

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

**Eighty-Second Session
March 27, 2023**

The Committee on Commerce and Labor was called to order by Chair Elaine Marzola at 1:33 p.m. on Monday, March 27, 2023, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 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 Steve Yeager
Assemblyman Toby Yurek

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman Duy Nguyen, Assembly District No. 8

STAFF MEMBERS PRESENT:

Marjorie Paslov-Thomas, Committee Policy Analyst
Cyndi Latour, Committee Manager
Elizabeth Lepe, Committee Secretary
Garrett Kingen, Committee Assistant

Minutes ID: 608



OTHERS PRESENT:

Ryan Bellows, Vice President, Government and External Relations, NV Energy
Carolyn Turner, Executive Director, Nevada Rural Electric Association
Ernest Adler, representing International Brotherhood of Electrical Workers
Local 1245
Rose McKinney-James, representing Valley Electric Association
Drew Franklin, representing Nevada Sheriffs' and Chiefs' Association
Todd Ingalsbee, President, Professional Fire Fighters of Nevada
David Cherry, Government Affairs Manager, City of Henderson
Kelly Crompton, Government Affairs Manager, City of Las Vegas
Beth Schmidt, Director-Police Sergeant, Office of Intergovernmental Services, Las
Vegas Metropolitan Police Department
Kandice Townsend, Government Affairs Specialist, City of North Las Vegas
Scott Leedom, Director/Public Affairs, Southwest Gas Corporation
Isaac Hardy, representing Nevada Conservation League
Ana Wood, Chair, Government Affairs, Las Vegas Asian Chamber of Commerce
Jeremy Newman, representing International Brotherhood of Electrical Workers
Local 396
Peter Guzman, President, Latin Chamber of Commerce, Las Vegas, Nevada
Bryan Wachter, Senior Vice President, Retail Association of Nevada
Sarah A. Bradley, Deputy Executive Director, Board of Medical Examiners
Erik Jimenez, Chief Policy Deputy, Office of the State Treasurer
Nicholas Schneider, Policy Analyst, Government Affairs, Vegas Chamber
David Goldwater, representing Nevada Wholesalers
Mac Haddow, Senior Fellow on Public Policy, American Kratom Association
Erven Nelson, representing American Kratom Association
Peter Guidry, Private Citizen, Las Vegas, Nevada
Kelley Guidry, Private Citizen, Las Vegas, Nevada
Lea Case, representing Nevada Psychiatric Association
James Creel, representing Compassion Center; and Coalition for Patients' Rights
Katree Saunders, representing Coalition for Patients' Rights
Barry Cole, Private Citizen, Reno, Nevada
Michael Hillerby, representing State Board of Pharmacy
Ashley Jeppson, Administrator, Plant Industry Division, State Department of
Agriculture

Chair Marzola:

[Roll was called. Committee protocols were explained.] Today, we are going to hear three bills: Assembly Bill 318, Assembly Bill 321, and Assembly Bill 322. I will not be taking them in that order. Before we get started, we are going to have some bill introductions. We will now do bill draft requests (BDR). Today, we will start with BDR 57-330.

BDR 57-330—Revises provisions relating to pharmacy benefit managers. (Later introduced as [Assembly Bill 440](#).)

Is there any discussion? [There was none.] Do I have a motion to introduce BDR 57-330?

ASSEMBLYWOMAN JAUREGUI MOVED FOR COMMITTEE
INTRODUCTION OF BILL DRAFT REQUEST 57-330.

ASSEMBLYWOMAN MONROE-MORENO SECONDED THE MOTION.

Any discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN KASAMA WAS
ABSENT FOR THE VOTE.)

Our next bill draft request is BDR 57-1044.

BDR 57-1044—Revises provisions governing contracts of insurance. (Later introduced as [Assembly Bill 439](#).)

Do I have a motion to introduce BDR 57-1044?

ASSEMBLYWOMAN JAUREGUI MOVED FOR COMMITTEE
INTRODUCTION OF BILL DRAFT REQUEST 57-1044.

ASSEMBLYWOMAN TORRES SECONDED THE MOTION.

Any discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN KASAMA WAS
ABSENT FOR THE VOTE.)

Our next bill draft request is BDR 57-1005.

BDR 57-1005—Prohibits title insurers, title agents, escrow officers and certain real estate professionals from engaging in certain conduct. (Later introduced as [Assembly Bill 438](#).)

Do I have a motion to introduce BDR 57-1005?

ASSEMBLYWOMAN JAUREGUI MOVED FOR COMMITTEE
INTRODUCTION OF BILL DRAFT REQUEST 57-1005.

ASSEMBLYWOMAN MONROE-MORENO SECONDED THE MOTION.

Any discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN KASAMA WAS
ABSENT FOR THE VOTE.)

The next bill draft request is BDR 54-670.

BDR 54-670—Limits the amount a provider of health care may charge for filling out certain forms associated with certain leaves of absence. (Later introduced as [Assembly Bill 437](#).)

Do I have a motion to introduce BDR 54-670?

ASSEMBLYWOMAN JAUREGUI MOVED FOR COMMITTEE
INTRODUCTION OF BILL DRAFT REQUEST 54-670.

ASSEMBLYWOMAN MONROE-MORENO SECONDED THE MOTION.

Any discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN KASAMA WAS
ABSENT FOR THE VOTE.)

Next we have BDR 52-466.

BDR 52-466—Provides for the regulation of earned wage access providers. (Later introduced as [Assembly Bill 436](#).)

Do I have a motion to introduce BDR 52-466?

ASSEMBLYWOMAN JAUREGUI MOVED FOR COMMITTEE
INTRODUCTION OF BILL DRAFT REQUEST 52-466.

ASSEMBLYWOMAN HARDY SECONDED THE MOTION.

Any discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN KASAMA WAS
ABSENT FOR THE VOTE.)

Today, we will be taking the bills out of order. Our first bill being presented today is [Assembly Bill 321](#).

Assembly Bill 321: Makes various changes relating to public safety. (BDR 52-753)

Assemblyman Max Carter, Assembly District No. 12:

I am presenting today Assembly Bill 321. It regards safety in the line industry and in the utility industry [[Exhibit C](#)]. I am familiar with this because I worked my whole career as an electrician. I have also worked in substations and around medium- and high-voltage installations. I am the sponsor on this bill. What we are talking about in this bill is foil balloons. They are available in retail stores and filled with helium or a gas that is lighter than air. Foil balloons are made with a metallic film that conducts electricity. When these balloons are not weighted and released into the air, they may drift into power lines and become entangled. These balloons can cause an electrical fault, which can cause power system outages that can damage power lines, cause blackouts, start fires that require costly repairs, inconvenience utility customers, and threaten the safety of utility workers and the public. Recent developments in the balloon industry can minimize the risk to energy infrastructure and public safety.

Modern technology has advanced to allow for the manufacturing of foil balloons that resist conducting electricity. The Institute of Electrical and Electronics Engineers (IEEE) is a professional association and a leading developer of international standards, which are widely recognized by the energy industry. The Institute of Electrical and Electronics Engineers is currently developing a standard that tests whether balloons are safe for overhead electrical power lines across North America. By ensuring that materials used in these balloons do not conduct electricity, this measure mitigates the risk of balloon-caused electrical faults and power outages while continuing to allow manufacturers and retailers to sell foil balloons. We are not looking at outlawing your kids' foil balloons. What we are looking at is following the technology and finding a good compromise. With that being said, and with your indulgence, Chair Marzola, I have to present another bill in a different committee. I am going to turn it over to Ryan Bellows, who will walk you through the bill and answer any questions if that is okay with you.

Chair Marzola:

Absolutely.

Ryan Bellows, Vice President, Government and External Relations, NV Energy:

I am grateful to be here alongside Assemblyman Max Carter, the bill sponsor. I am Ryan Bellows. I am the Vice President of Government and External Relations at NV Energy, and I am happy to walk through the provisions of A.B. 321. Over the last several years, these foil balloons have been a leading cause of outages for NV Energy. On our system alone, over the past nine years, we have had over 1,000 outages that are related to folks releasing these balloons into the atmosphere and hitting our power lines. This has impacted over a million customers during that time period [page 2, [Exhibit D](#)]. Close to 100 of these outages have been to, what we consider, major customers and accounts. Those have significant load impacts. When these foil balloons come into contact with power lines, it not only puts our customers out of power, but it also creates an enormous safety threat to those who are called to restore power, like our line workers. These contacts create sparks and fire, and it is a

dangerous task to remove these, as they melt into the line and have to be removed by hand. We have taken a lot of steps through the years to educate the public on the dangers of releasing these foil balloons. I have a video, which I will play for you [page 4, [Exhibit D](#)], but our education can only go so far.

