Good morning everybody. We’re going to go ahead and get started here so I know your time is valuable so we’ll try and make this as efficient and effective as possible. So again, thank you all for coming. My name is Shannon Chambers. I’m the Labor Commissioner. In attendance with me here too is Melissa Flatley. She’s our Deputy Attorney General. Jennafer Jenkins who is an Auditor for our office, and David Gould who is a Senior Investigator for our office and down in Las Vegas, I have Lleta Brown who’s our Chief Investigator and Mary Huck who’s our Deputy Commissioner here today. So again, thank you all for coming. Just kind of want to go over kind of the purpose of the workshop. I know I’ve talked with some of you and all of you on separate occasions about making some changes to Nevada Administrative Code, Section 338. I think it’s a good opportunity to make those changes before we get into a new Legislative Session. There’s some issues that have kind of been outstanding since I came on board as the Labor Commissioner, and we’ve addressed some of those issues through
advisory opinions, but I think it’s time to put some of those changes in the regulations.

I will state up front that there are certain topics that obviously we’ll go over, but certain changes cannot be made because they’re in Statute. So, when we’re talking about the Public Work Project amount, that’s something that we can’t change through regulations, so I just kind of want to lay some of the topics out there in front of all of you, that there’s certain things that we just can’t change because it’s in Statute. But to the extent that we can make some meaningful changes that hopefully everybody can get on board with, I want to go ahead and do that.

We’re kind of going to go through the agenda topic by topic and I’ll ask the individuals if you want to come forward and comment and offer written comments on a specific topic, just ask that you come forward, speak into the microphone and spell your name and your organization and who you’re with. You’re not required to comment. The purpose of this workshop is to kind of get the ball rolling and get the feel for how everybody kind of approaches these issues and some proposed language possibly that we could consider to make some changes.

So, like I said, hopefully this will be an efficient and effective process and perhaps out of it we may come together in terms of working groups who may tackle individual topics that
we’re going to go over today and come back with some language for
our office.

We are governed by the rulemaking process, so this is an
open process. You’ll have many opportunities to comment on any
proposed language and any proposed changes. And obviously, any
changes have to be approved by the Legislative Commission so
again this is an open process.

For those of you who’ve worked with me over the past three
years, we want to be as open and reasonable as possible and try
and get a solution for all parties involved. I know that’s not
always possible, but I think we’re very close on some of the
issues that we’ll go over today, and I think we’ll have some good
results out of this process.

So, with that I will go ahead and get started. I will also
let everybody know that we are recording this, and it’s not to be
used against you later. It’s so that if there is proposed
language that we have the language recorded and we know what we
want to do as far as the regulations. So hopefully all of you
did get a copy of the agenda here today. If not, you can pick up
a copy and we’ll just kind of go over each of the topics, and I
will kind of tell you why these are on the agenda and kind of
where our Office stands on some of these issues.

Again, this Office is not committed to any particular
language at this point, so I just want to make that clear to the
parties that, you know we’re here to get input from everybody and again, come out with the best product.

So, the first section that we’re going to talk about is actually the Definition Section of Nevada Administrative Code, and the first one we’re going to talk about is Section 338.0052, and that is the definition of an Apprentice.

The proposal that possibly could come from our office is expanding that definition so that it would include registration not only with the State Apprenticeship Agency but with the Federal Apprenticeship Agency, so instead of ‘and’ in that section it would be an ‘or’. We think that that would provide more flexibility for contractors and everybody to get more apprentices on projects, so that would be kind of a proposal that could potentially come from our office.

And some of you may be aware or not be aware that the Apprenticeship Council did move from the Office of the Labor Commissioner. It is now in the Governor’s Office of Workforce Innovation. I have spoke to them about changing this definition, and they don’t have any objection on its face, so that would be one proposal on that.

The next definition that would potentially be changed is Section 338.007. And that would actually update the definition of Recognized Class of Worker. Again, we don’t have any specific language on that but it would possibly include language to expand that definition to include all the job classifications that the
Labor Commissioner surveys for to make that specific so that when we’re talking about a Recognized Class of Workers it’s something that the Labor Commissioner actually surveys for.

So, the next section of possible changes would be Section 338.008. And the thought behind making a change in this section is to address those situations where there may not be a contract in place, but the Labor Commissioner would still have some enforcement authority if a prevailing wage issue comes up. We do see cases where awarding bodies and sometimes contractors say well, you know, we didn’t have a contract or try and get around issues of enforcement through our Office by saying well we didn’t have a contract, a contract didn’t exist.

So it would be expanding that definition to kind of close some holes in that particular area. So, I’m going to give anybody here today and also down in Las Vegas an opportunity if you want to come forward and speak on any one of those issues before we kind of go on to Proposed New Definitions.

SPEAKER: Does that also include the definition of maintenance versus operations?

CHAMBERS: I’m going to get to that. Okay. These are actually existing definitions in the regulations right now, and that would be a new definition, but if anybody wants to come forward and speak on - sorry, go ahead, sir.

SPEAKER: I have a comment or a question about definition applied to Surveyors. Right now it seems like in the
labor rates section or whatever there’s just a rate for a
surveyor, but if I am the person in charge as an owner/operator
and I’ve hired essentially an unskilled laborer to be a chainman
to simply pound in hubs [phonetic]...

CHAMBERS: And I don’t want to cut you off, but we’ll
get to that a little bit later as far as the job classifications
and you’re more than welcome to comment on that, but just in
terms of the changes to these definitions, if anybody wants to
come forward, again you don’t have to. You’re more than welcome
to submit something in writing after this hearing. We’ll
certainly leave some time open to address that, but I’ll give the
opportunity if anybody wants to come forward and comment on
those proposed changes.

ESPOSITO: Greg Esposito [phonetic] speaking for
[inaudible] that suggestion, the very first suggestion you made,
as far as shifting it from an ‘and’ to an ‘or’, as far as whether
it’s a Federally recognized apprenticeship or a State recognized
apprenticeship, I don’t know that that would be acceptable. I
think we’d have an objection to that because I think there’s
certain standards that we have in the State that may not be in
the Federal, that we want to make sure that every apprentice
qualifies for the [inaudible] criteria based on the State.

