opportunity to get back on their feet. We will move to testimony in support of S.B. 290 (R2). Is there anyone wishing to testify in support?

Gerron Levi, Senior Vice President, Head of Government Affairs, American Fintech Council, Washington, D.C.:
[Read from written testimony, Exhibit I.] American Fintech Council (AFC) is a national trade association in Washington that represents both nonbanks and banks, and a variety of business models providing a range of financial products and services, including earned wage access. What distinguishes AFC as a trade is the high bar we set for our members around consumer protection and the trade support for regulation that facilitates responsible innovation. The trades advocacy reflects the members' commitment to fair, transparent, and responsible financial services.

At the outset, I want to say as a former state delegate from the great state of Maryland and spending 15 years in the labor movement and a number of years advocating for strong consumer protections and housing and financial services, I fully appreciate your side of the dais and the balance you are trying to strike. Your task is to ensure strong consumer protections around earned wage access and products and also facilitate a competitive financial marketplace that provides what I call the three A's: availability of financial products and services, accessibility to a diversity of consumers across the credit risk spectrum who may be underserved, and affordability. Earned wage access meets those three A's in my view, and importantly provides a needed and affordable alternative to high-cost credit and debt options in the marketplace.

American Fintech Council fully supports the state setting standards and parameters for responsible providers and responsible use of this product that honors key features and principles. Access to wages is based on employer payroll earned income data, nonrecourse for the worker, free options, cost transparency, and importantly, clarification that EWA is not a loan or credit product. That is key. Unlike credit, EWA, as you heard quite a bit, requires no credit check. It does not incur late fees or penalties as nonrecourse, and it does not affect the credit scores.

Finally, on behalf of AFC, I urge you to support S.B. 290 (R2). Allowing workers to access their wages early is an option Nevada consumers deserve.

Paul J. Moradkhan, Senior Vice President, Government Affairs, Vegas Chamber:
The Vegas Chamber is in support of S.B. 290 (R2). As you heard through the bill presentation, this will allow employees greater flexibility to access their earned wages. That is why the Chamber is supportive of this. This will allow them access to their wages, and that means they will not have to access other services that may not be based on this, but rather loans and so forth. I think that is an important component. The Chamber supports this bill because it is not a loan; it is earning and accessing your own wages. I think that is important for Nevada's employees.

As you also heard from the bill presentation, this bill will have consumer protections in place, regulatory components, enforcement, and it will be regulated by the State of Nevada, so our employees, our members, will have confidence in that. We thank Senator Cannizzaro for the work she is doing on behalf of Nevada's families and employees.

Garth McAdam, General Counsel, ZayZoon, Scottsdale, Arizona:
ZayZoon partners with payroll providers and employers to provide earned wage access service, financial literacy tools, and other resources to workers in Nevada. We mainly work with small to mid-sized businesses, and some of our employer partners have as few as ten employees. Because of this—and the fact we are smaller than some of the other providers who have spoken today—we believe we have an additional perspective to offer on S.B. 290 (R2).

We are here to express our support for this bill. We believe this bill provides important consumer protections and provides a central operating clarity for industry participants. There was a question about the cost of the license, and as a smaller provider, we would also like to agree this fee is both manageable and reasonable.

As you consider this bill, please keep in mind how important EWA is as an alternative to other products. I have rounded the following numbers to save some time. We have also submitted a letter that provides this in greater detail [Exhibit J]. You heard mention about the $924 for payday loans. The average overdraft fee and nonsufficient funds fee are just under $30, and the daily limit on those fees can be as high as $300. In contrast, earned wage access fees range on average about $2.50 to $6, but it can be free depending on how it is accessed as well.

Earned wage access is a new financial product, and it is often easier to mentally categorize these products based on preexisting ones. I would encourage this Committee to view earned wage access as simply analogous to an ATM withdrawal where the average out-of-network fee is simply $4.66. This is very much in line with the cost of earned wage access. We have actual data from our customers that shows how access to our services has reduced their use of both payday loans and overdrafts in a measurable and significant way. This data clearly shows there is a positive impact on the finances of Nevada workers who are given access to earned wage access. Please see our submitted letter [Exhibit J] for more details on this.

Senate Bill 290 (2nd Reprint) will ensure responsible earned wage access will continue to be available to workers in Nevada. Thank you all very much for your time today and for your consideration of this important bill.

Kouri Marshall, Director, State and Local Public Policy, Chamber of Progress, McLean, Virginia:

Our corporate partners include leading fintech companies, but our partners do not have a vote or veto over our positions. We support S.B. 290 (R2), a bill that will regulate earned wage access services that help workers bridge the gap until payday. This frees workers from dependency on the payroll cycle and alternative options like predatory lending practices.

The proper regulation of EWA services can be a benefit to Nevadans. The FINRA Foundation reports that 56 percent of Nevadans are living paycheck to paycheck. Customer research conducted by leading EWA providers in 2021 shows the service is mostly used to pay bills on time, buy groceries, and avoid late fees. Eight out of ten EWA consumers feel these services are the best available option to manage their spending and say their life has significantly improved after utilizing these services.

From 2018 up until now, EWA services tripled in usage, primarily in response to consumers adapting to a financial environment where they have household expenses that cannot wait until payday. From single parents to 9-to-5 workers, EWA has been and will continue to be

a valuable option that works for their families and budgets. We commend the Senators for introducing this legislation, which puts guardrails around EWA by establishing clear regulations for service providers. We respectfully request your support for S.B. 290 (R2).

Pete Isberg, Vice President, Government Affairs, ADP Inc., Roseland, New Jersey:
ADP is among the nation's largest payroll service providers, paying roughly one out of every six workers in the United States. We work with firms like DailyPay, Payactiv, and others to facilitate the technical connections to employer payroll and timekeeping systems to enable direct clarification of wage amounts that have been earned to date. Earned wage access is a simple and limited alternative to address occasional spending needs without resorting to payday loans or asking an employer or friends and family for help. We view earned wage access as a major financial wellness improvement for the roughly 40 percent of workers who live paycheck to paycheck and do not have a cushion of savings to draw from in an emergency.

We are strong supporters and proponents of S.B. 290 (R2), which would recognize EWA in state law and set up appropriate registration and consumer safeguards. Employers like EWA because it is easy to administer, it does not affect an employer's normal payroll processes, and it reduces employee stress and turnover. Employees increasingly look for employers who offer this new feature. Many employers, however, do not offer EWA today because they are worried about regulatory uncertainty. Their workers would really benefit from EWA. We urge the Committee to approve the bill.

[Exhibit K was submitted and will become part of the record.]

Alice Jacobsohn, Director, Government Relations, PayrollOrg, San Antonio, Texas:
PayrollOrg is formerly the American Payroll Association and is a nonprofit association. We represent payroll professionals. [lost audio] PayrollOrg supports S.B. 290 (R2). The bill will enable employers to offer earned wage access benefits to their employees as a means of promoting financial wellness that is both inexpensive and an efficient alternative to payday lending and bank overdraft fees. PayrollOrg supports the bill because it would establish a reasonable approach to employer and employee protections while leaving options open to employers' selection of vendors. By regulating these services as a noncredit option, the Nevada Legislature will keep program costs low. The bill also provides transparency and appropriate oversight.

Yvonne Chao, Director, Public Policy, EarnIn, Palo Alto, California:
I am testifying in support of S.B. 290 (R2) on behalf of EarnIn. Before I begin, I would like to thank Senator Cannizzaro for her work on S.B. 290 (R2) and Assemblywoman Jauregui and Senator Lange for being studied champions of EWA, understanding the vital role EWA plays for the tens of thousands of Nevada workers.

Earned wage access gives people access to their wages after they have already worked. People are not more dependent on earned wage access than they are on their paychecks. The way EWA products are designed, consumers have flexibility and control unheard-of in

financial service. Earned wage access products do not have finance charges, interest, impact on credit, or delinquency fees, and providers do not have the right to sue customers. Most importantly, in the day-to-day, there is a zero-cost option available for those who need it without limit. Unlike credit products, EWA looks at what you have already earned, not future income or ability to pay back based on credit scores.

I said this on the Senate side, and I will reiterate again that this is not just a company pitch but realized impact. Since EarnIn's launch in 2014, over 43,000 Nevada workers have utilized EWA, with 19,000 in the last year alone. In a 2021 study across the customers of three companies, 87 percent said EWA helps them take better care of themselves and their families, and 44 percent said without EWA, they would consider not paying certain bills on time. EarnIn truly sees ourselves as consumer advocates who are actively finding better solutions for consumers with their input along the way. Consumer advocates can come in all forms, and no one should have a monopoly on the consumer's voice.