If you can see there, there are two little gold metallic balloons. That outage occurred in Southern California—similar impact and similar experience as we have seen in Nevada. We do not have any of those captured to show you today. California in particular, experiences a more significant amount of these outages—and they have looked at solutions for the past decade or so, and finally landed with a major compromise solution last September, when they worked with all stakeholders to come up with a bill that focuses on the technology piece of it. The solution is to focus on having the manufacture and sale of these balloons be nonconductive electrical foil—so, they are nonconductive, electrically speaking, but they still retain the same composition and look as the shiny metallic balloons that are sold today. The bill contains a provision to ramp down the manufacture and sale of these balloons in the state over a four-year period. The bill also provides a provision that would require, at the point of sale, that these balloons be tied down to a weight to hold them down. That is the first piece of the bill. Assemblyman Carter has lined up Carolyn Turner with the Nevada Rural Electric Association to walk through some of the other provisions of the bill via Zoom.

Carolyn Turner, Executive Director, Nevada Rural Electric Association:

I am here to go over the provisions in section 12 of [A.B. 321](#), and then I can answer any questions you have regarding that section. First, for some background and context, Nevada Rural Electric Association has 12 members, 10 of whom are distribution utilities. We serve end-use customers, the folks at the end of the line in rural communities throughout the state. We represent all of the border communities and a big chunk of the certificated territory in Nevada, serving these rural communities. Our members' primary focus, first and foremost, is always going to be on reliability and safety. That is the reason we are bringing this language before you today with Assemblyman Carter, for your consideration to close what we perceive as a loophole in statute right now, related to trespass and attacks on utility infrastructure.

We have some existing statute in Nevada that makes it clear that it is against the law to impersonate a utility employee. It is also against the law to remove copper and other precious metals from utility infrastructure. Section 11, subsection 2, paragraphs (a) and (b) that you are seeing before you today, make it clear that it is against the law to trespass or destroy utility infrastructure with the intent of stealing that utility service. There is not much said about the folks who are trespassing or destroying the infrastructure for the sake of trespassing or destruction. The point that we are trying to make in section 11 is to clarify that it is against the law to destroy utility infrastructure. It also includes some penalties language along those lines. My colleague, Mr. Bellows, is showing you some headlines [pages 5 and 6, [Exhibit D](#)]. Across the country, we have seen attacks and an uptick in these incidents where individuals are targeting this infrastructure, particularly substations that serve neighborhoods. They are those large commercial industrial customers that you heard

mentioned a moment ago. Ultimately, this is a long-term risk to the reliability and safety of our system. We are hoping that by making this change in A.B. 321, we can deter some of these attacks in the future.

I am also going to speak briefly about other changes that we are hoping to bring forward for your consideration in the future. A key component to this reliability and safety is ensuring that the people who keep the power on, our line workers and utility workers, are safe as well. This body has considered language in the past several sessions which include penalty enhancements for intentional targeting of first responders. There is a bill that has been sponsored this session to do the same type of a thing for health care workers. We are looking to see that same language extended to utility workers, to ensure that the folks who are doing that work are kept safe. We have been working with NV Energy, with the sponsor, and with the International Brotherhood of Electrical Workers, to craft some of this language to extend those protections. We look forward to presenting that for your consideration at a future juncture. With that, Mr. Bellows and I can take any questions that the Committee may have.

Chair Marzola:

Will you be going through sections 2 through 10 of the bill? I understand you just went through sections 11 and 12.

Carolyn Turner:

Sections 11 and 12 are the ones that I can speak to. I would defer to the folks up north for sections 1 through 10.

Ryan Bellows:

If you would like, I am happy to walk through the different sections. Is that what you are hoping?

Chair Marzola:

Please.

Ryan Bellows:

Section 2 lays out the Legislature's findings and declarations on the importance of the electrical infrastructure and keeping it safe and reliable. As we move into sections 3, 4, 5, and 6, those are mostly definitional sections. Section 4 defines the reference to the Public Utilities Commission; section 5 defines a foil balloon; section 6 defines the P2845 standard, which is the standard that has been brought forward from the IEEE, as to the new technology on the nonconductive material that is currently being tested. Section 7 walks through the requirements that the balloons which are offered for sale in the state be clearly marked as to whether or not they comply with that standard. It also puts forth the requirement that, at the point of sale, a weight is fixed to the foil balloon. Section 8 walks through the four-year period which includes a ramp down of the manufacture and sale of those balloons within the state. It also includes a tolling period in there. If there are any unforeseen supply chain issues, there is a tolling period for up to 24 months. As we move forward to section 9, it provides requirements for the Public Utilities Commission of Nevada to adopt and implement

the standards that come forward from the IEEE around the P2845 standard on the nonconductive material that is currently being tested. Section 10 provides the civil penalties for what occurs if there is a violation of the act—if the balloon is sold in violation of these provisions. I believe that covers it.

Chair Marzola:

Committee members, are there any questions?

Assemblyman Yeager:

The way I read section 11, it is essentially already a criminal provision, but we are adding in "trespass." I want to confirm I am reading it the right way. I read this to mean that the trespassing has to be for the purpose of interfering with the infrastructure and without the consent of the utility. We are not trying to get at somebody who might be homeless and is sleeping close to a substation, correct? This has to be more than that; it has to be someone who is looking to do something that interferes with the infrastructure. If you could confirm that, I would appreciate it.

Carolyn Turner:

Yes, that is a wonderful question. You are correct; that is the intent. We are really looking to deter those acts of intentional targeting of the utility infrastructure, so it is meant to be encompassed in that way.

Assemblywoman Backus:

My question is for Mr. Bellows. I am looking at section 7, subsection 2, paragraphs (a) and (b) regarding what appears to probably go into effect October 1 of this year. This is the sale of the balloons that must be weighted and also not have conductive string. I want to make sure that is the intent, that this portion would go into effect when the normal bill time would go into effect, October 1, 2023, and does not apply to the four-year implementation. Also, I was curious about the electrically conductive string. Are those like the silver strings versus the regular fabric-like strings that they attach?

Ryan Bellows:

To answer your first question, yes. The intent is that section 7, subsection 2, paragraphs (a) and (b) would take effect upon passage of the bill, as stated, October 1. It would not include the four-year ramp down, so that would take effect right away. As for your second question, yes, that is correct. It would be the fabric strings and not any electrically conductive material.

Assemblywoman Torres:

What percentage of balloons, right now, meet the standards that we are putting in place?

Ryan Bellows:

As of right now, there are no balloons that currently meet the standard. The balloons that are being manufactured to be nonelectrically conductive are being tested, so there are none that are currently offered for sale. At this point, they are in the testing phase.

Assemblywoman Torres:

When do we know when that testing is going to be over? If those are not produced now—we are saying that there would be no foil balloons. I want to know if that was considered in the rollout, because the rollout would need to start by next summer—by June 30, 2024, but we do not know that those balloons are yet available or when they will be available.

Ryan Bellows:

It is anticipated that testing standards will be finalized very soon—within months. It is anticipated that balloons will be available for sale by the 2024 initial deadline, but there is a provision in the bill that provides for a 24-month tolling period should there be any delays in that. That is the way that was addressed there. I would note, for the record, the California approach is a bit different. They pushed theirs to 2027 for their initial ramp down. We have had some discussions with stakeholders and the bill sponsor—I do not want to speak for him, but he has indicated that there is potential opportunity to push that out as well, if needed.

Chair Marzola:

Committee members, are there any additional questions? [There were none.] We will start testimony in support of Assembly Bill 321.

Ernest Adler, representing International Brotherhood of Electrical Workers Local 1245:

We strongly support this bill for the reasons stated by the previous testifiers. The only thing I can add is that the bill has a fiscal note on it, and I think that the damage to our electrical system is more costly than this fiscal note indicates. On balance, I think this is a great bill for the safety of all the electrical workers and the public, and I urge your support. [[Exhibit E](#) was submitted but not discussed and will become part of the record.]

Rose McKinney-James, representing Valley Electric Association:

We are here, specifically, in support of those provisions in sections 11 and 12 that address infrastructure safety. For those of you who may not be familiar with Valley Electric, we are members of the Nevada Rural Electric Association. We are one of the larger active members. Valley Electric is also the first out-of-state utility to join the California Independent System Operator organization. And as a result, the safety and security of our infrastructure becomes an essential aspect of our operations. We strongly support those provisions. We urge your consideration and support of the measure.