CHAMBERS: Thank you, Mr. Esposito. Anybody in
Carson?

SPEAKER: Do you want me to come up here?
CHAMBERS: Yeah, absolutely.

DALY: It just seems to be you’ll be able to hear better.

CHAMBERS: Yeah.

DALY: And I’ll probably wait and comment on some of this stuff all at the end, but in response to the comment that was just made, and I guess we just need to make sure we’re reading it clearly on the definition of Apprentice. The way I read it is that you’re not an Apprentice unless you’re recognized or participating in the Federal and the State.

CHAMBERS: Uh-huh.

DALY: And I know for at least our apprenticeship program, we are only registered with the State. We’re not registered by the Feds or whatever. We have to comply with all the Federal rules under the State Apprenticeship Council under the recognition that’s been given by the Department of Labor, but we are not actually recognized right now or accredited or affiliated with the State, so I think unless you – the way it’s written now I think we’re out of compliance.

That’s why it would be ‘or’ – you can be the Feds which you can already do, the Feds can already approve a program. They generally don’t override the State Apprenticeship Council or the SAC State Rules, but right now it says I have to be with the Feds and the state and I’m not, so I’m only with the state, so that’s I think the clarification. Just as a point, I think it would be
acceptable and actually, you know, make it clear as to what the
actual rule is. That’s my comment on that one.

And then broad strokes, I understand we have no language to
look at. By the time we get to a hearing it will have some
language to look at which is good and so until you see that. But
in broad strokes now on the definition of when you talked about
the Recognized Class of Workmen, we have I think it’s 38
categories or classifications you survey for now. I think
clarifying some of that stuff and not having it, you know, be in
limbo more than just tradition would be beneficial to put in the
language.

Then we know what it is that we’re surveying for and how
we’ve done it for decades now, it would be what we would try to
put in there - I know you haven’t gotten to that yet, but when
you get to things like recognizing the collective bargaining
agreement, if that rate prevails, it really doesn’t say anything
about zone rates. They’ve been recognized for decades so some of
that clarification, adding those things in I think would be
beneficial basically to just put in there in better terms what we
actually do today.

Same thing with when you say the next closest county, if
there is no rate for a particular craft or type of work you go to
the next closest county, it’s just been understood, again, for
decades that we’re talking about closest county seat and as the
crow flies, and we should put that type of stuff in on what we’ve
been doing just to make sure everybody knows besides - every Labor Commissioner I’ve dealt with over the last 20 years has done it the same way, still not written down.

I think some of those things can be beneficial to be cleaned up in this. I’ll have other comments if I need to but I just wanted to say that one.

CHAMBERS:  Good. No, thank you very much. I know we know who you are but can you identify?

DALY:   Skip Daly for the Labor Union 169.

CHAMBERS:  Thank you.

DALY:   Thank you.

CHAMBERS:  And I think we’ll have somebody in Las Vegas, Lleta.

BROWN:  Yes, we do.

MALLORY:  Thank you. Jack Mallory, representing [inaudible] Trade District Council 15. Like Brother Esposito, I also stand in opposition to this expansion of the definition of Apprentice. It’s our understanding and our belief that the standards required by the State Apprenticeship Counsel are far superior to those that are required by the Bureau of Apprenticeship and Training in our bordering states and that it is important for us to maintain those higher standards.

When you have individuals that are coming from out of state they’re not going to be to the best of anyone’s knowledge, including regulators within the state, the same level of
compliance, the same requirements of compliance as those who are
registered with the State Apprenticeship Counsel.

Likewise, we don’t know that given the example that Mr. Daly gave, where his apprentices aren’t registered with the Department of Labor where that would be granted in a reciprocal nature where apprentices that are registered within the State of Nevada would be able to cross borders and work in other states.

So there’s a lot of questions that would have to be answered in this instance, but when you talk about Standards of Apprenticeship, we know what it is the State of Nevada approves. We have absolutely no control and no knowledge of what it is that’s approved by the Bureau of Apprenticeship and Training and in other individual states. And so because of that we would remain opposed at this point in time.

CHAMBERS: Thank you, Mr. Mallory. We’ll go back to Carson City.

KOCH: Okay, Todd Koch, Painters and Allied Trades, District Council 16, for the record. I won’t reiterate what Mr. Mallory just said, but I just simply say that I totally agree with what he said and what Mr. Esposito said before that. Having been one of the labor lobbyists that worked with the Office of the Governor on SB-516 which restructured the State Apprenticeship Council and the way it’s appointed in that, I don’t think it was our intent, I don’t think it was anybody’s intent in the room to open up apprenticeship to where apprentices
could be brought in from other states with lower standards, as
has been stated, but also, you know, to displace Nevada’s
workers.

We’ve got the law in place. It seems to me that it works
pretty well right now where it’s – the definition of an
Apprentice is one that’s registered with the Nevada State
Apprenticeship Council. And if we change that then we’re just
going to open ourself up to being displaced by workers and
contractors from other areas of the country, and I don’t agree
with that. Thank you.

CHAMBERS: Thank you very much.

JAMES: Evan James. I’m with Christensen, James
and Martin. I’d just like to point out something in the
legislative makeup, statutory makeup, of Nevada’s statutes.
Specifically, in NRS 354, there’s a provision for local
government expenditures and the Legislature has indicated that
there’s a preference to the hiring of Nevada workers. And so,
when it comes to Legislative intent, the clear intent, in fact
it’s under the intent section of the Nevada Legislature is then
to give priority to hiring Nevada workers, so any step that would
diminish that attempt I think would be contrary to what the
Legislation already states.

CHAMBERS: Thank you, Mr. James. Anybody further in
Carson City? Lleta, anybody else in Las Vegas?