At EarnIn, for profit does not mean for profit at the expense of consumers. By supporting this bill, you will be providing Nevada workers with predictable and affordable alternatives to overdrafts and other high-cost products with harmful terms. I urge you to support this bill today.

[Exhibit L and Exhibit M were 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. 290 (R2). Is there anyone wishing to testify in opposition? [There was no one.] [Exhibit N was submitted but not discussed and will become part of the record.]

We will move to neutral testimony on S.B. 290 (R2). Is there anyone wishing to testify in neutral?

Jonathan Norman, Statewide Advocacy, Outreach, and Policy Director, Nevada Coalition of Legal Service Providers:
I would like to thank the stakeholders, Senator Cannizzaro, Assemblywoman Jauregui, and Senator Lange. We were involved in a lot of discussions about this product, as you can imagine. Representing consumers, we would be extremely skeptical of a new tool in this area. At the end of the day, we are very comfortable with the consumer protections in this bill. We believe the nonrecourse nature, FID oversight, and the sunset, so if this product does not work for Nevadans, we can revisit it in 2029. That date was put in there because it was the date FID was certain they could do a review of each one of the providers. They were comfortable with it; so were we.

With that, I think it does warrant thinking about the alternatives consumers have in our state. With everything we have heard about payday lenders, I think everybody in this room can agree they are a terrible predatory business. I do believe this product offers an alternative that will save Nevadans a lot of money in the long run. Maybe in 2025 we can have legislation to limit payday lenders.

Sandy O'Laughlin, Commissioner, Division of Financial Institutions, Department of Business and Industry:
I am here in the neutral position. We have worked extensively with the sponsors and with the stakeholders, and I am here for any questions.

Chair Marzola:
Are there any questions? [There were none.] Is there anyone else wishing to testify in neutral? [There was no one.] Senator Cannizzaro, would you like to give any closing remarks?

Senator Cannizzaro:
I want to thank you for your time and attention in hearing this matter. I want to thank Assemblywoman Jauregui for her work on this bill as well. As you can see, this has been a collaborative process and a bill that has taken a lot of work to get to a point where I think it is going to serve our constituents in offering the ability for them to access wages they have earned, but they just have not gotten that paycheck yet. This can help with so many critical needs that can arise in everyday life, especially for those who really are just making it day by day and might not have somebody to call to get them to lend $100 for a flat tire or might not have somebody who can give them 20 bucks to put into a checking account so something does not bounce and then they are looking at fees from the bank and so on and so forth. I do think this is a real solution for our constituents.

I am grateful to all of the industry for coming to the table and being willing to work out a solution that allows them to get licensed, so we can ensure consumer protections are in place and that will allow for them to operate in a way that makes sense. Again, I want to thank FID for being part of that conversation and Legal Aid as well to make sure we struck a good balance with this policy. I think you see that reflected in the testimony that has come before this Committee today and how far we have come with this bill. I thank you very much for your time and appreciate your indulgence as I come here to present the bill.

Chair Marzola:
Thank you again for your presentation. I will now close the hearing on S.B. 290 (R2). We will open the work session on Senate Bill 290 (2nd Reprint).

Senate Bill 290 (2nd Reprint): Provides for the regulation of employer-integrated earned wage access providers and direct-to-consumer earned wage access providers. (BDR 52-9)

Chair Marzola:
Committee members, are there any questions before we work session this bill? [There were none.] I will entertain a motion to do pass Senate Bill 290 (2nd Reprint).

ASSEMBLYWOMAN JAUREGUI MADE A MOTION TO DO PASS SENATE BILL 290 (2ND REPRINT).

ASSEMBLYWOMAN TORRES SECONDED THE MOTION.

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

THE MOTION PASSED. (ASSEMBLYMEN MONROE-MORENO AND YEAGER WERE ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblyman Carter. I will now open the hearing on Senate Bill 195 (2nd Reprint), which revises provisions relating to cannabis.

Senate Bill 195 (2nd Reprint): Revises provisions related to cannabis. (BDR 56-452)

Senator Rochelle T. Nguyen, Senate District No. 3:
It is my honor to be here and present Senate Bill 195 (2nd Reprint). I am also joined today by Layke Martin, who is the executive director of the Nevada Cannabis Association and also a professor of cannabis policy at the University of Nevada, Las Vegas. In the 2019 Session, the Legislature created the Cannabis Compliance Board (CCB) with the passage of Assembly Bill 533 of the 80th Session. The Cannabis Compliance Board began regulating the cannabis industry on July 1, 2020.

Since the time the CCB was created, there have been successes and there have been quite a few growing pains. Last year, the cannabis business and the Nevada Cannabis Association reached out to me seeking help to address some of those growing problems.

If we talk about a personal story, my origin story for this particular bill came from one of my neighbors who is involved in the cannabis industry. I went with one of your Assembly members, Assemblyman Watts, and we went to tour her facility. At the time, there was a time-and-effort billing audit taking place. We got to see in real time some of the real issues I am going to speak about and what the goal of S.B. 195 (R2) is intended to solve. The goal of S.B. 195 (R2) is to support the growth and stability of this new industry while continuing to ensure public safety. The cannabis industry employs about 18,000 Nevadans, and in the past two years has sent more than $300 million to the state education fund. I know you probably hear from a lot of your constituents some misinformation about where the cannabis money goes and whether or not it goes to education. I will tell you that with some

corrections we have done in this growing industry, I can assure you sitting on the money committees—as many of you who also sit on those committees have seen—the impact of the licensed cannabis industry has been tremendous.

There is a report currently available on the Nevada Electronic Legislative Information System (NELIS) [Exhibit O], and it estimates the licensed cannabis industry has an economic impact in Nevada of about $2 billion annually. While the industry has grown steadily since 2017, Nevada is now seeing a decline in sales. In fiscal year 2022, they were down 4 percent from 2021. This year, licensed cannabis sales are down as much as 20 percent month over month compared to the previous year.

This bill encourages cooperation between regulators and industry like we see in gaming, and it does so by incentivizing and rewarding compliance and adding transparency and consistency to the disciplinary process for licensees. It also helps reduce excessive fees that are threatening the sustainability of licensed cannabis businesses. Not only are these fines and fees a threat to the existing industry, but they will create significant challenges for entrepreneurs trying to open up licensed cannabis businesses in Nevada.

There are a couple of things I am going to give some examples about, and I know when Ms. Martin goes through the bill and talks about some of these things, she will give some examples. There might even be some testimony that can give some real-life examples about what we are talking about here. Some people have had the opportunity, but if you have not, I would encourage you to do this. I am not the face of cannabis by any stretch of the imagination, but I am interested in smart business policies. I am interested in public safety. I am interested in making sure if we have a lawful industry that it is something that is run like we would run and regulate other businesses, taking into consideration some of the unique challenges the cannabis industry has. This bill, S.B. 195 (R2), is a reflection of that.

There are certain things you will hopefully see about what this bill also seeks to accomplish, which is a sense of fairness, a sense of accountability, not only within the industry but those who are seeking to regulate the industry. I do not want this to be seen as a bill where we are trying to upend some of the policies the Cannabis Compliance Board has put into effect. I do not see him here today, but I know Assemblyman Yeager was instrumental in creating this regulatory agency. Even if you talk to him—and I am putting words in his mouth right now—I think he understands and has been very supportive of some of these changes because when you have a new industry, we realize we cannot do it exactly as we have done everything else. In particular, we used what we knew and what we did well here, which was the Nevada Gaming Control Board and the Nevada Gaming Commission. We tried to replicate that. What we have learned over the past couple of years as we have been trying to perfect, is the cannabis industry is different than that industry, so we need to make those adjustments, and this is an example of one of those adjustments that brings more fairness and equity to the process.

With that, I will turn this over to Ms. Layke Martin, the executive director of the Nevada Cannabis Association, to walk you through some of the sections of the bill.

Layke Martin, Executive Director, Nevada Cannabis Association:
The Nevada Cannabis Association is the trade association for licensed cannabis businesses in Nevada. We want to extend our appreciation to Senator Nguyen, the sponsors, and many cosponsors of this bill who have been so receptive to business owners who reached out asking for help. With Senator Nguyen's help, we worked to craft this bill, which has broad support from the industry and is directly targeted to addressing some of the challenges we have been facing in the cannabis industry here in Nevada.