Drew Franklin, representing Nevada Sheriffs' and Chiefs' Association:

The Nevada Sheriffs' and Chiefs' Association is in support of A.B. 321, and would like to thank Assemblyman Carter for bringing this bill forward. This bill will enhance law enforcement's ability to protect critical infrastructure in Nevada.

Todd Ingalsbee, President, Professional Fire Fighters of Nevada:

We fully support this bill. We think the safety, not only for our fellow union brothers, but the safety to ensure we have electricity to respond on 911 systems, is vital and keeps everybody safe.

David Cherry, Government Affairs Manager, City of Henderson:

As an operator for water and wastewater utility, the City of Henderson appreciates the increased enforcement tools that sections 11 and 12 provide in cases where individuals seek to damage critical infrastructure that is important to the health, safety, and well-being of communities like Henderson and the families that call them home. We also support the commonsense framework that the bill would apply to the manufacture and sale of balloons that could cause damage to power infrastructure and potentially endanger workers, and our city attorney's office would have a role in enforcement of those restrictions.

Kelly Crompton, Government Affairs Manager, City of Las Vegas:

For time's sake, I will ditto my colleague from the City of Henderson. We appreciate the partnership with our colleagues from NV Energy and the public safety aspect that this provides.

Beth Schmidt, Director-Police Sergeant, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:

We support A.B. 321 and the added language in section 11, referencing trespassing, damaging, and tampering with utility infrastructure. Protecting critical infrastructure is a priority of the Las Vegas Metropolitan Police Department.

Kandice Townsend, Government Affairs Specialist, City of North Las Vegas:

I am here to testify in support of A.B. 321. We think these additional protections to our infrastructure are important in order to continue providing services to our residents. We thank Assemblyman Carter for bringing this forward, and we are happy to support this bill.

Scott Leedom, Director/Public Affairs, Southwest Gas Corporation:

I am here, specifically, in support of sections 11 and 12 for the same reasons as the other utilities who have already spoken.

Isaac Hardy, representing Nevada Conservation League:

We are here in support of A.B. 321 and want to echo what you have heard today.

Ana Wood, Chair, Government Affairs, Las Vegas Asian Chamber of Commerce:

I am here for our chamber, in support of Assembly Bill 321. Within the past years, we have seen an increase in power outages due to stray balloons coming in contact with power lines, transformers, and substations. This interruption affects the livelihood of our communities in Nevada and throughout the United States. For the residential customer, it impacts each one of us with our daily activities. From the business perspective of the Las Vegas Asian Chamber of Commerce, there is a disruption that can be harmful as it trickles down from the loss of revenue and productivity for our businesses. For the employees, there is a loss of wages, and sometimes the loss of lives. We must have legislation to create a safer environment for our community. Currently, there are other states that have legislation within these particular areas: California, Florida, Connecticut, Tennessee, Maine, Maryland, and Virginia. Sections 11 and 12 are of importance to us because the safety of our communities is our number one priority. Outages pose a risk to our communities, our children, and our

pets. It also endangers utility workers, and through their service, they put their lives at risk. Assembly Bill 321 also specifically addresses provisions protecting the electrical grid and makes it unlawful for any person to damage or deface utility infrastructure with the intention to interfere and disrupt its normal function. I respectfully urge you to support A.B. 321.

Jeremy Newman, representing International Brotherhood of Electrical Workers Local 396:

I am here in support of A.B. 321 on behalf of International Brotherhood of Electrical Workers Local 396 and over 1,500 electrical, utility, and construction members. I would also like to thank Assemblyman Carter, Assemblywoman Anderson, and Assemblywoman La Rue Hatch for bringing forward such an important piece of legislation for the safety of the men and women who work on high-voltage power lines every day in our state and communities. As a journeyman line worker, we do not always have the luxury of removing a circuit from service. We perform most of our work on energized circuits with voltages ranging from 12 kilovolts on distribution circuits and up to 500 kilovolts on transmission circuits. Many times, there is no way to take the circuit out of service. When these mylar foil balloons get tangled in the power lines, it increases the exposure to the risk of our journeyman line workers and greatly puts them in unnecessary harm's way when there are alternative nonconductive materials available today. Foil balloons, or mylar balloons, are the metallic, shiny, silver-like balloons which cause thousands of power outages each year when they float and come in contact with power lines. Although these balloons are fun and festive, especially for a celebration, it is extremely important to ensure that they do not get released into the air. If loose balloons come in contact with power lines, they can cause explosions on power lines and much more, they can result in extremely dangerous risks to utility workers and pose a public safety risk. There have been hundreds of mylar balloon-related power outages in Nevada over the last few years, impacting thousands of customers with each outage. The metallic coating on the mylar balloon conducts electricity and can cause a short or power surge when coming in contact with power lines. This can lead to large-scale power outages, melting electrical wires, and fires, especially in our high fire districts leading to possible injuries and property damage. In addition, outages caused by balloons can often cause a significant inconvenience for residents and business owners—

Chair Marzola:

Sir, can you wrap up your testimony, please? Your two minutes are up.

Jeremy Newman:

Okay. It poses a safety risk to our utility workers. Thank you.

Peter Guzman, President, Latin Chamber of Commerce, Las Vegas, Nevada:

I am here in full support of A.B. 321 because it is critical for small businesses that depend on reliable electricity to operate. Assembly Bill 321 is a solution that will eliminate outages caused by foil balloons, and more importantly, make it unlawful for any person to intentionally damage or deface critical utility infrastructure. I believe, now more than ever, we should be doing everything we can to protect our electrical grid.

Chair Marzola:

Is there anyone else wishing to testify in support? [There was no one.] We will move to testimony in opposition to Assembly Bill 321. Is there anyone wishing to testify in opposition?

Bryan Wachter, Senior Vice President, Retail Association of Nevada:

Thank you for the opportunity to address concerns we have with Assembly Bill 321. Section 2 looks a bit different from some of the other resolution-type clauses we have seen in other bills, so we wonder what the cause of putting section 2 into *Nevada Revised Statutes* would be. We appreciate the clarification from one of the members earlier on section 7, subsection 2, and the effective date on that. We would look specifically at section 8, and I think we share some of the same concerns as Assemblywoman Torres regarding the supply chain not being able to react quickly enough to the legislative action you are looking for. We have heard that testing is being done. In fact, those testing standards are still being set. We have not gotten to the point yet where testing is actually occurring on any new material tech balloons that are potentially being processed. We are encouraged—spoke to the proponents of the bill, and there is a desire to perhaps move some of those dates back to be in compliance. We certainly would rather be at least on the same timeline as California so that the supply chain is able to be as efficiently introduced to this new requirement as possible. We think under the current form, it is entirely possible that this would go into effect, and there would be zero foil balloons that would be able to be sold simply because those are not currently on the market. While we understand the goal and certainly the intent, we feel this is perhaps going a bit faster than the supply chain technology and the market is looking for. For those reasons, we are opposed, although I would add that in section 10—there is a bit of an error; there should be a subsection 4, but there is not—we have concerns on section 10, subsection 5 as well.

Chair Marzola:

Is there anyone else wishing to testify in opposition? [There was no one.] We will move to testimony in the neutral position. Is there anyone wishing to testify in the neutral position to Assembly Bill 321? [There was no one.] Mr. Bellows, would you like to give some closing remarks?

Ryan Bellows:

I want to thank the Committee for their time today, and we look forward to meeting with Mr. Wachter and trying to address the concerns raised in opposition.

Chair Marzola:

I will now close the hearing on Assembly Bill 321. I will now open the hearing on Assembly Bill 318.

**Assembly Bill 318: Revises provisions governing certain providers of health care.
(BDR 54-761)**

Assemblyman Duy Nguyen, Assembly District No. 8:

I am proud to be here this afternoon to present Assembly Bill 318. This is a cleanup bill that makes administrative changes to the State Board of Medical Examiners, and is consistent with what many agencies bring forward concerning oversight of health care this session. Copresenting with me today is Sarah Bradley, Deputy Executive Director of the State Board of Medical Examiners. She will be able to go through the bills, administrative statutes, and will also present a friendly amendment in relationship to the fees and fines that the Board of Medical Examiners collects. Additionally, a representative from the Office of the State Treasurer is available to answer any questions on how funding for fees and fines are diverted, and what sort of accounts can benefit those who are in the health care field. Chair, with your permission, I would like to pass it to Ms. Bradley.

Chair Marzola:

Absolutely. You can start when you are ready.