BROWN: No.
CHAMBERS: Okay. Thank you for your comments. We’ll certainly take those comments under consideration and try and come up with a solution that works for everybody.

So next we’ll turn to some possible new definitions in the Administrative Code. And these would include a definition of normal maintenance and normal operations. For those of you who’ve had the experience of dealing with that issue with our office, you know that currently there is no definition of what is normal maintenance and normal operations. We have been taking those cases on a case-by-case basis.

Again, our office is not sold one way or the other on whether there should be a definition or whether there shouldn’t. Again, we’re taking it on a case-by-case basis. I will tell you that in dealing with this issue and going back and looking at the Legislative intent of the Exception in the Nevada Revised Statutes, it’s in Section 338.011 which exempts normal maintenance and normal operations from prevailing wage, that the testimony that was given before the Legislature specifically referenced things like landscaping, janitorial, just your basic kind of minimal maintenance tasks, not construction oriented tasks, not giant repair projects which we’ve seen throughout the state trying to be packaged as “normal maintenance” when they are actually large projects that are over $250,000.

So again, our office isn’t taking a position one way or the other, but to the extent that the parties are able to craft a
definition that we think can work for everybody as far as normal
maintenance and normal operations, we’re open to that. Again, we
don’t have any specific language developed on that, but we think
it might be beneficial to clarify that issue because it does seem
to keep popping up.

And maybe the solution is is that simply if it’s something
over $250,000 automatically prevailing wage applies, and that
might be the easiest way to interpret it, but again we’re open to
hearing from all the parties on that issue. So I’ll go ahead and
open it up if anybody wants to come forward and comment on that
issue.

RUTTER: Hello.

CHAMBERS: Good morning.

RUTTER: I’m Melissa Rutter. I’m with the
University of Nevada, Reno. And we have particular concern about
this in relation to our elevator maintenance. We have 97
elevators on our campus that we have under contract for
maintenance, and we’re having some difficulty in establishing a
new contract with a qualified elevator company because the simple
magnitude of our job takes it over the $250,000 mark, and trying
to report prevailing wage on this job would be very, very
difficult to do due to the number of elevators, the call-backs,
the various complications.

So, we would like to see ‘maintenance’ further defined so
that it can include jobs of that size that are simply involved in
doing normal maintenance, including repair and replacement of normal wear items, and differentiate that from modernization or upgrades which would fall into a construction category. But normal wear, it would be nice if that was included in the maintenance definition.

CHAMBERS: Thank you.

RUTTER: Thank you.

STANLEY: Bill Stanley for the record representing the Southern Nevada Building Construction Trades Council.

Addressing the previous speakers’ comment, I would only speak to the fact that NRS-455C and NAC-455C does have a definition for elevator maintenance and boiler maintenance repair that is spelled out and in statute, the difference between maintenance and repair, so separate statute, so standalone that governs the maintenance, repair and construction of elevators.

It does clearly define what is a repair and what is maintenance and what is replacement. And so, I would suggest that folks understand that and so that we don’t bring issues into this conversation that I don’t think that necessarily apply.

CHAMBERS: Thank you.

MALLORY: Thank you. Again, Jack Mallory, representing Painters and Allied Trades, District Council 15. Thank you for bringing this issue forward. This is something that is of particular importance to us because we’ve seen many projects that should have been prevailing wage projects that had
been let under Chapter 332 under the auspices of maintenance and
to the extent that some local government agencies have gone,
they’ve actually self-performed projects using temporary labor
hired from various agencies and self-performed multi-million-
dollar projects on their own.

I think that the easiest way to address this situation, and
this is our opinion, and I believe that others will speak on this
as well, is that if there is a project and it’s regardless of
dollar value, that involves a contract between a local government
agency and a contracting firm, somebody that is required to be
licensed under NRS-624, that the provisions of Chapter 338 should
apply and not the provisions of Chapter 332. If that standard
was applied then these would be public works projects by
definition regardless of the threshold. The threshold would
trigger a prevailing wage requirement that Chapter 338 is where
the key lies.

And there are provisions in Chapter 338 for projects that
are less than $250,000. I think that that is the important
distinction, and that was what was lost when Chapter 332 was
written to begin with. So that is our opinion and our position
on that issue. But like I say, there are others that will speak
more clearly about definition. Thank you.

CHAMBERS: Thank you, Mr. Mallory.

JAMES: Are we ready for me?

CHAMBERS: Yes, go ahead, Evan, thank you.
JAMES: First I’d like to say that I don’t know if I like looking at myself from the backside because I look completely different than I thought I did. It’s a self-awareness thing up here. I have to keep looking over here to the right.

SPEAKER: Everybody looks the same from the top down.

JAMES: I have, as you know, Commissioner Chambers, I have some experience in this area of representing clients before you on these types of claims. I recently had the experience where I visited the United States Department of Labor in a conference, and the similar issue came up between the Federal Service Contract Act and the Davis-Bacon Act.

And one of the things that I discovered is that we’re not the only ones who deal with this. On the Federal level, they deal with this same issue. They kind of skirt the issue and ignore it a little bit more than we do, but they deal with it. The way I discovered that is because many of the sheet metal workers from the Washington D.C. area were up in arms about contracts were being let out of the Service Contract Act rather than Davis-Bacon Act.

And so, I bring that to your attention because under the Federal regulations there’s a little bit more of a catch for regulatory scheme that addresses that issue. For example, there is indication of a drilling contract, whether or not it’s a service contract at issue or whether or not it’s a Davis-Bacon
issue. And they haven’t been able to resolve it. If they haven’t been able to resolve it I question if we would be able to resolve it without some sort of bright-line rule, saying this is what will be normal maintenance and this is not what – or this will not be normal maintenance.

The challenge in doing that on each individual type of system or project within a construction for a building, let’s say it’s an air conditioning system or a parking system or an electrical system, that the problem with addressing that ad hoc on each system is that there are multiple systems, and those systems continue to change. So, the definition of maintenance would be problematic for us. We would end up with an issue in five years not being solved. And so, my thought on this is that we do need some sort of bright-line rule.