I will now walk through the sections of the bill. Section 2 authorizes the CCB to resolve disciplinary complaints through a settlement agreement, which codifies existing practice. Section 2, subsection 2 states that in reviewing settlements, the Board shall consider certain mitigating factors.

Section 3 spells out those mitigating factors and requires the Board to state on the record which mitigating factors are present and what weight the Board will give those factors. One of the policy goals of this bill is to encourage self-reporting. Self-reporting is where a licensee discovers a violation and reports it directly to the CCB. Encouraging self-reporting is a key part of the oversight of other regulated industries. It increases public safety, conserves the state's resources, and incentivizes compliance. Section 3 also establishes other mitigating circumstances where the licensee has submitted a plan of correction and taken action to correct the violation, the licensee has made a good-faith effort to prevent violations from occurring, and the licensee cooperates in the investigation and any other mitigating factors established by the Board and regulation.

Section 3, subsection 2 requires the CCB to take action to approve or reject the licensee's proposed plan of correction within 30 days or else the plan is deemed approved. Plans of correction are our existing tools that are used for compliance and correcting issues, and this is ensuring licensees receive a response to the proposed plan so they can move forward.

Section 4 again authorizes the Board to settle disciplinary complaints. It also requires the Board to consider mitigating factors when making a determination of a civil penalty outside of a settlement agreement. In other words, if the complaint went to a hearing and the Board or hearing officer recommended a civil penalty, then the Board shall still consider mitigating factors when imposing any fine.

Section 5 addresses the practice of violation stacking. Nevada Cannabis Compliance Regulation 4 sets out a system of progressive discipline. With the exception of the most serious violations involving public safety, the system is set up so the first violation gives rise to a warning and then if the matter has not been corrected or occurs again, the licensee would incur fines at an increasing amount as well as possible suspension or revocation. The CCB's practice over the past two years has been to stack violations to charge licensees with multiple violations arising from the same occurrence. For example, once a cannabis plant in cultivation reaches eight inches tall, it must be tagged with a metric label. If a CCB inspector enters the building and finds 100 plants that are nine inches tall that are not properly tagged, the practice has been a licensee would be charged with 100 violations. This practice is

contrary to the intent of the progressive discipline system, which is designed to give a warning or a smaller fine and educate the licensee that the practice or the mistake is noncompliant. The stacking of violations also increases the amount of fines and could lead to suspension or revocation. The goal of this section is to get to a place where we are utilizing the progressive discipline system as it is intended and designed to educate, correct behavior, and incentivize future compliance.

Section 6 reiterates the language in section 4 that the Board must consider mitigating factors as part of determining civil penalties. Section 7 would define the maximum civil penalty for a violation is $20,000. Nevada currently has one of the highest maximum per-violation penalties in the entire country. Most states have a cap at $50,000 or below per violation, and we are currently at $90,000 per violation. Section 7 also clarifies existing language regarding what the CCB can do in response to a violation, including issuing a penalty, suspension, revocation, or issuing a warning or no penalty if warranted under the circumstances.

Sections 8 and 9 were deleted by amendment. Section 9.5 was added by amendment and reflects a compromise between the industry and the CCB. I will skip that section for now and put it in context when we discuss the rest of section 11. Section 10 describes the current practice of transferring ownership interests. This would allow the Board to adopt regulations regarding the transfer of ownership interests, which is something that they have already done.

Section 11 allows the Board to collect from licensees the actual cost paid to third parties for any background checks performed in connection with the initial applications or transfers of ownership. Actual cost had not been previously defined in statute, and that term was interpreted very broadly. Section 11, subsection 6 would prohibit the current practice of time-and-effort billing. Time-and-effort billing is the CCB's practice of charging licensees at an hourly rate for CCB staff time. It is not authorized by statute. It is essentially double billing licensees for the CCB's overhead costs. The double billing occurs because the agency is already fully funded by the wholesale excise tax.

I want to share with you a story that illustrates the impact of time-and-effort billing on these small businesses. Kouanin and Steve Cantwell own a farm in Pahrump where they grow organic cannabis. They also grow organic produce, which they sell at farmers markets. After many years of operation without compliance issues, during a routine inspection in October 2021, CCB inspectors questioned the organic growing practices that are at the heart of their farm. That one inspection has led to the CCB billing the Cantwells for more than $47,000 for the CCB's staff time and effort. The Cantwells have not received a complaint or any discipline. Kouanin Cantwell also submitted her testimony in writing, and that is available on NELIS [Senate Committee on Commerce and Labor Meeting, March 8, 2023, Exhibit M].

The CCB bills licensees for inspections, audits, travel time, reviewing security footage, even communicating with licensees to resolve a compliance issue. If you are a licensee and you have a meeting with the CCB about an issue, you will get a bill from the CCB for staff's hourly rate of $111 per hour. It does not matter if the staff person is brand-new, they are still

billed out at the rate of $111 per hour. If there are three CCB staff members at the meeting, you will get a bill for $333, which is the hourly rate for all three people. It is impossible for licensees to budget for these expenses and challenging to control costs. There are no caps on these bills. There is no fee schedule and there is no appeal process. You have to pay or your license will not be renewed. There is at least one licensee on a payment plan because they cannot keep up with the CCB's bills.

What is unique about the CCB is that unlike other regulatory agencies, the CCB's entire operating budget is covered by the wholesale excise tax. The CCB does not get its funding from the General Fund. It is fully funded by that 15 percent wholesale excise tax on cannabis products. The $63 million that is brought in annually in that wholesale excise tax is more than six times the CCB's operating budget, so they do not need to generate revenue through these additional fees, nor does the statute direct them to do so. This practice has a direct negative impact on every current and future licensed cannabis business's ability to succeed. Licensees are tending tens of thousands of dollars to the CCB every month instead of putting those funds into growing their businesses and hiring employees. This bill would put an end to that practice.

We have had many discussions with the CCB about this bill through the legislative session. As part of those discussions, we did reach an agreement to make a narrow carve-out to the elimination of time-and-effort billing. I want to thank the CCB staff for working with us on the amendment, which has been adopted and that is also part of section 11. Specifically, if there is a new license application, a transfer of interest, a request for approval of management services agreement, or request for waiver, the CCB's investigations division will be permitted to bill the applicant for reasonable costs.

The reason we carved out this narrow exception is it is similar to how CCB bills applicants for background investigations. If an applicant is coming to Nevada with complex financials or a multistate or foreign company, this will allow the CCB to bill those applicants for the reasonable costs associated with investigating them and determining their suitability to do business in Nevada. However, this will not allow the CCB to continue the practice of billing licensees for routine staff activities such as inspections, audits, research, meetings, answering compliance questions, et cetera. For these application-driven investigations, the CCB must, according to the amendment, provide an estimate in advance of what they believe those costs will be, which typically range from $3,000 to $12,000. The applicant can request documentation and can appeal the final bill if it ends up exceeding the estimate by more than 25 percent.

As a reference, section 9.5 sets up the structure for application-driven investigations and directs the Board to adopt regulations to effectuate this process as specifically set forth in statute. Section 12 makes renumbering changes and section 13 makes the bill effective upon passage and approval.

Senator Nguyen:
To highlight some of the things, for me this came down to accountability, responsibility, and equity. When we talk about the self-reporting piece, I know there are a lot of lawyers on this Board, there are a lot of people who have been involved in business, there are a lot of teachers on this Board, and there are people who have dealt with progressive discipline and other things like that in self-reporting. There are a lot of parents on this Board who have also had to discipline their kids. I think of it this way: under the current model, if you are a business and you are caught during an audit and have mislabeled prerolls, let us say you have five of them. That would be a stacking charge of five mislabeled prerolls, and they would have a set penalty and punishment. If you were that same business and in the course of your own internal audits, you realize that you had mislabeled these five prerolls and you contacted the CCB on your own and self-reported, I had these five mislabeled prerolls; this is what we have done to correct it. This is what happened. This is why it will not happen in the future. These are the protective measures we have done to mitigate this in the future. You will have the same exact violation as someone who did not self-report and was caught. I do not think that is any kind of behavior we want to encourage.

As far as the stacking of violations, we heard some during the Senate testimony that there were not only the examples Ms. Martin gave around having 100 plants that are nine inches tall as opposed to eight inches tall, but there were certain types of violations that would be stacked that really did not have a whole lot to do with the safety of the cannabis. If there were missing paper towels or they ran out of paper towels in one of the bathrooms, it amounted to a $40,000 fine in that circumstance for that cannabis industry. Yes, we do obviously want to encourage people to wash their hands and dry them, but the idea the fine amount elevated because of stacking provisions to a $40,000 fine for that is a policy I do not think we should support as a state, and that would be corrected in this.