Sarah A. Bradley, Deputy Executive Director, Board of Medical Examiners:

Thank you, Assemblyman Nguyen, for bringing this bill. Also, thank you Madam Vice Chair for bringing bills for the Board in past sessions. This is a cleanup bill, and it is relatively simple. Section 1 would update our provisions, ensuring that when licenses expire, the Board provides a list of those expirations to the Drug Enforcement Administration and the State Board of Pharmacy. We are simply trying to update those provisions, so we do not actually give them a copy of an expiration because we have found that is not as helpful. Sections 2 through 5 ensure that all license types that the Board provides licenses for are included in reporting statutes regarding malpractice claims, as well as examinations that may be done if and when a complaint would be filed. That concludes the bill itself. I can move into the friendly amendment if you would like me to.

Chair Marzola:

Please.

Sarah Bradley:

In the friendly amendment [[Exhibit F](#)], we are proposing that *Nevada Revised Statutes* (NRS) 630.352, subsection 4, paragraph (h) be amended so that the fine amount may not exceed \$10,000 for each violation. Again, this is in disciplinary matters, and it would be after there has been a finding that a licensee has violated one of the Board statutes, or if they do a settlement agreement wherein they are agreeing to a settlement with the Board regarding a disciplinary matter. So, we are simply increasing the fine from \$5,000 to \$10,000. To be clear, the last time this fine amount was adjusted was in 1985. We are increasing it to keep up with where we are at today, in 2023. Also, this friendly amendment would amend NRS 630.110, subsection 4, paragraph (b). Right now, penalties—and these are the fines that the Board collects—must be deposited with the State Treasurer for credit to the State General Fund. We would be amending that so it would go specifically to a fund that the State

Treasurer has which allows for the improvement of health care or the practice of medicine in the state of Nevada. One bill that might work for a fund would be Assembly Bill 45. If it were to pass, the fund created by that bill might be where this money would go. Obviously, the State Treasurer would have to have some control over that. I am here for questions.

Chair Marzola:

Committee members, are there any questions?

Assemblywoman Duran:

I am wondering, under section 5, when one of these persons is going to be sued for malpractice or a claim for that against the position, who is going to evaluate them? Is it under workers' compensation? Who pays for that evaluation?

Sarah Bradley:

Generally, that is something that is paid for by the licensee. This would be after a consumer complaint is filed. Part of this investigation would include those examinations and usually the licensee pays for that.

Assemblywoman Monroe-Moreno:

I have a question on the amendment for NRS 630.110. Is the fund that is mentioned in the amendment already a created fund at the State Treasurer's Office, or would that be a fund that would have to be stood up? Is that already in existence?

Sarah Bradley:

Right now, it is my understanding there are a couple of funds that are possibly related to—the way this is written, which is the improvement of health care—it is my understanding there are some funds that are available already. The reason it was written more broadly was to allow the Treasurer the ability to determine which of those funds it can go into. I believe someone from the State Treasurer's Office is here and might be able to answer that question better than I can.

Erik Jimenez, Chief Policy Deputy, Office of the State Treasurer:

In conversations with the bill sponsor, I think the intent from all the parties is if Assembly Bill 45 passes, which establishes an account for student loan repayment for health care providers and underserved communities, then we would direct any dollars into this. But in other conversations we have had, in the event that does not happen, there are a couple of other funds that we could deposit the monies in. The State Treasurer, pursuant to statute, is the administrator of the Fund for a Healthy Nevada, which is the monies that come in from tobacco settlement dollars for a variety of public health needs. So, that would be something we would be willing to work with you on if there was a preference for where those dollars went. But right now, that is where we are at.

Assemblywoman Monroe-Moreno:

What is the approximate amount, on an annual basis, that is brought in with the fees that are currently being deposited into the General Fund that would be diverted into this new fund?

Sarah Bradley:

Last year, the amount brought in was approximately \$90,000. Again, these are fines collected. Prior to that, the amount was less. I want to say it ranged from \$45,000 to approximately \$50,000. I think with the increase in fines, assuming that part is also enacted, the amount might go up a bit, but that is what we are looking at.

Chair Marzola:

Committee members, are there any additional questions? [There were none.] We will move to hear testimony in support of Assembly Bill 318. Is there anyone wishing to testify in support of Assembly Bill 318?

Nicholas Schneider, Policy Analyst, Government Affairs, Vegas Chamber:

We are in support of A.B. 318 because it simplifies and cleans up the process for collecting these fines, as well as reappropriates them to support our medical workers. It also provides in statute that there would be a 60-day notification period which would allow our medical care providers to pay those fines on time since it doubles the penalty if they are late.

Chair Marzola:

Is there anyone else wishing to provide testimony in support of A.B. 318? [There was no one.] We will move to testimony in opposition to A.B. 318. Is there anyone wishing to testify in opposition? [There was no one.] We will move to testimony in neutral. Is there anyone wishing to testify in the neutral position to A.B. 318? [There was no one.] There are no final remarks. I will close the hearing on Assembly Bill 318. I will now open the hearing on Assembly Bill 322.

Assembly Bill 322: Revises provisions relating to kratom products. (BDR 52-763)

Assemblyman Duy Nguyen, Assembly District No. 8:

Thank you for hearing Assembly Bill 322 today. It is called the Kratom Consumer Protection Act. This legislation came about after some of my constituents reached out to me with concerns about the prohibition of kratom. Many of my constituents find benefits from kratom. Working with advocates that include veterans, people struggling with substance abuse, and people who find health benefits from taking kratom, we tried to develop legislation that would protect consumers from buying illegal or adulterated products. With me today is David Goldwater and Mac Haddow of the American Kratom Association. They will be able to answer technical questions about this proposal. I look forward to delivering a clean bill that not only protects consumers, but makes Nevada known as a place to buy and sell safe and effective kratom. Madam Chair, with your permission, I would like to introduce Mr. Goldwater.

Chair Marzola:

Mr. Goldwater, you may begin when you are ready.

David Goldwater, representing Nevada Wholesalers:

The bill, as it was drafted, is imperfect. We have before you an amendment that makes two important changes [[Exhibit G](#)]. First, the bill was originally laid out that the Board of Oriental Medicine would be the regulatory body. We have since changed that to the Board of Agriculture. The director of the Department of Agriculture has signaled a willingness to come up with a compromise—a way in which we can effectively regulate it—and we will be able to come back to this Committee, hopefully, with something that works. The second important change is a prohibition for the Board of Pharmacy to schedule something that has not been scheduled by the Food and Drug Administration, specifically kratom. For that, I have hopefully worked out a compromise with their lobbying advocate, in which we can allow the Board of Pharmacy to continue to schedule it if they need to. But, if the product has been appropriately regulated by the Department of Agriculture, it is not subject to that particular restriction, nor would it need a prescription. If you have any questions of me, I am happy to answer them, but I would like to turn the presentation over to Mac Haddow of the American Kratom Association.

Chair Marzola:

You may begin when you are ready. Are you going to be going through the bill?

Mac Haddow, Senior Fellow on Public Policy, American Kratom Association:

I am going to go through provisions of the bill with the background as the purpose for it, if that is appropriate.

Chair Marzola:

Perfect.

Mac Haddow:

I serve as the Senior Fellow on Public Policy with the American Kratom Association. We represent the 15 million Americans who regularly consume kratom safely. We believe that science should dictate good public policy, and that is why I am here to talk about that. In 2009, there were nine deaths attributed to a kratom product in Sweden that led to the hysteria in some cases about kratom. It was, in fact, perceived to be dangerous and led some countries to ban it. The United States Food and Drug Administration (FDA) started their crusade to ban kratom in the United States, which in 2016 led to the first application by the FDA to the Drug Enforcement Administration (DEA) for scheduling, which was rejected by the DEA for insufficient evidence. In 2018, the FDA made a second attempt to the U.S. Department of Health and Human Services, transmitting it to the DEA, which was rejected by the Assistant Secretary for Health, Dr. Brett P. Giroir, who characterized the FDA's application as being disappointingly poor evidence and data and a failure to consider the overall public health. Finally, in 2001, the FDA attempted to get scheduling internationally using the United Nations Commission on Narcotic Drugs, of which the United States is a treaty partner. That was rejected unanimously by the 12 members—independent scientists on addiction and substance abuse from around the globe—saying there was insufficient evidence for scheduling. Unfortunately, there was an attempt by the Board of Pharmacy that was referenced for scheduling here in Nevada, and that leads us back to where we are today.

In 2019, Nevada passed legislation that started this journey to protect consumers. This bill will strengthen it. It will add additional labeling provisions requiring serving sizes, the number of servings per container, and the number of servings that a person should take during the day of a kratom product. It will restrict a kratom product from containing any controlled substance or dangerous ingredient that would result in harm to a consumer. It will not allow for any enhancement or synthesizing of mitragynine, the basic alkaloid of kratom, or 7-hydroxymitragynine, a metabolite of kratom. That cannot exceed greater than one percent. Those are safety factors that would be important for the proper manufacturing and sale of a kratom product. The product will be required to be labeled with all of the ingredients in it so that the consumer knows exactly what they are consuming. We strongly favor this provision. It will also require that the address and name of the manufacturer-distributor be on the kratom product; many kratom products today do not have that. We need to make certain that if there is an adverse event, there is a way to track who the manufacturer-distributor is so that the appropriate steps can be taken to correct that problem. It also restricts sales to minors, which we strongly favor.