One of the things that I did take from this Department of Labor conference that I attended, for example, in the painting area, is under their administrative manual in military installations, if you have a painting scenario where they’re spending less than 32 hours on a project or the painting area is less than 200 square feet, that’s going to get defined as a Davis-Bacon Act project. Now again, we can’t do that in my opinion with each craft, with each trade, with each possible maintenance scenario. It’s just too difficult.

And so, one of the things that I would like to suggest and I’ll leave some of this language with you that I’ve drafted, is a
definition that if you’re using skilled labor mechanics to
perform the work, that certainly would not be a maintenance issue
because it requires a particular skill. The next thing that I
would suggest is that if you set out a specific time frame,
specific time period, limited number of hours, for example. If
you’re going to perform work that falls underneath this limited
number of hours, which would clearly be a maintenance issue and
not a construction, prevailing wage issue.

And then the third provision of this maintenance point
would be a dollar value. Now you’ve already mentioned that in
the $250,000 range. I think that might be a little bit
problematic because you can do a lot for $250,000. I think that
the standards should be much, much lower and actually comply to
conform with the idea of what maintenance is. Maintenance is
small. It’s not extensive. And so I have some proposed language
that I’ll leave with you.

The next thing that I’d just like to mention on this is
with regard to the concept of the term, normal operations,
because this can be misapplied as well. One of the things that I
would suggest is again the activity of a normal operation does
not require any sort of skilled labor. Operations of a facility
or a government entity shouldn’t be requiring the application of
electrical work or painting work of something that is
specifically skilled, it’s something that would be day to day.
And then the activity would have to be performed on a routine basis, for example, weekly. I think that would be very important as well. Where I get this information again is it comes out of the Financing Statutes 354. And in that statute, there’s a definition of extraordinary maintenance, and it’s clear that the Legislature took the view that ordinary maintenance would be reoccurring; it wouldn’t be something that would be done every once in a while. And so we’ll leave that language with you as I go.

I do have a question. Were you going to or wanting to discuss the penalty issues for violations of normal maintenance at this point or is that something you are going to raise later?

CHAMBERS: Mr. James, you can certainly submit comments on that. That was not something I was prepared to discuss today, but you’re certainly welcome to submit comments on that.

JAMES: Just very quickly, the concept of penalties being applied to misapplication of normal maintenance definition, normal operations definition is problematic. I mean maximum penalties that can be awarded are $5,000. Penalties are designed to be a stick. In other words, if you violate this you’re going to get some sort of punishment. $5,000 just isn’t a punishment.

Let me give you an example. If you took the $250,000 threshold, for example, that you just mentioned, and you determined out of that $250,000, 30 percent of that project, that
work, would be labor. That equals $75,000, all right. If you could avoid prevailing wage and cut your cost in half, which means that the awarding body could potentially recoup $37,500 in lower wage costs. A penalty of $5,000 is nothing. They’ll run the risk of getting caught because if they do get caught, what’s going to happen? They may end up paying some additional wages and penalties [inaudible].

If you doubled that to be a $500,000 project, you know, they’re looking to recoup $75,000 and again a $5,000 penalty, that’s not a stick, and so if you’re looking to really discuss the idea of what a penalty is, it will have to be applied on the – perhaps a per worker basis or you would have to do what I suggested before, bring down the limits of the definition of the normal maintenance to something that’s very reasonable so that you don’t get an abuse of the system by entities that are looking to not expend money.

I don’t want to use the words save money, but not expend money because they don’t want to follow the statute. So those are the comments that I wanted to leave on that.

CHAMBERS: Thank you, Mr. James.

STANLEY: Bill Stanley, for the record, representing Southern Nevada Building Construction Trades Council. I too have quite a history with this issue. We have a case pending currently that I’m a party to before the Nevada State Supreme Court, and so this issue goes back quite a long ways with many of
the awarding bodies here. The issue over a contractor or I’m sorry, an agency awarding work under NRS 332 thinking that somehow that skirts or subverts their requirement to pay prevailing wage under 338, we believe is not true. In fact, if you look at 332.390, it specifically says that if you have a contract being awarded under 332 that if it involves skilled workmen, et cetera, et cetera, then the prevailing wage requirements of 338 apply.

And that was, as a case that’s now pending before the Nevada Supreme Court will decide. The Labor Commissioner’s Office under previous Labor Commissioner decided in favor of the elevator constructors in that case and specifically ruled on this issue of whether or not a public agency who awards a contract under 332 escapes those provisions of 332 if it is the normal operation of its building. And so that case when it is ultimately decided by the Nevada State Supreme Court will obviously bring some clarification to this issue.

Having said that, I am in support having gone through this for the last six years I think it is, or maybe even longer, this case as its worked its way through the process, I too am in support of a bright-line decision where you know what it is, there’s no doubt about it. I think that brings clarity to the awarding agencies. I think that brings clarity to contractors who don’t end up in this predicament that they’re not sure whether prevailing wage applies or doesn’t apply and certainly
not leaving it up to the awarding agencies to make that
determination. My history is that they have done a very lousy
job of determining whether or not prevailing wage should apply or
not.

And just a little bit of history to this issue and why it
is so complex, you know, as the world of maintenance evolves, you
know, there was a time when this was easy because maintenance in
this country was, as it’s referred to as, run to fail. You
simply let a piece of equipment, you simply let a system run
until it failed, and then you repaired it. And what you did,
changing the oil or looking at it and doing things, which was
maintenance, and after it failed you would repair it and then it
was clearly prevailing wage.

Well as maintenance and as systems become more
sophisticated and I’ll give you an easy example that everybody
will understand. Obviously run to fail in the airline industry
is a bad idea. We need to maintain airplanes before they fall out
of the sky. That’s not an acceptable methodology.