I think the example from the Pahrump business—that is again available on NELIS and I would encourage you to read and reach out to this family-owned business, to be quite honest—is a really good example. They were growing other vegetables, they were growing organically, and they had a unique model. If you have the opportunity, I would encourage you all to go out and tour this during the interim as well as some of these other industries. It is amazing what they are doing as far as the technology, tracking, and growing. It is a weird mix of regulatory stuff and agriculture. It is really quite fascinating. In that situation, there was $47,000 worth of time-and-effort billing and not a single complaint or discipline related to that. And again, you are beholden to the number of people who come and how long it takes them to do it, and there is no way for these businesses to be able to comply with this. Those are some examples I wanted to highlight. We are available for any questions you might have.

Assemblyman Yurek:
I will confess, as a prior law enforcement officer for 20 years, I have probably been a little slow to come along with what has been happening in the cannabis industry, but my eyes have been opened and I have opened up my brain to understand this better. I certainly appreciate the value of self-reporting, people trying to regulate themselves, not deterring that through

excessive fines and all of that, and progressive sanctioning and discipline. I love it. I think that is very important. I think that is logical. When I read the bill, something struck me, and I want to see if you could address it. Senator Nguyen, you alluded to it, and it is the combined effect of section 5, page 5, starting on line 29, where we are combining the violations that are close in time, place, and circumstance that are discovered in one audit or investigation into that single violation. At the same time, in section 7, page 7, line 27, we are limiting the penalty for a single violation to $20,000.

I am not well versed in all of the issues, so I would like to get assurances from you. Is there a potential dilution of the deterrent effect that we might have when we combine all of these violations into one and then cap or limit the penalty that you can have for one violation, and at the same time? I realize there are broader licensing problems that could happen if somebody does this. Could there potentially be a financial incentive now to violate as long as we do it real close in time, and I am going to be capped at a civil penalty of $20,000? Financially, there is almost an incentive to take advantage. I do not want to presume bad actors, but I also want to ensure that we are protecting against them.

Layke Martin:
Yes, absolutely. We want to be able to enforce bad actors. Our industry needs to be safe. Our industry needs to be well regulated and fairly enforced in order to be successful. The good operators need enforcement against those who are not following the rules. Certainly there is an incentive to follow those rules.

The way the disciplinary system and regulation is set up, there are five categories of violations. When we are talking about $20,000 for one violation, typically in a complaint you will have multiple violations spanning those different categories, category I being the most serious and going down to category V. Category I might be, let us say, selling to a minor inadvertently or selling to a minor, whereas a category V might be a failure to keep good records. The maximum violation for one of those violations would be $20,000, but certainly the totality of the complaint could be more than $20,000, depending on the severity of the charges.

What we were mostly seeking to target, and have worked with the CCB to come to an agreement on the language related to the stacking, is if you are conducting an inspection and find—I will use the plant tagging—100 or 500 plants that are not tagged, that is usually because of one mistake. If it was every preroll over the course of several months that is mislabeled, that is not one violation. Even though it is the same problem, it cannot be occurring over a long course of time. We are really trying to target that instance where there is a complaint out there right now with 10,000 violations; 10,000 violations of the same thing. It is a little bit excessive, and it escalates the fines and penalties to a point where suspension or revocation is on the table because it is so severe, where the actual violation itself might not be that severe; it is just there are so many in number, it seems like you end up with 10,000 violations.

Assemblyman Yurek:
Thank you very much for the explanation because it helps me understand a little bit better, and I was unaware of the different levels or categories of these violations. What I really want to do is avoid the economic incentive to go ahead and take advantage of this. For example, you said category I might be selling to an underage person. Honestly, I do not even know how much this stuff is going for now, but if I sell enough in a short period of time to underage minors and I can get away with it, I make more money than my civil penalty. What are the other potential consequences of that? Or should we maybe say, Well, if it is a certain level, we might not want to necessarily combine them or stack them into one single violation.

Layke Martin:
Suspension and revocation are always on the table. Even if the civil penalty was determined at $20,000, suspension or revocation, which is a tremendously difficult penalty, is always on the table.

Senator Nguyen:
I think that is the big elephant in the room, and that is the hammer. That is truly the hammer when you are talking about these kinds of violations. That is part of the problem we have right now. Sometimes people will say, Why do they not challenge these? Why do they not go and fight these? Why do they not have a hearing? Most of these circumstances do not make it to that hearing because the power imbalance is so difficult. You have industries that have invested millions of dollars to get off the ground, and they are not willing to risk fighting 10,000 violations because it means potentially losing their license.

I think the one thing we have not talked about in this bill that is the most difficult thing about this to conceptualize is—and I am sure Ms. Martin can talk about this, and you having a law enforcement background—this lawful industry is competing with an illicit market that is potentially 50 to 60 percent of the market. The illicit market is not having to do anything to comply with this. They are not paying taxes; they are not putting money into the education fund; they are not competing; they do not have to deal with time-and-effort billing; and they do not have to deal with audits or inspections. That is a good 50 to 60 percent, and I have seen some statistics where it is around 70 percent black or gray market that these lawful industries are competing with. That is really where the competition is and where they are losing out. This is to make sure those people who are in compliance, are trying to be strong business owners, are trying to be compliant, and are trying to put out a good product that is well regulated and contributes to public safety, are not being penalized more so and making it so unprofitable that people turn to this illicit market.

Assemblyman Yurek:
I think you might have me there. To clarify: for example, this scenario where there are multiple violations of selling to underage minors in the short period of time that would theoretically be stacked into one under this, capped at $20,000 civil penalty. For that incident, that individual or those stacked incidents of one single incident could result in the revocation of the license, theoretically?

Layke Martin:
Yes.

Senator Nguyen:
You talked about the different levels of violations. Some of those regulatory and rulemaking things, I believe you passed out a bill and it was fairly unanimous. It was Senate Bill 328 (2nd Reprint) that I cosponsored with Senator Titus. That put the CCB and their regulatory rulemaking into the Administrative Procedure Act. In combination with this bill and that bill, we are really doing some things to bring more equity and fairness to this process and treat the cannabis industry more like the business industry.

Assemblywoman Duran:
Do any of these violations expire or do they continue to stack? For example, do they go away after a year or is it continuously moving forward?

Layke Martin:
The timeline is three years. They stay on your record for three years. The progressive discipline applies for any violations that occurred within the past three years.

Assemblywoman Duran:
That would make this more of an incentive to do better. Does somebody come back to check or help you with correcting your mistakes or your violations with training or anything like that?

Layke Martin:
Yes. That is the goal to encourage even more of that, but there are some of those compliance tools in place, such as plans of correction when you receive a notice of deficiency you can tell the CCB, Here is how I am going to correct it, and then go ahead and approve it. There is an effort to make that happen and correct those issues. So yes, I think this does incentivize compliance. That is the entire goal of this bill: to incentivize compliance and focus on education instead of punishment.

Assemblywoman Duran:
Discipline should be corrective before being punitive in my opinion.

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. 195 (R2)?

Esther Badiata, representing Planet 13 Holdings; RNBW; and Jardín Premium Cannabis Dispensary:
I would like to express our full support for S.B. 195 (R2). This bill makes important reforms that will promote regulatory predictability for legal licensees and define the regulatory structure to one that is more clear and more equitable. We believe these changes will

encourage better compliance and continued growth for cannabis businesses as we work together to stabilize this nascent cannabis industry in Nevada. We urge the Committee's support for this bill.

Will Adler, representing Sierra Cannabis Coalition:
Sierra Cannabis Coalition is in full support of S.B. 195 (R2). Thank you for hearing this. Please pass it.

Brett Scolari, representing CPCM Holdings; Cura Cannabis Solutions; GreenMart of Nevada NLV LLC; and Clark Natural Medicinal Solutions:
We wanted to urge your support on this bill. We appreciate Senator Nguyen, all the sponsors, and the work the Nevada Cannabis Association put into it. We think it strikes a really good balance between having fairness, predictability, and fines and fees for the industry and does not compromise the public safety or compliance nature of the regulatory system. We urge your support and appreciate this hearing.

Scot Rutledge, representing Deep Roots Harvest; and Green Life Productions:
Thank you, Chair Marzola and Committee members, for hearing this bill today. We are here in full support. I would say as someone who has been working with Green Life Productions since they were first issued that fine, it is not for a lack of compliance those hours were billed, but so that the staff at the CCB could educate themselves and my client about a growing process, which they have been doing successfully for almost eight years with a 99.5 percent pass rate. Obviously, we were a little upset about paying these fees to have conversations. That is what the industry wants to do, by the by, is have conversations with the regulators so we can all get better at this.