Those provisions actually go to good science. We know that if you google "kratom," you are going to see a lot of things that are outdated; it will follow the FDA's narrative. We recommend that you look at the kratomanswers.org website, which is cohosted by the Drug Policy Alliance; by the Law Enforcement Action Partnership, which is an international organization of retired judges, law enforcement officials, and prosecutors based in Las Vegas; and the International Plant and Herbal Alliance; along with the American Kratom Association. It is a composite of the current science and good policy on kratom that is available and explains why these other entities have rejected the FDA's applications for scheduling. There are nine states that have passed the Kratom Consumer Protection Act. Six states did ban it between 2012 and 2017 because the FDA told them that federal scheduling was imminent. In the state of Rhode Island, the director of the Department of Health has said that kratom does not meet the eight factors, and they started the process to withdraw it. March 1 of this year, Vermont officially withdrew the restrictions on kratom that were instigated by the FDA. In the state of Wisconsin, two weeks ago, the Controlled Substances Board formally declared that it does not meet the eight factors that are required for scheduling, mirroring what is true in Nevada law, and federal law as well. In the state of Indiana, another kratom-banned state, the house voted 53 to 40 to rescind the ban and enact the Kratom Consumer Protection Act.

Four of those six states have now taken positive steps to correct what was done early on with this. Now we need Nevada to strengthen this provision. We are willing to work with the Board of Pharmacy to find a good compromise; I am not sure we are there yet. We want to make sure that somebody cannot abuse science in order to restrict consumer access. I will close with this: kratom—of those 15 million Americans and tens of thousands of Nevada residents who safely consume it—saves lives. You are going to hear that testimony. It is documented in peer-reviewed scientific articles discussing how people are using it as a harm-reduction tool to get off of opioids. It reduces opioid overdose deaths. The director of

the National Institute on Drug Abuse strongly supports that provision and has testified to that fact before the United States Congress. I am glad to answer any questions that may be appropriate.

Assemblyman Nguyen:

I want to put on public record, before the hearing begins, that I received some concerns from several groups, including the State Board of Pharmacy, Nevada Psychiatric Association, and Metro [Las Vegas Metropolitan Police Department]. I told them that I will state on public record that we will be working with all of those stakeholders after the hearing in terms of any types of changes they want to see, and that after the hearing today, we will work with them on that. You will hear them in opposition today. I want to make sure that I put that out there. Thank you, Madam Chair. We will stand ready for questions from the Committee members.

Chair Marzola:

Thank you for letting us know about the amendment. We will start with Vice Chair.

Assemblywoman Jauregui:

Thank you for bringing this bill forward. I know that originally the finding authority was listed in *Nevada Revised Statutes* (NRS), and it looks like it is being removed, and it is now—I do not know. I am not sure if this is addressing the amendment and I have not seen it, but I am assuming only the name of the board is moving from the State Board of Oriental Medicine to the State Board of Agriculture. Is that going to be consistent? Are we removing the finding authority from statute and allowing the Board of Agriculture to bring it via regulations? And if so, I am curious as to why?

David Goldwater:

We would not necessarily limit the finding authority in statute, but I think working with Director Julian Joseph Goicoechea, we would empower the regulatory process to be able to address anything he needed, and would address that in any upcoming amendment.

Assemblyman Yeager:

I have a comment first, and then a couple of questions. I guess it was about four years ago, in 2019, our former colleague, Assemblyman Wheeler, came to me and asked if I would like to do a bill with him regarding kratom. Much like members of this Committee, I said, what is kratom? That started my journey in learning about this topic, and like Mr. Haddow said, I think there was all kinds of information online about whether this was safe or had negative impacts on people. Ultimately, looking at that research, I think I concluded what you all said today: the reports of overdoses were generally from things that were adulterated substances. I am proud to say we did the first bill here, Assembly Bill 303 of the 80th Legislative Session, which got bipartisan support in both houses of the Legislature. I am also excited to hear from one of my friends in Las Vegas, Mr. Guidry, who I believe is going to talk about what kratom means to him and how it impacted his life. So, no surprise, I am a supporter of this bill; I am a sponsor on the bill. We appreciate you bringing it forward, and there are a couple of questions that I have. Sometimes this happens in the legislative world; I signed on to this bill because I think it is a good bill. Then I promptly received a ton of emails and got

tagged on Twitter and Facebook saying, Why in the world are you trying to ban this substance in Nevada? Could we say definitively, on the record here, that the intent of this bill is not to ban kratom, but to essentially bring light to it and make sure that we are protecting consumers?

David Goldwater:

We can say definitively that we are not trying to ban kratom; quite the opposite is true. We are trying to make Nevada a place where kratom is safe for consumers and available to the people who need it. That was the story that was reported on Twitter. I think the tagging was erroneously reported as a ban. The reporter called me contrite and mentioned that he was going to run a story that corrected the previous one, and I think he was a genuine good man who was willing to do so.

Assemblyman Yeager:

You are correct, Mr. Goldwater. Unfortunately, there was a story that came out that said it was a ban, and sometimes it is hard to get around that narrative, but I wanted to make sure that the world knows it is not what is being attempted in this bill. I have a question regarding the amendment. I had a chance to look at it, and it seems fairly conceptual, but I want to confirm a couple of things. I think you mentioned one of them in the testimony. Originally, this bill had targeted the State Board of Oriental Medicine, which I think you indicated is not going to be the regulatory agency, but to make it clear, the regulatory agency envisioned in the amendment is the State Board of Agriculture, but there was also a reference to the Board of Pharmacy. I think your testimony was, the guidance to the State Board of Pharmacy is going to be—you are not allowed to schedule this unless the federal government does, maybe with some other circumstances. But, in your mind, the State Board of Agriculture is the proper place for this to be regulated and tested, and that those conversations are ongoing about what that might look like?

David Goldwater:

Yes, indeed. The conversations are ongoing. The regulatory structure, as you outlined it, would reside at the State Board of Agriculture, and the prohibition would apply to the State Board of Pharmacy.

Mac Haddow:

We are strongly opposed to the unilateral authority of the State Board of Pharmacy to have the ability to ban a product that has not yet been named a controlled substance by the DEA under the Controlled Substances Act. We recognize that there are occasions when the states need to act, and that was largely what led six states to act as they did, on the belief that the DEA was going to schedule kratom because the FDA told them so. Unfortunately, earlier actions by the Board of Pharmacy were led in large part by the information provided by the FDA, which has now—as has been evidenced by four of the six states that are now rescinding their bans—shown the need to have good science as the predicate for those actions.

Assemblyman Yeager:

I thought Mr. Haddow brought up a good point, and I failed to mention this, but when I first looked into kratom, I saw that the DEA was going to make it a Schedule 1 controlled substance. I think—something I probably have never seen before—they actually had a hearing on it and there were thousands of people who showed up talking about how important this was to them. I think the DEA backed off of that, which to my knowledge, does not happen on a regular basis once you get to a hearing phase. I wanted to provide that context. I also wanted to recognize, in the audience, we have one of our former colleagues, Assemblyman Nelson, who has worked on this issue over the years.

Assemblyman O'Neill:

I have some reservations. I will start out by saying I appreciate the Speaker's acknowledgment of former Assemblyman Nelson, who is a good friend of mine and a man I truly appreciate and put great trust in whatever he tells me. But, I have to say I do have some reservations on this bill. Even in Washoe County, in the last four years, the coroner's office has directly attributed overdose deaths to the sole use of kratom. Putting a notice on the prescription is nice, but not everybody reads prescriptions or the notices on their pill bottles or what they purchase. Doing the Google search on people involved in this brings out a variety of questions to me: Why some countries have banned it, states have banned it, who has personal or financial interests in it, who does not. What I would offer and suggest is I do think the Board of Pharmacy should be able to weigh in on this—I truly do—because of those deaths. We have had numerous deaths in the last five years. Just in northern Nevada, some thirty-five deaths have been directly or indirectly attributed to overdoses from the use of kratom. That brings up concerns to me. What I would suggest as a possible thought pattern is doing the same as what we do with pseudoephedrine: taking it off the shelves at gas stations, and putting it behind the shelves where you have to question about it and the pharmacist can talk to you about what other drugs you are taking, what they interact with, et cetera, and making this truly a safe drug as you are trying to achieve. Would you be willing to talk with me about this and possibly look at some amendments?