So as maintenance has progressed and Dr. Stanley Nolan
[phonetic] is an expert in this and he’s written many, many books
about this whole issue through how maintenance has evolved
throughout the last 100 years. We need to come up with a clear
definition of what it is because maintenance will continue to
evolve, and the work that was repaired, just because you don’t
perform that work while the system is still functioning, doesn’t
mean it’s not repaired. The system can fail and still be
operational and the work that is required to bring it up to the
standard is repair work. It’s not maintenance work.

And so, you know, I think that having that blue line,
here’s what it is, here’s the dollar value, here’s what the work
looks like so no one has to keep making this guess about is it
maintenance, is it repair, is it modernization, what is it? I
think that would help not only the awarding agencies, but clearly
the rest of us who work in this area and are struggling with
this. Thank you.

CHAMBERS: Thank you, Mr. Stanley. Anybody else in
Carson want to speak to this issue? Anybody else in Las Vegas?
And I thank all of you for your comments on that and to the
extent Mr. Stanley, Mr. James and anybody else that spoke on the
issue, if you have proposed language please provide that to our
office on this particular topic.

So, we’ll move on to another possible new definition in the
Nevada Administrative Code, and that would be a definition for a
service provider. For those of you who have been on our website,
we do have advisory opinions that are issued on topics. There
was an advisory opinion that was issued on the topic of service
providers on prevailing wage projects and whether prevailing wage
would apply regarding certain persons that are on these projects
but are really not performing work on the project. So, the
Office is considering incorporating that advisory opinion into a
definition for a service provider. So, I’ll allow anyone in
Carson and anyone in Las Vegas to speak on that issue if they
would like to. Okay.

JAMES: Labor Commissioner.

CHAMBERS: Sure. Go ahead, Mr. James.

JAMES: Again, I’m not exactly sure if I understand
the issue. Could you clarify it for me?

CHAMBERS: So the issue involves, for example, Mr.
James, let’s say a public works project has a piece of equipment
on it, for example, like a computer system. Well actually let me
make it even simpler for you. The Sani-Hut company has to go out
and bring portable toilets to the job site. Once that Sani-Hut
driver drives onto that job site is he subject to prevailing
wage? The opinion that was issued by our office is that no, he
is not subject to prevailing wage; he’s merely providing a
service and he’s not basically necessary to the project.

So, I’ll send you the advisory opinion, but it’s clarifying
that issue, that when you have people that are on these projects
for very limited time frames and for very limited purposes that
there have been situations where it has been claimed that they
are subject to prevailing wage, so we’re trying to address that
issue.

SPEAKER: Sorry.

CHAMBERS: No, so we’re trying to address that issue,
Mr. James.
JAMES: Just my initial thoughts on this is that it would appear to me that that would be following the construction contract. That would be part of the actual construction contract of that building, for example, and so if it’s part of that construction contract, it seems to me that that would be part of the prevailing wage requirements, even if they’re delivering a toilet because the purpose of that contract is the expenditure of public funds for the development of that entire project.

And so, whatever is servicing that construction contract in my estimation should be a prevailing wage issue. I think that’s one way to look at it. And I actually think that might be the way Feds look at it. [crosstalk] --going on down here. I apologize for that. And Bill, did you want to say...

STANLEY: Okay.

JAMES: And so, you know, the concept of redefining what a service provider is could actually go contrary to defining the idea of defining what normal maintenance is or normal operations are if those two things aren’t developed in the same context.

That’s my worry is taking this definition of service contractor and expanding it into the purview of an actual construction contract or into the purview of construction work. We know that that’s happening. In fact, we’ve seen it happening on carpet projects. We’ve seen it happening on painting projects. It happened again in my Federal experience recently,
it happened in the area of plumbing contracts they were
complaining where they’re defining a service contractor.

Now, one of the key differences between the Service
Contract Act from the federal level and our NRS 338 is the
Service Contract Act on the Federal level actually has a minimum
wage requirement. And so, they have – or excuse me, a prevailing
wage requirement. That is developed by the Department of Labor
and the issue is the difference between [inaudible] prevailing
wage and the service contract prevailing wage.

I’d also like to point out something that’s already been
brought to your attention by Mr. Stanley, and that’s NRS 338,
excuse me 332.390. That’s the Service Contract Act for Nevada.
And it says that if you’re employing skilled mechanics, labor,
anything of that sort, you can’t use that to avoid the provision,
prevailing wage provisions of NRS 338. And so if you’re
developing a rule that would somehow would expand the definition
of service provider into what’s already covered by 338, we may be
in violation of NRS 339.390 [sic]. Thank you.

CHAMBERS: Thank you, Mr. James. So just for
clarification, the advisory opinion was issued on November 10,
2015, and it is available on our website but I can also provide a
copy for folks here today. It’s just service providers on
prevailing wage projects. Go ahead, Mr. Mallory.

MALLORY: I have a question for clarification and
comment. And I guess the question is when they’re delivering the
Sani-Hut or they’re delivering concrete or they’re delivering aggregate, sand, gravel, asphalt, whatever materials – they’re coming in by truck and crossing the gate. When that advisory opinion was created, was there consideration given to any type of activity where that individual got out of the truck and loaded and/or unloaded materials from their truck on the site?

CHAMBERS: Mr. Mallory, yes, there was consideration given to that.

MALLORY: Okay, so I suppose that that would be construction related activity, whether they’re using a forklift, a crane or other hoisting device to load or unload those items. I would think that, you know, that would potentially cause them to be covered, you know, just a loose idea, a loose opinion. If they get out of that truck and they’re actively engaged in the act of unloading concrete or hoisting the rebar off the back of a flatbed pickup, then I think that the activity changes a little bit.

And granted, once they’re on the other side of that gate, obviously the game changes, they’re no longer on the side of the public [inaudible] but, you know, it’s a little confusing.

CHAMBERS: And Mr. Mallory, that’s kind of why we’re trying to clarify that issue. So, if you want to submit further written comment on that you’re more than welcome to do that.