A'Esha Goins, Founder, Cannabis Equity and Inclusion Community:
I think it is very important to point out how this will affect social equity applicants who will be coming into this industry. One of the most important things I was afraid of is errors and omissions and how that would show up for those applicants and licensees. Having this regulated and be consistent makes this a sustainable license for those equity applicants.

I also want to point out it is really scary to have young people with agent cards lose their whole career because of errors and omissions, because the result of that is the licensee feels they have to fire that employee to resolve that. This offers another opportunity for that licensee to self-report and then that agent be able to keep their job. I urge you to support this and thank you for your time.

Paul J. Moradkhan, Senior Vice President, Government Affairs, Vegas Chamber:
The Vegas Chamber also supports this bill. We appreciate the bill sponsor's efforts in the industry to ensure greater equity and fairness in the fee structure, specifically in section 11, subsection 8. We think it is important this language be added to ensure there is oversight and regulatory control by this body to the state agency to ensure fairness in the business community with how fees and penalties are structured.

Chelsea Capurro, representing Nevada Cannabis Association:
We are in full support of this. To add on that the gentleman over there let us know we accidentally referenced an amendment, but there is no amendment on this bill. We are working off the second reprint that you see, so no amendments to review.

Paul Larsen, Private Citizen, Las Vegas, Nevada:
I am an attorney with Black and Wadhams practicing in the regulatory arena, and I wanted to urge support for S.B. 195 (R2), specifically section 3, which encourages self-reporting and eliminates essentially a penalty on self-reporting now; support of section 5, which would eliminate violation stacking, which again is a disincentive to self-reporting; and especially section 11, subsection 6, which would eliminate the time-and-effort billing. I have seen situations where a one-day inspection results in hundreds—and I am not exaggerating—hundreds of hours of time-and-effort billing being passed on to the licensee because the CCB recordkeeping process essentially is chronological and not subject matter. In many instances, the agents will ask for the same documentation and the same information over and over and bill their time for making that request, then reviewing the information despite the fact it had previously been provided. It is an inefficient system, and I applaud that provision of the bill to eliminate what is essentially a very punitive system in terms of passing on the cost of regulation to the licensees themselves. I urge your support for S.B. 195 (R2).

Chair Marzola:
We will move to testimony in opposition to S.B. 195 (R2). 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. 195 (R2)?

Tyler Klimas, Executive Director, Cannabis Compliance Board:
We are here to testify in neutral. Joining me to my left is Deputy Director Michael Miles. Also here with us is the chair of the Cannabis Compliance Board, former Nevada Supreme Court Chief Justice Michael Douglas.

I appreciate the opportunity to have a couple of minutes to talk about this bill and some of the provisions and narratives that have been represented here. I am going to start with time and effort. I am going to give an average number for the Committee. Out of the 240 entities in the cannabis industry, the average time-and-effort bill for a year is $5,614. Seventy-one percent of licensed entities are billed less than $5,614 in time-and-effort total for the year. If you are being billed more than $5,614, especially if you are being billed $47,000 as with one of the licensees represented, that is because CCB agents and auditors have identified significant compliance issues.

We do not bill for new employees who come on board with the CCB. If there are more than two people in a meeting, we only bill for two. It is important we understand what we do and why we do it. The CCB did not create time-and-effort billing. This is something that has been billed of licensees from the medical days back in 2014. This is a process that has been

carried over to the Department of Taxation and now to the Cannabis Compliance Board. We have a line item in our revenue that says time-and-effort assessment. That line item has been approved by the Legislature biennium after biennium.

Moving on, we also talked about self-reporting.

Chair Marzola:
Mr. Klimas, if you can please wrap up your testimony, your two minutes have expired.

Tyler Klimas:
That is a little bit unfortunate. We do not have an opportunity here to refute or provide some testimony on what is said. I guess with that, I will end my testimony.

The Honorable Michael Douglas, Chair, Cannabis Compliance Board:
I want to set the record straight. I am tired of hearing about paper towels. That was a stipulation between the parties. Other than more serious charges, they chose to say they violated that instead of something else. Stacking tells the whole story. We have not taken a license. We have not used stacking to increase penalties but to tell the whole story. You are only as good as the information you receive, so you have to see the whole picture. You cannot just see part of the picture.

What I am truly concerned with, and hear me out, please, is the time constraints. You are now asking a part-time board to consider in this 30-day period that is being requested that we operate in, and it makes no allowance for regularly scheduled monthly meetings. We are going to get a lot of things we deny because we cannot get it done in the 30 days because we cannot get a quorum to make a decision because those people have other jobs. You are putting some undue hardship on the Board.

The Board has been trying to work with the industry, but it is a privileged industry. They are not like any other business. When you have people selling to minors, which we have had in cases and the employer says they did it, which meant they were not adequately supervising, it is hard to take. We have not been ogres in doing what we are doing. I realize they are a business and wish to make a profit. I appreciate that, and we appreciate that for the education fund.

As a Board and board member, we take what we do seriously. We look at what is there. The majority of complaints we have had the last two years-plus have been complaints that were generated prior to CCB coming into effect that the Legislature put there. These were settlements hashed out. I would ask you take a look at the constraints this puts on the Board, a part-time board, to do what you are asking, so you continue to get competent people in other parts of the industry.

Riana Durrett, Private Citizen, Las Vegas, Nevada:
I serve as a board member on the Cannabis Compliance Board. I am not here representing the Board, but I have extensive experience in the industry. I have been serving on the Board for three years. They teach cannabis law at the law school. I want to make myself available in case there were any follow-up questions on how the Board operates or how I see this bill working in practice. I think the industry has been pretty reasonable in its approach and has not been overreaching or asked for drastic changes that could benefit them.

Chair Marzola:
Are there any questions?

Assemblywoman Backus:
I want to follow up on former Chief Justice Douglas's comments on his concerns about complying with the new timeline set forth in S.B. 195 (R2). I get it. As an attorney, I get to appear before the State Contractors' Board, but it is pretty regulated. It meets every month, and people work full-time there. In dealing with this on the Board, do you see it creating a hurdle? I wanted to know a little more about that.

Riana Durrett:
I believe what he was referencing is the 30-day timeline to approve plans of correction, and that is done by staff. You do not need to convene the Board. I think that was just confusion.

Chair Marzola:
Are there any additional questions? [There were none.] Thank you so much for being here.

Michael Douglas:
With the time restraints, except for a simple compliance, the way this is articulated, the Board must approve within 30 days. It is no if, it is no may, and it is no maybe. Additional time has to be taken to get a quorum of people together to do that, besides a monthly meeting, besides those of us who participate in other public hearings for the Board, and so on.

Chair Marzola:
Is there anyone else wishing to testify in neutral? [There was no one.] Senator Nguyen, would you like to give any closing remarks?

Senator Nguyen:
I am going to turn this over to Ms. Martin. I think she has responses to some of the questions that were asked from the passionate neutral.

Layke Martin:
The only change that has a 30-day timeline is related to approving a plan of correction, so I believe that is what the CCB chair was referring to. Again, that is where a licensee has submitted a plan of correction. What has happened is sometimes they do not receive a response in time. They would like to move forward and address the issue to make sure they

do not remain out of compliance. For the plan of correction referenced in section 3, we set the 30-day timeline, and at the chair's request we did amend it in the first house to be clear it was approved by the appropriate agent of the Board. That is a staff member, and that is the language they requested.

Senator Nguyen:
I did not mean this if it came off this way, and I know it has been taken this way, but I want to clarify that the CCB has been acting at the direction and the policy we have put in place as a legislative body. They are only enacting the things we have asked them to do. I think in reviewing this, talking to people in the industry, talking to people outside of the industry, talking to people in law enforcement about the illicit market, and trying to come up with solutions that make sense to solve this problem, it is incumbent on us to come back and address those issues, especially with a Board that is so new in an industry that is so young.

I would like to say this is going to correct every single problem, and there are several other bills floating through this legislative body this session to tighten up and look at what we instituted and what policies we sought to impose on agencies like the Cannabis Compliance Board. Sometimes we get it wrong, so we come here and correct them every other year. I imagine I will be back here in two more years—if I am so fortunate to be elected again—and we will be trying to correct some other problem as we are trying to fine-tune this and get it into a place where it is good. If you even look at gaming and at other regulatory boards—and I know you have seen a ton of licensing issues—people have come back session after session trying to fix things, everything from nursing compacts, physicians, barbers, massage therapists, and other licensing. This is one of those things when we see a problem and can fix it, we should come back here, and that is what this intends to affect.