Assemblyman Nguyen:

Yes, just like I mentioned in my remarks earlier, this is not a done deal yet. We are still working through some amendments that are coming after this hearing, and I would be glad to work with you, Assemblyman, to make sure that your concerns are addressed.

Assemblyman O'Neill:

I appreciate that.

Mac Haddow:

Assemblyman O'Neill, the information that you have just articulated about the deaths was a part of a review that was conducted by the Centers for Disease Control (CDC). They looked at reports from medical examiners and coroners and examined whether or not they truly were kratom-caused. In that examination—and I will be glad to share that with you, the actual report from the CDC—they identified that there were ninety-one deaths that were reported by medical examiners and coroners that detected kratom in the toxicology screenings. First, it

would not be a surprise for people who are struggling with opioid and drug addictions trying to get off of those drugs using kratom, which has been proven to be a successful harm-reduction tool. Of the ninety-one deaths, they found that most were fentanyl, buprenorphine, cocaine, and heroin, as adulterants in it—and this bill would help considerably. Of all the deaths, they determined there were seven that were kratom alone, based on the reports from the medical examiners and coroners. When the CDC applied for each one of those that had a blood sample available—of those seven deaths, with more sophisticated analytical tools that were not available to the coroners and medical examiners—all were polydrug use.

We understand this is a significant problem. It is equally important that the decedents and their families get the truth, and the truth opens up the doorway for us to properly regulate products. That is why this legislation is so important. You cannot adulterate it; you cannot put a dangerous substance into it, and that will stop a lot of the nonsense that goes on, and tragically, some of the deaths that result from that are attributed, by medical examiners and coroners, inaccurately, to kratom. However, they are actually adulterated products. The same thing happened in Sweden. Those nine deaths that I referenced earlier were all attributed to a kratom product called krypton. An independent, peer-reviewed analytical study that is now published found all nine were because it was adulterated with O-desmethytramadol—the dose of which in your cup of coffee, water, or soda, would kill you. That is what happened. Yet, we allow kratom to be demonized by some well-intentioned people who do not have the full science. We have looked at every single death, autopsy report, and toxicology screening that is publicly available. They have been examined by independent forensic toxicologists. We cannot find a single one attributed to kratom alone.

Assemblyman O'Neill:

Sir, I am going to question some of your authority and your interest in the proffering of this, and questioning the Washoe County medical examiners that they do not have the expertise to call cause of death. I am just going to let it ride. We will talk later about it, but thank you very much for your statements. I will disagree with him respectfully.

Chair Marzola:

Yes, at times we will have to agree to disagree, but as long as everyone is respectful, that is what I expect in this Committee.

Assemblywoman Duran:

I knew this product was out there and we did not know much about it, but now that you want to establish regulations, you said there were six other places that have legalized it. Do they already have kratom in different package forms for food and whatnot? Is it already regulated, and if so, are you going to follow that model?

Mac Haddow:

There are nine states that have passed the Kratom Consumer Protection Act in various forms, one of which is the state of Nevada, which in 2019 passed what we think is the basis for this bill today. The other states include Utah, Georgia, Arizona, Colorado, Oregon, and Oklahoma. It was just passed in West Virginia, and it is on the governor's desk in Virginia, having passed unanimously by both houses. It is under consideration in twenty-one other states today, because the option is either you ban it, which of course, science does not permit, or you regulate it. Leaving it unregulated is the Wild West. That is where the bad actors come in and are able to adulterate products because kratom does not give you a natural euphoric high. You need to spike it if you want it to do that. They only do that for the economic benefit for their bottom line. We want kratom to be pure kratom and used for the benefits that people have properly labeled and properly regulated.

Assemblywoman Duran:

Have those other states not regulated it like how you want to in Nevada?

Mac Haddow:

They have. Georgia is strengthening their bill, as Nevada proposes to do here with giving it more parameters and more regulatory control to make sure these products are safe. The other states have done an excellent job. The concern we have is for those states that have no regulations, because that is where the bad actors are running rampant.

Assemblyman Yeager:

I want to say that I respect Assemblyman O'Neill's comments. When I first started looking at this, I had that concern. People were telling me there were people who were overdosing and dying from this substance. My request is: let us have that conversation. Let us take a look at that data, because I am certainly one who—I will admit—sometimes I am wrong more than I should be. If that is happening, let us have a conversation about that, and I would welcome that discussion. I did not take the comments of Mr. Haddow as being disrespectful, just indicating that different labs have different technology, and some are more sophisticated than others. For one, I would welcome that conversation not only here in Nevada, but around the state, because I think we hear a lot of things and we need to get to the truth of it.

The question that comes out of that, and I think I know the answer, but given that we have an amendment that is not quite fleshed out, right now I can walk into my corner store and guarantee every single one of you, if you do not know what kratom is, when you go out in the community now and you drive by smoke shops where you see signs that say kratom, you are going to recognize them now—but you can go into these places and you can buy the product. Of course, we have the prior law that requires it to be labeled, but what I think we do not have is any sort of testing on the product, right? To contrast that with cannabis, we have a robust testing regime that ensures it is not adulterated. If you could confirm that one of the discussions you are hopefully having with the Department of Agriculture is whether some testing is in order, and whether that is going to happen for all products, or whether that is going to happen selectively. We want to make sure that we are not having deaths from products that are adulterated, because right now, I do not think that testing is happening,

David Goldwater:

Yes, that certainly is part of the discussions. The amendment and bill as proposed, having been around this building for a while, I know that the body likes to take an incremental approach towards regulating anything, especially the first time out, and whether or not testing ends up being part of it, that certainly will be part of Assemblyman Nguyen's discussions. If that is something you urge, we will certainly do that, and that will be on the agenda to discuss whether or not that is part of the incremental approach as well.

Mac Haddow:

Speaker Yeager, we advocate that with every registration that is made of a kratom product that is introduced for sale in the state of Nevada, it should be backed up with a certificate of analysis from an independent third-party lab certified by the state, that says that it meets all of the standards required in the bill. Then, if there is any concern that is raised by a complaint, that company would be required, at their expense, to submit an updated certificate of analysis. Then, if the Department of Agriculture still believed there was a legitimate, reasonable concern, they could then do the test themselves and bill the vendor, or else they lose their ability to sell in the state. We think that is a reasonable way to protect not only consumers, but also the state from having extraordinary expenses. If a vendor wants to sell this product in our state, they should back it up in terms of its compliance.

Chair Marzola:

Thank you for that response. We are going to move to testimony in support of A.B. 322. Is there anyone wishing to testify in support of A.B. 322?

Erven Nelson, representing American Kratom Association:

I had the honor of sitting on this Committee myself a number of years ago. I have looked into this and will speak more with Assemblyman O'Neill about this. I understand there are concerns. I have looked into them also, and I think as Mr. Haddow said, it has to come down to the science. There are a lot of opinions people have, and we hear that kratom alone has caused deaths. Those are anecdotal stories that I think need to be looked into, and with the best technology applied to the screening to see what was in the bloodstream. One of the things that induced me to get involved in this, along with my friendship and respect for Speaker Yeager, is there are a number of people who have told me they rely on kratom to help them stay off of opiates. I think that needs to be weighed in the balance.

Peter Guidry, Private Citizen, Las Vegas, Nevada:

I am a retired Air Force veteran. I was medically retired due to my service-connected disabilities I incurred doing security forces during my time in the military. Up until learning about kratom, I had been on different types of narcotics—fentanyl patches, things of that nature—which the Veterans' Administration (VA) gave me. Part of the side effects of that medicine was a torn gastrointestinal tract. I was throwing up blood because of the narcotics that the VA was giving to me. Around 2010, I found through Pure Health, which is a local supplement store that sells protein powders and vitamins, this product called kratom. For the past ten or twelve years, I have been taking it responsibly.

I want to put in my support for Assembly Bill 322, and I want to thank you for considering to put some of the different regulations on there to address Assemblyman O'Neill's concerns. There are bad actors in this community. Some of the products are not labeled correctly; we do not know what we are taking. People may have a negative experience, but there are good companies like this particular kratom that I have been taking for ten years. It tells me on the package that it is not for sale to minors, two level scoops is 2 grams, and take maximum dose in 24 hours, which is two scoops. It gives me all of the instructions as clear as day, so I have been able to take this kratom product responsibly. It has allowed me to do what is part of my daily work; I am a cofounder of a suicide prevention nonprofit called Forgotten Not Gone. We engage in suicide prevention through veteran peer support outdoor recreation. Kratom allows me to control my service-connected disabilities of pain from the inflammation, and allows me to participate with my fellow veterans on a daily basis. I have not had any type of side effects from kratom at all, but I support you putting labels on it to ensure that we can get the gas station-type of kratom products out of the way. By putting the correct labels on it, I think more people could take this product safely, like I have for over the past decade. I would love to see the proper regulations and things that the American Kratom Association recommends. They are incredible solutions.