MALLORY: Thank you.
CHAMBERS: Anybody additional in Carson City? Okay, we’ll move on to the next section which is Section 338.017 which governs truck drivers and the periods when they are deemed to be employed on public works. The thought process behind our office modifying this definition is that we continue to get questions about offsite public pits and when a truck driver is subject to prevailing wage if they are transporting materials to offsite public pits that are private versus pits that are designated specifically for a public work project. So this would be to clarify that particular issue, so I’ll welcome comment from Carson City and Las Vegas on that particular issue.

STANLEY: Bill Stanley, representing the Southern Nevada Building and Construction Trade Council. Clearly, this issue on the Federal level is well defined. If the work — if the temporary or the pit as you just alluded to is specific to the work, then the transporting of material from the pit to the work is covered. If they create a batch plant, a portable batch plant, for a particular site of work, even if the batch plant isn’t contained on the site proper, the work is covered. If they’re bringing aggregate out of a batch plant or a site that is going to remain in place after the completion of the project, then that work traditionally has not been covered.

Now, I am somewhat concerned that folks have been skirting this rule for a long time and they create temporary batch plants, for example, and they will dispatch trucks to other locations
because it makes economic sense to them to do that when it’s constructed. But the reason that the batch plant was constructed in the first place was for the purpose of supplying aggregate to this particular construction site.

And because they may take a truck once in awhile from this facility to service their own economic needs doesn’t in and of itself do away with the issue that the reason it was constructed, and it will disappear when the job is done, doesn’t go away. And so we’ve seen that in Southern Nevada. We have a concern over it, and I think your office has been inundated with those types of complaints and I believe that we should figure this out and the Council will submit some language to this issue.

CHAMBERS: Thank you, Mr. Stanley.

JAMES: Evan James again. Sorry for talking so much. People tell me to be quiet a lot. The – I just need to point something out that you may already know. It’s in the idea of fabrication on public works. And it goes directly to how Mr. Stanley described it. If you have a fabrication plant that is in existence and work is performed in that fabrication plant and then given to the public works project, the work performed in that fabrication plant is not subject to prevailing wage.

But if you have a fabrication plant that is established for the specific purpose of servicing the public works project, the fabrication taking place in that plant is subject to prevailing wage. I’m just suggesting that that might be the framework that
you look at when deciding whether or not to take something out of a pit; a gravel pit for example, should be a prevailing wage or non-prevailing wage. If you’re going to use that logic it would suggest to me that if you have a temporary pit to create fill for a roadway, for example, that temporary pit would certainly be a prevailing wage issue. If you have an established pit it may not be.

I’m not suggesting one way or another. I just for the benefit of the Labor Commissioner pointing out that I think that’s the nature of the Law with regard to fabrication.

CHAMBERS: Thank you, Mr. James. Anybody else in Carson City?

DALY: Again, Skip Daly, representing Laborers Union. And I know you have certain things on the agenda. Now we’re having comments on the truck driving issue. But if there’s other sections that you didn’t have on there we can still make comments on those...

CHAMBERS: Absolutely.

DALY: ...and various things?

CHAMBERS Uh-huh.

DALY: ...and various things? Because I know 328.0097 regarding payment of benefits I might have some suggestions on that. And then as I spoke earlier in the 338 - NAC 338.010, the method determination, things where we talked just for clarification, not to really change the intent but the
language currently says that your survey and the locality when in reality we survey county by county, and I think we should just spell our things like instead of locality we should put in the county. And then we currently don’t include any residential construction work and I think that should be spelled out, you know, that you’re surveying non-residential construction projects, et cetera.

Just some comments here on some clarification of what we actually do now and have done for a long time, make the words to the extent we can and regulation match. So I didn’t want to ignore them and skip over them. I was trying to go in order.

CHAMBERS: No, thank you very much. And we’re going to get to that next.

DALY: Oh.

CHAMBERS: So you’re welcome to stay seated or...

DALY: No, that’s okay.

CHAMBERS: So the next sections that we’re considering for possible revision would be Sections 338.009 through 338.090 and kind of piggybacking on what Assemblyman Daly said. It would be clarify these sections as far as how we do the prevailing wage survey. We do conduct the survey annually. That is set forth in Statute. So that can’t be changed at this point in time.

In addition, as a result of Assembly Bill 172 that was passed during the 2015 session, it changed the way that prevailing wage rates were calculated and also provided for what
I like to call the school construction rate, school repair rate, which is 90 percent of the prevailing wage rate. What this office is considering is again clarifying as Daly said, clarifying, instead of locality it would be county. Clarifying that if no surveys were received for a particular job classification that that rate and that county would either stay the same or the Labor Commissioner could use the nearest county, so providing some flexibility there.

In addition, it would be recognizing that if a union rate prevails in a particular county that the Labor Commissioner would identify that when the rates are published. You’ll probably see that when the rates are published on October 1 of this year. You will see for each job classification, each county, you’re probably going to see a U or a Union or you’re going to see an NU or a non-union, so it identifies what rates prevailed in those particular counties, and by recognizing a union rate that prevails in that county and in a particular jurisdiction the Labor Commissioner could recognize salary adjustments that are negotiated through those collective bargaining agreements would recognize the group rates in those collective bargaining agreements, recognize some of the zone rates, the holiday pay in those collective bargaining agreements.

For those counties, obviously, where a union does not prevail it is the average rate, so that would basically stay the same, but it would be providing some clarifications in terms of
the surveys and who prevails in adjusting those rates based on collective bargaining agreements. We’re also considering possibly adding some job classifications. I did receive some written comments. This was back in 2016 when I asked for some additional comments. I did receive comments about creating—breaking out the surveyor rate. Again, we’re not taking a position one way or the other, but that was one proposal was to break out the surveyor rates.

The issue has also come to my attention that some of the collective bargaining agreements have a classification of what they call the helper on a project because of different rates, so there might be a possibility of adding that into the job classifications. Again, we’re open to feedback on that particular issue, but that issue has been brought to my attention.