I do not think that the Cannabis Compliance Board was operating nefariously. They were doing what we directed them to, and I think we need to redirect them.

Chair Marzola:
Thank you for your presentation. I will now close the hearing on S.B. 195 (R2). [The meeting recessed at 3:56 p.m.]

[The meeting reconvened at 3:57 p.m.]

Chair Marzola:
The Speaker has waived the 24-hour rule and we are able to work session bills. At this time, I will open the work session on Senate Bill 195 (2nd Reprint), which revises provisions related to cannabis.

Senate Bill 195 (2nd Reprint): Revises provisions related to cannabis. (BDR 56-452)

Chair Marzola:
Are there any questions on this bill? [There were none.] I will entertain a motion to do pass Senate Bill 195 (2nd Reprint).

> ASSEMBLYWOMAN TORRES MADE A MOTION TO DO PASS SENATE BILL 195 (2ND REPRINT).
>
> ASSEMBLYWOMAN DURAN SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblywoman Backus:
I wanted to echo Senator Nguyen's comments that the Board can only do what is prescribed in statute. But looking at the fix under section 3, subsection 2, I have concerns about how it is written because it says here that if the Board does not take action to approve or reject the plan within 30 days, it is deemed approved by the agent of the Board. I think the words got a little mixed up in this, so I can understand the CCB chair's concern. We are running up against deadlines. I want to always be a person who prides herself on where commas go, but I will definitely vote this out of Committee. I would hope that maybe we could do a personal amendment to address those concerns.

Senator Nguyen:
I am happy to take a look at that. I will echo what Ms. Martin said. This was language that was suggested by the chair and the Board, and that is why it was included in that amendment. If it appears they no longer like the language they proposed, I will take a look at that again to bring better clarity to that situation.

Chair Marzola:
Is there any further discussion? [There was none.]

> THE MOTION PASSED. (ASSEMBLYMEN HARDY, JAUREGUI, MONROE-MORENO, AND YEAGER WERE ABSENT FOR THE VOTE.)

I will assign that floor statement to Assemblywoman Torres. I will now open the hearing on Senate Bill 145 (2nd Reprint), which revises provisions relating to employee misclassifications.

Senate Bill 145 (2nd Reprint): Revises provisions related to employee misclassification. (BDR 53-159)

Senator Roberta Lange, Senate District No. 7:
Thank you for the opportunity to present Senate Bill 145 (2nd Reprint), which continues the work of addressing employee misclassification in Nevada. I am pleased to be joined by Fran Almaraz and Randy Soltero, representing organized labor.

In its simplest form, employee misclassification is a practice of classifying workers as independent contractors rather than employees. The misclassification can occur intentionally or unintentionally, but either way it can have serious legal and financial consequences for both the worker and the employer. Misclassification can result in workers being denied important protections and benefits that are only available to employees, such as overtime pay, workers' compensation, unemployment insurance, and certain job protections. This can lead to financial hardships and job insecurity for workers as well as unfair competition for employers who are following the rules.

I would like to do a short history of this bill, if I may, Chair. The 75th Session of the Nevada Legislature approved Senate Concurrent Resolution 26 of the 75th Session, creating the Legislative Commission Subcommittee to Study Employee Misclassification. The Subcommittee was directed to determine the scope and problem of employee misclassification in Nevada, including (1) the implications and scope of economic losses for employees and lost revenues for the state and local governments; (2) proposals for state processes to identify employee misclassification; and (3) potential penalties for employers engaging in employee misclassification and for legal recourse for affected employees.

As a result of this work, the Subcommittee adopted several recommendations, including among others, creating a task force to coordinate state efforts to reduce employee misclassification, providing the right for action for misclassified workers and implementing a graduated penalty against employers who misclassify their workers. Although it took some time, these recommendations from the Subcommittee were enacted by the 80th Session of the Nevada Legislature with the passage of Senate Bill 493 of the 80th Session, including the creation of a task force for employee misclassification.

The measure before you today is S.B. 145 (R2), which incorporates several of the recommendations from the task force. I have asked Randy Soltero to address these as he goes over the bill.

Randy Soltero, representing Soltero Strategies:
I want to echo what Senator Lange has said. This is the culmination of work done by the misclassification task force. This task force was made up of community partners including business and labor. The parts of this bill that are significant here start in section 2. "The offices of the Labor Commissioner, Division of Industrial Relations of the Department of Business and Industry, Employment Security Division of the Department of Employment, Training and Rehabilitation, Department of Taxation and Attorney General shall

communicate" with each other in efforts to coordinate communication when it comes to someone who or a business has been found to have misclassified. They communicate that information with each other so the proper agencies can address any issues that might have come from that finding of misclassification.

Section 2, subsection 2 defines what employer misclassification is. Further down in section 3, subsection 2, paragraph (a) reads, "For a first offense committed by an employer who misclassifies or otherwise fails to properly classify a person as an employee of the employer," a warning is issued to the employer by the Labor Commissioner. Going down to section 3, subsection 2, paragraph (b), "For a second or subsequent offense, a fine of $5,000 for each employee who was willfully misclassified imposed by the Labor Commissioner." I say willfully with emphasis because that was something the stakeholders agreed would be important. I think you will hear from folks who would be supporting this bill that that was something necessary to get this passed.

With that, I will answer any questions. To my right is Fran Almaraz, who is willing to answer any questions.

Chair Marzola:
Are there any questions?

Assemblyman O'Neill:
Help educate me. This sounds very familiar, as I think there was an issue in California recently with Uber drivers versus the Uber service. They wanted to be classified as employees and not 1099 contractors or independents. I think it got settled in favor of the drivers. If the same thing was done over here and this misclassification study was done, and they were misclassified and are employees, would that be one group with a one-time penalty, or is that every single Uber driver? This is similar to what we were talking about earlier with the marijuana violations. Is it one time or is it multiple times? It may be worth the cost of doing business for the penalty. I am mainly interested in how it would be addressed if a company has multiple employees who are misclassified. Is it each employee or is it that group?

Fran Almaraz, Political Coordinator, Teamsters Local 631 and Local 986:
Great question. The first offense when someone is reported to the Labor Commissioner as misclassifying an employee is a warning. It is a warning for all their employees that they are misclassifying. The second offense is for each employee. I hope that answers your question.

Assemblyman O'Neill:
I think so. To make sure I got it straight, the first time you have X people out there doing Y work, they get a warning that all the X people should be considered something else. If they do not take all the Xs into the new classification, and they leave out 20 or 30, that is 20 or 30 penalties. If the total number was 50 employees, they move 30 into the new classification, then for some reason did not do the other 20, that would be 20 penalties with the violations. Is that right?

Fran Almaraz:
Yes, it would be.

Assemblywoman Duran:
Thank you for this bill. I know there have been some issues concerning misclassification. Most businesses have a list of their employees to know what jobs they do. Are most of these people who may be misclassifying them doing it on purpose? I know they should understand the job they are doing. Is there a possibility that it could be mistakenly done that way?

Fran Almaraz:
When someone is reported to the Labor Commissioner as misclassifying employees, they are given a warning and are given the parameters, the classification of what an employee is and what an independent contractor is. A lot of employers have legal independent contractors. When they are given the warning they are misclassifying, they are also given the paper that tells them if you write them a check and tell them when to go to work, how to work, what time to get off work, and what to do for each hour they are at work, those are employees.

If they have a person working for them who can come and go as they wish and set their own hours, those are independent contractors. If you control that person, they are an employee. I hope that answers your question.

Assemblywoman Duran:
It is more of a job description the employer should have for their employees of what they should be doing and what they should be classified as, correct?

Fran Almaraz:
Yes. As I said, the first time when they are given their warning, they are also given the parameters of what an employee is and what an independent contractor is.

Chair Marzola:
Are there any additional questions? [There were none.] We will move to testimony in support of S.B. 145 (R2). Is there anyone wishing to testify in support?

Susie Martinez, Executive Secretary-Treasurer, Nevada State AFL-CIO:
On behalf of over 150,000 members and 120 unions, we are in full support of this bill.

Marc Ellis, President, Communications Workers of America Local 9413:
We support the bill.

Cody Hoskins, Political Director, Service Employees International Union Local 1107:
We support the bill as well.

Sarah Collins, representing National Electrical Contractors Association:
We are in support of the bill.