Kelley Guidry, Private Citizen, Las Vegas, Nevada:

In 2007, I was diagnosed with massive fibroids. The pain was excruciating. I was given hydrocodone, which is a narcotic. After a few years, I was dependent on it, and I realized that. I was able to come off of all the narcotics in 2011, but the underlying fear of that is the continuation of chronic pain. When you have chronic pain and you take away what you have been using to help it, there is a fear there. My husband was using kratom and as he said, we found it at a local supplement store. It has always been known to us as a supplement and nothing else. I still waited two to three years because I was afraid. I endured the pain, which shut me down for three to five days. As he said, we do veteran peer support outdoor recreation, so I am physical. I started taking kratom after I met the owner of the brand of kratom we now take. It is triple-tested and has led me to be in my community and do things for my veterans. The medicine I was given at the VA was FDA-approved and had several negative side effects. It almost took my life away. I have been using kratom for the last eight years, responsibly, and it has allowed me to get out and be inspirational to my other women veterans. My husband and I met in the military; I also did security forces. I have negative back spasms and knees and things of that nature, and this has helped me get out in my community in the city of North Las Vegas. I strongly think that it should be regulated. Like you said, there are plenty of people who do the correct thing and utilize all the regulations put in order. I want to thank Mr. Speaker Yeager for doing the research, doing the hard work, and taking what we say to heart, because we have helped different veterans that were traumatized from narcotics that the VA gave them by utilizing this as well, and now they use this and they have been able to get out, get active, and get their lives back. I support A.B. 322 and would like you to consider implementing these regulations; it will help us.

Chair Marzola:

Is there anyone else wishing to testify in support of Assembly Bill 322? [There was no one.] We will move to testimony in opposition to Assembly Bill 322. Is there anyone wishing to testify in opposition?

Lea Case, representing Nevada Psychiatric Association:

We are in opposition to Assembly Bill 322. We want to thank Assemblyman Nguyen for working with us. We have been working up until today to get language in place that we could be neutral on and comfortable with. The Nevada Psychiatric Association has seen folks coming into addiction treatment centers with kratom as their presenting addiction. We have data showing in Washoe County seven overdose deaths in the last quarter, for which those that were reported were attributed specifically to kratom, which is also why we need certification. If we have folks who are buying this and it is an adulterated product, we need to know that is why. We have been working on an amendment to the amendment, which would include a certification process instead of registration. Certification goes a bit further than simply registration; certification sets standards. It lets us know things are safe and they are being reviewed. A registration simply tells us, here is the list of folks who are selling. We would love to see a certification process in this amendment. We would also like to see the Department of Agriculture develop some kind of public-facing portal to talk about the violations and overdoses that have happened, and to help bring light to that consumer protection piece so we know what is happening there.

As far as adverse events reporting, we have the Substance Use Response Group and the Advisory Committee for a Resilient Nevada. These two committees meet in the interim and a little bit during session to look specifically at overdose deaths and substance use issues. We would like to see some unintentional overdose-related deaths to kratom included in that reporting, getting back to those committees and the folks who have boots on the ground. I did submit this [[Exhibit H](#)], and it is a bit late and is still a work in progress. Like the Assemblyman mentioned, we are still working, but wanted to let you know that we are in opposition as it stands right now. We do have data showing folks are overdosing and getting addicted to the substance, so we need some better regulations in place.

**Beth Schmidt, Director-Police Sergeant, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department:**

We appreciate Assemblyman Nguyen bringing this bill forward, and we agree with Speaker Yeager in that we need to look at this in incremental steps. At this point, the FDA has not approved kratom products for medical use. We are in opposition to this bill as written. We agree that kratom should not be regulated by the Board of Oriental Medicine, but we believe that, ultimately, the regulation should be with the Board of Pharmacy. We feel this bill should be in NRS Chapter 453, which covers controlled substances, in addition to NRS Chapter 454, which the bill puts it into. The bill as written requires some things of our forensic labs that we are not equipped to do at this point, not that we could not be. The bill as written requires a botanist to determine if the leaf is from the *mitragyna speciosa* plant. Forensic labs do not typically have a botanist on staff. The bill also requires forensic labs in Nevada to procure instrumentation and supplies to validate a new quantitative method—not

that it could not be done, but that is not in place at this point. Additionally, our forensic labs are not able to differentiate between the natural and the synthetic-derived compounds from this plant.

In reference to what Assemblyman O'Neill was talking about, in Washoe County—Clark County has seen a year-on-year increase in deaths, partially or wholly related to kratom. Since 2019, fifty-nine people have died due to what the Clark County coroner has determined was the result, partially or wholly, to combined drug intoxication. One of the combined drugs includes kratom, and as was mentioned before, the most common drug that it is combined with is fentanyl. The Clark County coroner has also seen it in combination with heroin, methamphetamine, oxycodone, and cocaine. Again, we welcome this look at the regulation and look at the incremental steps. In Clark County, there have been two deaths that have been determined by the Clark County coroner to be a result of acute intoxication of kratom; one was in 2017, and one was in 2022. We are in opposition to the bill as written, but we appreciate Assemblyman Nguyen's efforts to address the regulation, sale, and use of kratom, and we look forward to working with him moving forward.

James Creel, representing Compassion Center; and Coalition for Patients' Rights:

Compassion Center is one hundred percent dedicated to serving patients, and patients exclusively. I am here on behalf of the Coalition for Patients' Rights, which is a patient-led consortium of patients, 501(c) nonprofit organizations, and local companies that are dedicated to promoting patient rights, education, advocacy, and health care innovations. We are here to provide gentle opposition to A.B. 322 in its current format because patients are beyond tired of being targeted, monetized, and marginalized in the name of profit. On the surface, A.B. 322 is heading in a positive direction and is providing a wide range of hope for those who rely upon kratom. However, the bill itself, and a larger constellation of complexities in which I base my concern, revolve around the lack of accountability including, but not limited to, thorough testing, consistency, safety and purity standards, education for the retailers, as well as a stark contrast and a lack of education—or let us say accredited education—for medical professionals. All of these issues can result in a far more reaching and unintended consequence, and a wide range of barriers that these patients do not need to be encountering.

While it may be perceived as advantageous for us to further regulate kratom by creating a registry, it does not go far enough. There are multiple strains with multiple resulting effects. Proper education on those effects and the contraindications with other medications are just as important as proper testing since fillers and toxins can be worse than the risks associated with pure products in the first place. We feel that A.B. 322 should address all of this. It is our opinion that, if passed in its current format, the bill will create way too many loopholes that can be exploited at the expense of the—

Chair Marzola:

If you can wrap up your testimony, please, your two minutes are up.

James Creel:

The Compassion Center, medical providers, and researchers from the Center for Incubation and Findings Research oppose A.B. 322 in its current format.

Katree Saunders, representing Coalition for Patients' Rights:

[Read from prepared testimony, [Exhibit I](#).] I am opposed to the current format of A.B. 322 which would ban kratom unless the Nevada Board of Oriental Medicine listed it as a registered product. However, I am in support of the concept itself, as smoke shops need regulation in regards to quality, purity, et cetera, for kratom. I would like to see A.B. 322 amended to require smoke shops to register with the Department of Agriculture and comply with certain quality and purity standards because I have friends that use this medicine to help their opioid addictions. I think further implementation of research would help people have better access and safety so they would not get sick and people would not have overdoses.

Chair Marzola:

Is there anyone else wishing to speak in opposition to A.B. 322? [There was no one.] We will move to testimony in the neutral position for A.B. 322.

Barry Cole, Private Citizen, Reno, Nevada:

I am a physician here in northern Nevada and I am very interested in ethnobotany. I have been all over the world. I have led people-to-people delegations to the People's Republic of China; to Lhasa, Tibet; and some other parts of China to try and understand what is out in the world. It is fascinating when you try to understand ethnobotany because it does not follow Western logic. When I talk with a counterpart abroad, and I talk about randomized double-blind, placebo-controlled trials, they look at me like I have grown horns, and they say, We have given this to millions of people over thousands of years; we know what works. That makes no sense to me, so we cannot really have a full dialogue.