We are not planning on changing the job descriptions at this point. Again, that could change given written comment or comments made here today, but that is not something at this point that we are considering. We feel that those are working fairly well. But those are kind of the topics, and I’m lumping those as the prevailing wage and prevailing wage survey that our office is prepared to take to clarify those issues. So, I’m open for comment on that particular topic and we’ll also welcome comments on any other issues related to that. So, did you want to speak or...
DALLY: Thank you again, Skip Daly with the Laborers Union. Again, with the main things you said about just getting the language in line with what we actually do is, you know, the next county in the distance and all that kind of stuff, it would be good. The one comment you did make on helper, I know somebody may want to add that in. That would be - cause me to oppose the whole thing if that was in there, just FYI.

We have apprentices, we have journeymen. I think you just open up a can of worms on issues that don’t belong here in this deal by adding or attempting to add in an undefined helper that would just serve to undercut various different wages, and I think some of the crafts that want it have their agenda; it would be against - it would just cause fights between a variety of people. And so I would recommend against that.

CHAMBERS: Go ahead, Mr. Mallory. Sorry about that.

MALLORY: Jack Mallory representing Painters and Allied Trades, District Council 15. And please make sure that this recording can be used against me in the future. This is one of those rare occasions where I will agree with Mr. Daly. I don’t think there is any reason to include a classification of helper in prevailing wage statute or to survey for that classification. These are unskilled positions. These are individuals who do not belong on those types of projects. They’re typically expediters, material handlers, if you will. They have no business being on a construction site other than in
very, very limited capacities and we don’t believe that it’s a reasonable proposal to put them on there.

CHAMBERS: Thank you.

STANLEY: Bill Stanley representing Southern Nevada Building Construction Trade Council. I too will raise an opposition to any inclusion of a helper provision into the classification. Clearly the Federal government some 10, 12 years ago went through the similar process with Davis-Bacon and outlawed the use of helpers on Federally funded jobs that are covered by Davis-Bacon for many of the reasons that Assemblyman Daly and Mr. Mallory have pointed out.

And I think it’s important to understand that the genesis of public works was to create opportunities in the construction industry with upward mobility to the journeyman status. I have too much experience with folks who were using the helper classification on the Federal level in order to just circumvent what is the genesis of public work which is to create opportunities and workforce development and upward mobility for individuals to enter the trades.

When you have a helper classification it becomes a peripheral treadmill. These individuals never make it into apprenticeship. They never make it into the journeyman. They never make it to the journeyman classification. And that’s unfortunate, and I don’t believe that was the intent of public works in the beginning. So that’s my comments. Thank you.
CHAMBERS: Thank you, Mr. Stanley. Mr. Koch.

KOCH: For the record, Todd Koch, Painters and Allied Trades District Council 16. We also would be opposed to adding the helper classification. One of the things that you said, Commissioner, intrigued me a little bit, and that is recognizing the increases pursuant to a collective bargaining agreement. As we probably all know, north and south, the rate that is in place on October 1 is generally the one that has established the prevailing wage rate for the entire year after that, the entire 12-month period.

During the collective bargaining process that sometimes puts some undue pressure on the employers and the union to frontload a whole increase for that year and make it all effective by October 1 where otherwise the parties may agree to doing it on January 1 or March 1 or July 1. So I would be in favor of recognizing those increases in prevailing wage pursuant to the collective bargaining agreement should it prevail.

CHAMBERS: Thank you, Mr. Koch.

MCKUEN: David McKuen, Labors Local 872 in Southern Nevada. We also disagree with the helper classification. As Mr. Daly already spoke and Mr. Stanley and Mr. Mallory, so I would just go on record to say the Labors Local 872 opposes any helper classification in the public work of any wages. Thank you.

CHAMBERS: Thank you. Anybody additional in Carson?
LEE: Is my original question kind of along those lines?

CHAMBERS: Yeah, you can go ahead. Come forward, please, sir.

LEE: Yeah, I’m Eric Lee, the Owner of Battle Born Ventures [phonetic]. We’re a surveying company and essentially, we’re two of the employees that are partners in the business. In the event that I would have a need for I guess without knowing the proper terms like an apprentice or a technician, an entry level person, to help the qualified surveyor on a project, currently the way I understand the classifications is he would be classified as a surveyor and I just don’t feel like the wage rate justifies the skill level of the employee at that point and I probably...

SPEAKER: [inaudible] apprenticeship.

LEE: What was that?

CHAMBERS: Go ahead. Please continue.

LEE: So at that point we probably wouldn’t hire somebody to be involved with one of those jobs, and I heard talk of upward mobility. It’s preventing us from starting a person in this position to train them to become a surveyor. At this point, I don’t know what to classify them, I wish there was something under the surveyor designation for a helper or a chainman, rodman, something like that that is at a lower rate, so it would be easier to bring on somebody, train them for the upward
mobility to be able to be left alone on a project like that and have confidence in them after the training period.

CHAMBERS: Thank you for your comments, sir.

LEE: Thank you.

CHAMBERS: Okay, I don’t see anybody further on that particular topic so we’ll move to the next section which is Section 338.092 through 338.100 which deals with certified payroll reports, and the thought process behind revising this particular section would be to address the reporting requirements for owner/operators. Again, there was an advisory opinion that was issued on this topic, again in November of 2015 clarifying how owner/operators had to submit certified payroll reports on a public works projects so it would be clarifying those requirements.

I will also comment that I have received comments from parties wanting to change the due date of the certified payroll reports. That is set in statute so that is not something that can be changed through regulation. So the purpose of modifying these sections would be to again clarify those requirements for owner/operators, and I’m open to comment on that particular section.

LEE: Again, Eric Lee with Battle Born Ventures. As an Owner/Operator, the requirements to submit certified payroll reports, I don’t think it’s – I think we should be exempt from it. When I have to fill out these reports it’s almost like
you have to guess at what your hourly rate is at hours you spent on a job. When we bid a job it’s typically a fixed fee proposal. I don’t charge them more when I have to spend more time. If I work less than I anticipated that’s just money that we make, and so the requirement to submit these reports I don’t see what the benefit is to the awarding body is because the information provided in there is really not even accurate.