Chair Marzola:
Is there anyone else wishing to testify in support of S.B. 145 (R2)? [There was no one.] We will move to testimony in opposition to S.B. 145 (R2). 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?

Misty Grimmer, representing Nevada Resort Association:
We wanted to go on the record to let Senator Lange know how much we appreciate how much she worked with us on this bill and made the changes we requested. We are okay with the bill now.

Paul J. Moradkhan, Senior Vice President, Government Affairs, Vegas Chamber:
The Vegas Chamber is also neutral on S.B. 145 (R2). We appreciate the work that has been done with the bill sponsor to get us to this point and also address some of the drafting errors that occurred. We appreciate all of her efforts to get us here today.

Chair Marzola:
Is there anyone else wishing to testify in neutral? [There was no one.] Senator Lange, would you like to give any final remarks? [There were none.] I will now close the hearing on S.B. 145 (R2). [The meeting recessed at 4:13 p.m.]

[The meeting reconvened at 4:14 p.m.]

Chair Marzola:
We will open the work session on Senate Bill 145 (2nd Reprint).

Senate Bill 145 (2nd Reprint): Revises provisions related to employee misclassification. (BDR 53-159)

Chair Marzola:
Are there any questions on Senate Bill 145 (2nd Reprint)? [There were none.] I will entertain a motion to do pass Senate Bill 145 (2nd Reprint).

> ASSEMBLYWOMAN TORRES MADE A MOTION TO DO PASS SENATE BILL 145 (2ND REPRINT).
>
> ASSEMBLYWOMAN DURAN SECONDED THE MOTION.

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

> THE MOTION PASSED. (ASSEMBLYMEN HARDY, JAUREGUI, MONROE-MORENO, AND YEAGER WERE ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Duran. I will now open the hearing on Senate Bill 234 (2nd Reprint), which revises provisions governing communications with offenders.

Senate Bill 234 (2nd Reprint): Revises provisions governing communications with offenders. (BDR S-810)

Senator Melanie Scheible, Senate District No. 9:
I am only here because my name is on the bill, but it is not my bill. This is Max Grinstein's bill, and he is one of our fantastic youth legislators whom I have helped along the way to craft this bill, to negotiate this bill, and come up with a finalized version I think everybody could get on board with. It passed out of our house unanimously and does have the support of the Nevada Department of Corrections. I am not sure if they will be able to be here today or not, but I am always happy to connect you later if you need that. And without further ado, I will turn it over to Youth Legislator Grinstein.

Max Grinstein, Youth Legislator, Nevada Youth Legislature, Senate District No. 15:
[Read from written testimony, Exhibit P.] Thank you so much, Senator Scheible, for the introduction, and thank you, Committee, for being willing to be here at such a busy time. Of course, given that it is the end of the session, I am sure you are very busy and have other things to do. We will both try to keep our remarks this afternoon on the relatively shorter side. At the same time, I think Senate Bill 234 (2nd Reprint) is an important piece of legislation that endeavors to solve an important problem, so I appreciate Chair Marzola and the Committee for giving us the opportunity to be here today.

As Senator Scheible mentioned, I am a rising senior at the Davidson Academy in Reno. Additionally, though today, May 31, 2023, happens to be my last official day, I have also had the privilege over the last two years of representing Senate District 15 in the Nevada Youth Legislature (NYL). I first conceived of S.B. 234 (R2) as part of the Nevada Youth Legislature. Though it was not ultimately selected as the NYL's one statutory bill draft request—that went to Youth Legislator Thornton, who is here today—I reached out to Senator Scheible, who was gracious enough to help me sponsor that independently.

Essentially in its current state, S.B. 234 (R2) proposes for women incarcerated at Florence McClure Women's Correctional Center in Las Vegas to be granted 15 minutes of free phone calls each day to their loved ones. To give the Committee a little bit of context, the bill's main impetus was observations I have made over the past two years while I have worked as an intern at the Prison Journalism Project, which is a national media organization. The Prison Journalism Project trains and publishes incarcerated journalists, all with the end goal of helping to illuminate what we see as the murky world behind bars. As part of that context and as part of that mission, we have published more than 600 incarcerated writers so far from over 35 states, including Nevada.

Something our writers have consistently mentioned in their stories is what helped to inspire S.B. 234 (R2). It is the observation that prison phone calls between the incarcerated and their families are vitally important for both groups, but there are often significant structural barriers related to cost that stand in the way of reaping that full benefit. Indeed, it can cost families in Nevada hundreds of dollars to stay in contact with a loved one, and we might hear testimony about that later. I will briefly note for the Committee's knowledge that I have submitted a supplemental resource list, which is posted on the Nevada Electronic Legislative Information System, that includes various Prison Journalism Project stories written by our writers that allude to this point.

With that context behind us, we will move into the more legislatively meaty section of this presentation. As is the case with a lot of proposals that come to Carson City, I think the text and provisions you see today as part of S.B. 234 (R2) differ pretty significantly from our original bill draft request. Originally, we wanted the Department of Corrections to establish a pilot program to provide free calls between children and their parents who are incarcerated in Nevada—with the intent of helping to preserve family bonds even across prison walls. Though, over the past few months of the session, we realized that while there is merit to this idea—perhaps even merit in the next legislative session if anyone is interested—it became clear the Department of Corrections believed there would be challenges in implementing this. We have pivoted, and over two reprints we have arrived at S.B. 234 (R2)'s current language to authorize the creation of a pilot program at Florence McClure to give 15 minutes of daily free calls to the around 1,000 women who are currently incarcerated there.

I talk about this in the language of compromise, though in many ways I see the current reprint as a marked improvement over the original language that was introduced in the Senate in February or March. For example, the original language only authorized these calls to happen between children and their parents. Our second reprint now authorizes that between any family members, presumably which could include a son, a daughter, spouse, a parent, et cetera. It would be any family member. To that extent, I think it is important to recognize that S.B. 234 (R2) is a consensus bill. We have worked hard to bring together the perspectives of your colleagues here in Carson City, of the Nevada Department of Corrections, and of various community activists and stakeholders, all with the intent of drafting what we see as a responsible and thoughtful piece of legislation.

With your permission, Chair Marzola, I would like to briefly run the Committee through the provisions of S.B. 234 (R2), especially after our recent reprints. It is a relatively short piece of legislation, the actual text of which is less than a page long. It is divided into two sections. Section 1, subsection 1 establishes the intent behind the pilot program and basic facts in order for the Department of Corrections to execute on the provisions established. The provisions say the pilot program should be to benefit women incarcerated at Florence McClure Women's Correctional Center and their families, and more broadly to help facilitate and encourage a continuing relationship. I will note section 1, subsection 3 is a very important

clause, and it emphasizes we are not changing any provisions for security reasons related to who can call and who can be called. If for whatever reason—a court order, departmental regulation, et cetera—someone is currently barred from talking to their loved one, we are not changing that.

Under section 1, subsection 4, the Department of Corrections would be instructed to submit to the Board of State Prison Commissioners a report outlining the successes, room for improvement, et cetera of the pilot program. Under section 2, on January 1, 2025, the provisions would sunset, and the next legislative session could make the determination if it wanted to make this pilot program more permanent.

With that in mind, I will spend the rest of the presentation addressing what I see as the most fundamental question when considering any piece of legislation, and that is, very basically, why you should support S.B. 234 (R2). I think on one hand you should support it because there is an extensive body of academic literature that proves prison phone calls have significant benefits for families, for offenders, and for society as a whole. There are clear benefits to children, with a 2014 meta-analysis by Poehlmann, et al. finding frequent phone calls between incarcerated people and their families, especially their children, were correlated with increased grades for those children at school and reduced behavioral problems. There are very significant benefits for society at large. One 2020 study by Haverkate and Wright—and I will emphasize for the Committee there has been a lot of academic research on this subject—noted that frequent contact with family members while incarcerated serves to reduce recidivism rates post-incarceration. In that sense, I think the research is conclusive that by putting a little bit of effort now into the issue of incarcerated family relationships, we can set the state up for future success.

On the other hand, on an even more fundamental level, we think you should support this bill simply because it is about families. At the end of the day, this bill is about the family unit, and this bill is about strengthening family bonds and showing that even if loved ones are separated by prison walls, the strongest bond in the world is still between families.