The question about the lethal dose that kills 50 percent of people using kratom products appears to be 32 grams, or 32,000 milligrams. In order to get that, you have to eat approximately 1.5 kilograms—that is about 4 pounds—of the leaves to reach a known lethal dose. The comment from this ethnobotany toxicology site was, you basically sit down and eat a tree at one time. If I use prescribing software like I do every day on my phone to practice medicine, kratom does come up. It is not FDA-approved, but the software is helpful for me in knowing what I am going to actually prescribe, so I can give advice about things that I cannot. While the reported uses are all described as insufficient evidence, it is fascinating what is clearly understood are all of the adverse reactions. It is fascinating because almost everything has been reported with kratom because it has never been properly studied. What we are doing is kind of replicating the cannabis debate that went on a hundred years ago, until very recently, where we had nothing but anecdotal data.

What I see the bill as being able to eventually do, is to allow us to properly study kratom and understand it. If we can get a handle on regulating it, so when I go into a convenience store to get a Slurpee for my grandson, I am not trying to explain to him, Do not buy what is up here on the counter by the register. You do not know anything about those products. Those

are just quick-grab products, impulsive buys. We really want to have this studied, have it regulated, and have it understood. I am also a member of the Nevada Psychiatric Association, and I do understand why we are opposing it as an organization, but as an individual, I would like to study it and understand it before we take a decisive action. That is why I am in neutral.

Michael Hillerby, representing State Board of Pharmacy:

We are neutral on A.B. 322 as introduced because it did not involve us. I met with the sponsor of the bill and talked about his intention as well as talking to Mr. Goldwater. We have talked about an amendment we would like to continue to work on that would provide a path for legalization of kratom, that met the specifications you would set in law and regulations by the Department of Agriculture, but would preserve the Board of Pharmacy's role it has had for decades in preserving the public health and safety by being able to retain our authority to list illicit kratom, should the science warrant. That process involves a public workshop, a public hearing, and then the regulation coming before the Legislative Commission. We think that process has worked well and serves the public. We will continue to work with all of the parties involved to see if we can come up with a bifurcated system that looks, as some of you have suggested in testimony, like what we do with marijuana right now. There is a legal path for Nevadans to be able to use, distribute, and sell legal marijuana. There is illegal marijuana in larger quantities and that has not gone through the testing and certification processes that you laid out in law. Again, we will be happy to work with the various parties to do that. I am here to answer any questions.

Ashley Jeppson, Administrator, Plant Industry Division, State Department of Agriculture:

We appreciate Assemblyman Nguyen's coordination with our department on conceptual amendments. Based on the testimony today, I want to provide some information. Typically, processed products are not regulated by the State Department of Agriculture. They fall under a Nevada health authority. At this time, we do not regulate processed food products or any processed products. It pretty much ends at the raw—the raw agriculture piece is really on the human food where we stop. We have looked at some of the kratom bills that have passed in other states. In Utah, they have language that states that any of the products must meet federal and state food safety requirements. That is one consideration to be thought through, as food safety has implications, from the receipt of the ingredients, through the processing, to the transportation, as opposed to simply being analyzed in a lab. We are seeing that in some of the other bills. With that, if the conclusion is the Department of Agriculture takes this and develops a food safety program, there would certainly be a fiscal note for us to establish that type of program, on top of what was also mentioned, and doing the age verifications and ensuring that retailers are compliant with that, and potentially a public-facing portal. Those would all come with the fiscal note that will be prepared.

Assemblyman Yeager:

Ms. Jeppson, before you leave, could I ask you a quick question? Because you mentioned you looked at some of the other bills, in particular Utah's bill, in your review, were there any other states where the departments of agriculture were heavily involved in this process? Or can you speak to maybe what the matrix of those bills were? I think Utah is a natural fit because they are right next door to us. Any insight on that would be appreciated.

Ashley Jeppson:

That is a tricky question because Nevada's Department of Agriculture shares the hat in inspecting food processors. In our state, we are separated; we are different departments. I think Utah is one of those states where their department of agriculture does those types of inspections and it is under their hat. I cannot speak to that one hundred percent, but I know several of the states mentioned are combined agencies, and they are doing that. Also, I meant to mention in my testimony, I know the Nevada Cannabis Compliance Board inspects those facilities, but they have health inspectors verifying the things we talked about on top of the testing.

Chair Marzola:

Is there anyone else wishing to testify in the neutral position to Assembly Bill 322? [There was no one.] Assemblyman Nguyen, would you like to give some final remarks?

Assemblyman Nguyen:

Thank you, Madam Chair, Vice Chair, and Committee members for your patience with this. We learned a lot through this process, and we still have a lot of work to do. I want to remind everyone that A.B. 322 is known as the Kratom Consumer Protection Act. I am looking forward to working with the stakeholders to ensure that kratom is safe by addressing all concerns with certifications and ensure that all guardrails and accountabilities are in place before we move forward. I want to thank everyone who participated in the testimony today, and Mr. Goldwater and Mr. Haddow for working on this with me. Again, thank you Speaker Yeager for making sure we walk through this process correctly and ensuring that everything is being worked on before we take the next step.

Chair Marzola:

I will now close the hearing on Assembly Bill 322. I will now open up for public comment. [There was no public comment.] This will conclude our meeting today. We will go to recess. [The Committee recessed at 3:24 p.m. and reconvened at 3:30 p.m.]

Chair Marzola:

We have more bill introductions. We will now do bill draft requests (BDR). This afternoon, we have BDR 34-352. Do I have a motion to introduce BDR 34-352?

BDR 34-352—Expands the institutions which certain recipients of the Governor Guinn Millennium Scholarship are authorized to attend. (Later introduced as [Assembly Bill 443](#).)

ASSEMBLYWOMAN JAUREGUI MOVED FOR COMMITTEE
INTRODUCTION OF BILL DRAFT REQUEST 34-352.

ASSEMBLYWOMAN KASAMA SECONDED THE MOTION.

Any discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN BACKUS, CARTER,
DURAN, AND HARDY WERE ABSENT FOR THE VOTE.)

Our next BDR is BDR 53-1002.

BDR 53-1002—Revises provisions relating to industrial insurance. (Later introduced as [Assembly Bill 441](#).)

ASSEMBLYWOMAN JAUREGUI MOVED FOR COMMITTEE
INTRODUCTION OF BILL DRAFT REQUEST 53-1002.

ASSEMBLYWOMAN KASAMA SECONDED THE MOTION.

Any discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN BACKUS, CARTER,
DURAN, AND HARDY WERE ABSENT FOR THE VOTE.)

Our next BDR is BDR 54-1055.

BDR 54-1055—Requires the Board of Medical Examiners to take certain actions in response to certain complaints against a licensee. (Later introduced as [Assembly Bill 442](#).)

ASSEMBLYWOMAN JAUREGUI MOVED FOR COMMITTEE
INTRODUCTION OF BILL DRAFT REQUEST 54-1055.

ASSEMBLYWOMAN KASAMA SECONDED THE MOTION.

Any discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN BACKUS, CARTER,
DURAN, AND HARDY WERE ABSENT FOR THE VOTE.)

Chair Marzola:

That will conclude our meeting. We are in recess [at 3:24 p.m.] until further notice.
[The meeting adjourned at 6:51 p.m.]

RESPECTFULLY SUBMITTED:

Elizabeth Lepe
Committee Secretary

APPROVED BY:

Assemblywoman Elaine Marzola, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is written testimony dated March 27, 2023, presented and submitted by Assemblyman Max Carter, Assembly District No. 12, regarding Assembly Bill 321.

[Exhibit D](#) is a copy of a PowerPoint presentation titled "Public Safety & Infrastructure Protection in Nevada," presented and submitted by Ryan Bellows, Vice President, Government and External Relations, NV Energy, regarding Assembly Bill 321.

[Exhibit E](#) is a letter dated March 25, 2023, submitted by Hunter Stern, on behalf of International Brotherhood of Electrical Workers Local Union 1245, in support of Assembly Bill 321.

[Exhibit F](#) is a proposed conceptual amendment to Assembly Bill 318, dated March 24, 2023, submitted by Tom Clark; and presented by Sarah A. Bradley, Deputy Executive Director, Board of Medical Examiners, on behalf of the Board of Medical Examiners.

[Exhibit G](#) is a conceptual amendment to Assembly Bill 322, dated March 20, 2023, submitted by David Goldwater, representing Nevada Wholesalers.

[Exhibit H](#) is a proposed amendment to Assembly Bill 322, dated March 26, 2023, submitted by Lea Case, representing Nevada Psychiatric Association.

[Exhibit I](#) is written testimony submitted by Katree Saunders, representing Coalition for Patients' Rights, in opposition to Assembly Bill 322.