If you choose to support this bill, either for the reasons that I have enumerated or for other reasons, you would be joining a broad group who have already done so. You would be joining families from across the state, the Clark County District Attorney's Office, Juvenile Division, and Clark County Public Defender's Office, and other nonprofits and advocates such as the Nevada Fines and Fees Justice Center and Return Strong!, who testified in support of S.B. 234 (R2) at our Senate Judiciary Committee hearing. You would be joining the Department of Corrections, which I will emphasize has expressed it can implement S.B. 234 (R2)'s provisions without cost to Nevada taxpayers; hence, why there is no fiscal note on the bill. Finally, you would be joining your colleagues in the Senate who passed S.B. 234 (R2) out of their house unanimously last week. Each of these groups, though they come from very different perspectives, recognized S.B. 234 (R2) is important for parents, for spouses, and for children of incarcerated women, people who themselves have never broken any laws or have never done anything wrong who simply want to communicate affordably with their loved ones at Florence McClure Women's Correctional Center.

We would, of course, appreciate the Committee's support, and I am happy to help the Committee answer any questions you might have.

Chair Marzola:
Thank you for being here with us today. You are an amazing presenter, so you are definitely on the right path, and it is a very good bill. Committee members, are there any questions? [There were none.] I will move to testimony in support of S.B. 234 (R2). Is there anyone wishing to testify in support?

Nicholas Shepack, State Deputy Director, Fines and Fees Justice Center:
We are in strong support of this piece of legislation. The cost of incarceration in Nevada is one of the highest costs in the country. There are few places in the country that take more money from families to pay for things like phone and commissary. This is a small step but a very important step in moving in the right direction towards reducing that cost for families and incarcerated individuals. We ask you to support this very thoughtful piece of legislation.

Stella Thornton, Youth Legislator, Nevada Youth Legislature, Senate District No. 16:
I am here in support of S.B. 234 (R2). Communication is a fundamental human need, and it plays a vital role in maintaining healthy relationships even under the most challenging circumstances. Maintaining these connections during incarceration is not only important for the emotional well-being of the families involved, but also for the successful reintegration of offenders into society upon their release. Numerous studies have shown regular communication with family members can significantly reduce recidivism rates. By enabling incarcerated women to stay connected with their families, S.B. 234 (R2) offers them a lifeline of support and hope.

Furthermore, section 1 of the bill requires the Department of Corrections to prepare and submit a report to the Board of State Prison Commissioners evaluating the participation of this program and ensures transparency, accountability, and continuous improvement and implementation of the program.

In conclusion, S.B. 234 (R2) is a vital step towards promoting rehabilitation, reducing recidivism, and fostering the well-being of incarcerated individuals and their children. By providing free telephone calls between offenders and their families, this legislation recognizes the transformative power of communication and the importance of family support. I urge you to support this bill, as it will contribute to a more just and compassionate criminal justice system.

John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office:
This bill is a critically important measure. How we treat people while they are incarcerated directly affects how they come out in society, and this bill will increase communication. As somebody who was in the service and was deployed, it was difficult not communicating with my family, but I will tell you whom it was really difficult for: the moms. That is who this

bill is directly going to help—the people in Florence McClure, the mothers, the sisters who are not with their families and are missing their kids. This bill will directly contribute to increasing communication, which will put them in a much better position for when they are released. We strongly urge your support.

Annette Dawson Owens, School Readiness Policy Director, Children's Advocacy Alliance:
I am testifying in support of S.B. 234 (R2). We at the Children's Advocacy Alliance have had the unique opportunity to serve individuals who have been incarcerated in Clark County, working weekly with programming and women in the prison system over the last nine months. We have been sharing mental health and wellness tools with the goal of reducing recidivism and sharing skills that will strengthen individuals and families upon their release. Thus, we are in alignment with this bill. This bill provides hope and healing by fostering connectedness and communication and will improve conditions for individuals, children, families, and our Nevada community as a whole. We need more of these practices that have proven success records and outcomes as we have seen in states across the country. Thank you, Mr. Grinstein, for your bill, for the sponsors, and this Committee for all you are doing and working on this session and advancing this bill.

[Exhibit Q 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. 234 (R2). Is there anyone wishing to testify in opposition?

Dora Martinez, Private Citizen, Reno, Nevada:
Madam Chair, I am really sorry. I was trying to call in time to support. May I please proceed?

Chair Marzola:
Absolutely.

Dora Martinez:
I apologize, and thank you to Mr. Grinstein and the amazing Senator Melanie Scheible. Like everybody else, people with disabilities sometimes get incarcerated. We appreciate this bill because it is a basic self-care. Isolation is never good for the mind, body, and soul. We appreciate this bill and encourage you to please pass it. Thank you to the sponsors.

Chair Marzola:
We will go back to testimony in opposition. Is there anyone wishing to testify in opposition? [There was no one.] We will go to neutral testimony. Is there anyone wishing to testify in neutral on S.B. 234 (R2)? [There was no one.] Would you like to give any closing remarks?

Max Grinstein:
Thank you so much for the opportunity to hear S.B. 234 (R2) today. I think at this point, it is a little bit of a cliché for people to come and say you should support their bill because it is straightforward, but if you will indulge me, I really do think this bill is straightforward. As you have heard, we have no opposition. The actual text of the bill is less than a page long. The Department of Corrections, which is the entity that would be tasked with executing the provisions of S.B. 234 (R2), is in support and has said it can implement the provisions without any impact on Nevada taxpayers. I appreciate the opportunity to be heard. We really appreciate having a work session scheduled on this bill.

Chair Marzola:
Just so you know, I am not going to be able to work session it today because I have lost some members, but I can tell you I am going to work session your bill. At least you know that. Thank you again for being here today. I will now close the hearing on S.B. 234 (R2). I will open up for public comment. Is there anyone wishing to give public comment? [There was no one.] With that, our meeting is adjourned [at 4:35 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 the Work Session Document for Senate Bill 275 (1st Reprint), presented by Marjorie Paslov-Thomas, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit D is a copy of a PowerPoint presentation dated May 31, 2023, titled "SB 290: Earned Wage Access," submitted by Senator Nicole J. Cannizzaro, Senate District No. 6; and presented by Ryan Naples, Senior Public Policy Manager, DailyPay, New York, New York.

Exhibit E is a letter dated May 31, 2023, submitted by Molly Jones, Vice President, Government Affairs, Payactiv, San Jose, California, in support of Senate Bill 290 (2nd Reprint).

Exhibit F is a document dated March 2023 titled "The Promise of On-Demand Access to Earned Wages," submitted by Molly Jones, Vice President, Government Affairs, Payactiv, San Jose, California, regarding Senate Bill 290 (2nd Reprint).

Exhibit G is a letter submitted by Molly Jones, Vice President, Government Affairs, Payactiv, San Jose, California, in support of Senate Bill 290 (2nd Reprint).

Exhibit H is a document titled "AFC Earned Wage Access Fact Sheet," submitted by Molly Jones, Vice President, Government Affairs, Payactiv, San Jose, California, regarding Senate Bill 290 (2nd Reprint).

Exhibit I is written testimony submitted and presented by Gerron Levi, Senior Vice President, Head of Government Affairs, American Fintech Council, Washington, D.C., regarding Senate Bill 290 (2nd Reprint).

Exhibit J is a letter dated May 25, 2023, submitted and presented by Garth McAdam, General Counsel, ZayZoon, Scottsdale, Arizona, in support of Senate Bill 290 (2nd Reprint).

Exhibit K is a letter dated May 31, 2023, submitted by Pete Isberg, Vice President, Government Affairs, ADP Inc., Roseland, New Jersey, in support of Senate Bill 290 (2nd Reprint).

Exhibit L is a letter submitted by Stephanie Balistere, Private Citizen, Las Vegas, Nevada, in support of Senate Bill 290 (2nd Reprint).

Exhibit M is a letter dated May 31, 2023, submitted by Frank Dombroski, CEO/Founder, FlexWage Solutions LLC, in support of Senate Bill 290 (2nd Reprint).

Exhibit N is a letter signed by Andrew Kushner, Policy Counsel, Center for Responsible Lending; and Lauren Saunders, Associate Director, National Consumer Law Center, in opposition to Senate Bill 290 (2nd Reprint).

Exhibit O is a fact sheet titled "Senate Bill 195," submitted by Layke Martin, Executive Director, Nevada Cannabis Association, regarding Senate Bill 195 (2nd Reprint).

Exhibit P is written testimony submitted and presented by Max Grinstein, Youth Legislator, Nevada Youth Legislature, Senate District No. 15, in support of Senate Bill 234 (2nd Reprint).

Exhibit Q is a letter submitted by Graham Bernstein, Director of Political Affairs, Florida Student Policy Forum, in support of Senate Bill 234 (2nd Reprint).