It’s just estimations to I guess appease the requirement and I’d like to know from the Labor Commission, you know, just knowledge of this why that is required at this point. What do they gain from basically kind of a frivolous or estimated report?

CHAMBERS: What I would say is we’re going to try and fix it.

LEE: Okay. Thank you.

CHAMBERS: Thank you. So we’ll move to the final sections that our office is considering revising, and that is Sections 338.105 through 338.116. And this involves the complaint and determination process that is set forth in those sections. Since I became Labor Commissioner it’s become clear to me that this whole process is on some level convoluted and produces results that are not always good for the awarding bodies but not always good for the contractors, so the purpose of revising these sections would be to make this a more streamlined process and to make sure that the Labor Commissioner is
essentially the final say on prevailing wage enforcement and the public works project enforcement.

And again, just making the process more streamlined. For those of you that have looked at these sections, it involves, you know, a determination by the awarding body. Then it goes to the Labor Commissioner, then there’s an objection period, then the Labor Commissioner can take several different actions. It just can become a long, drawn out process. So the goal in modifying these sections would be to clarify the sections and to ensure that determinations that are issued are issued by the Labor Commissioner’s office. So I’m open to comment on those particular topics.

JAMES: I have personal experience with this. As the Labor Commissioner knows, often times when you issue a complaint that the awarding body is the offender, the process is the awarding body investigates itself. They always come back as we did nothing wrong. It’s a waste of time, it’s a waste of resources, it’s a waste of effort, and it ends up costing a lot of – well expenditures on behalf of my clients that are unnecessary because I always have to point out the problems with the awarding body’s determination. I think that if the awarding body is the offender or the accused offender, it would be important for the Labor Commissioner’s Office to actually do the investigation and have the investigators go out and perform the analysis.
Now I know that puts more burden on the Labor Commissioner’s Office, but at the end of the day it actually may save you time and effort because you’re sending it out to the awarding body to investigate themselves. They come back always we did nothing wrong, and then we have this big objection process. And so again, when it’s the awarding body that is the offending party or the Claimant vendor I think it’s important for the Labor Commissioner’s Office to do the investigation.

An additional point that I would like to see in regulation there’s no specific ability for a complaining party to actually reply to an objection of the opposing party. I shouldn’t have said that but it’s not fair because I do it anyway because it’s a fair process. And so what’s happening is the Labor Commissioner will issue a determination that’s often against the awarding party, the awarding body, or perhaps the contractor.

The contractor will, or the awarding body, will give an objection. There’s no specific mechanism that I know of in the regulation that allows the complaining party to reply to that objection. I think that it would be important to include a provision that would allow that to happen so that in case it comes before the Labor Commissioner that the matter is already decided. Those are just a couple of my thoughts on the procedures.

CHAMBERS: Thank you, Mr. James. Mr. Daly, please go ahead.
DALY: Again, Skip Daly here, with the Laborers Union. Anyway, I agree that the process which was changed to the way it is now under Commissioner Johnson, when Terry Johnson was here, and I don’t know if it was a cost saving measure or whatever, but he shifted the investigation responsibility over to the awarding body.

So we have several hundred awarding agencies in the state, all of which have varying levels of sophistication and ability to conduct an investigation and make a determination. And then they all have varying opinions and levels of expertise. In fact, some of that work now has been subcontracted out to various entities.

What I find a lot, not that awarding bodies want to do their own or whatever, they just don’t have all the information that they need, and we’re getting bad results which then creates an objection process that then takes several months to go to, and I don’t know that it saves the Labor Commissioner’s Office any time or money. It probably creates more aggravation.

And as the gentleman just said, sometimes those awarding bodies get those complaints and they say, you know, we don’t want to have any issues on our job, so they review the paperwork that’s already been turned in and it all looked good, so it’s still good, and there’s no violation. They don’t consider all the other things [inaudible] do a complete investigation.

So however, we do it I would be in favor – I know there’s a process under NAC 608 where you would make a complaint and they
would have to answer that complaint and they would go through
more of a regular civil process, if that is something that can be
done. Or the Labor Commissioner can say, hey, we’re going to
take it on this way, but I think it can be done both ways it
would be more efficient. Then the person making the accusation
has to prove the case. They got to bring their stuff forward.
The other person gets to answer the complaint. You have time to,
you know, do discovery and those types of issues.

I think that’s going to be a much better process and I also
think that it would then get you better results and I think
greater compliance if people know that there’s a process by which
for them to be accountable for their actions. What I’ve seen all
too many times is the person just says yeah, I got caught on this
one little thing, they pay their minor little penalty, and they,
you know, walk away and say it was the cost of doing business, I
had it figured in, and if I don’t get caught I just make the
money; if I do get caught I only got caught for part of it.

I just think we need to have a streamlined, like you said,
and more efficient process and one that actually has a little
more chance of catching the bad contractors. There are plenty,
believe me, there are plenty of good contractors playing by the
rules that are being undercut by people that don’t, and those few
people make it hard on everybody, and if we can streamline a
process and get a better result, in no offense to the awarding
body, but get them out of the process because they’re not very
good at it in my view I think would be useful. And a lot of
different ways to go and we’ll have some suggestions on that.

CHAMBERS: Thank you, Mr. Daly.

STANLEY: Bill Stanley representing Southern Nevada
Building and Construction Trades Council. I too would support a
streamlining of this process, and clearly, you know, under NAC
338 one point which was the penalties provision which was put in
place to incentivize the awarding bodies to actively go out and
do the investigation, and in my own instances that I’ve been a
party to, when the awarding body is even in line to receive in
excess of $1 million in penalties, they don’t even go after the
penalties because they are part of the process of the
investigation and the award.

So, it’s the fox watching the chicken coop, right? And so
even when they have a windfall to their back, my experience is
they walk away. I’m unaware of any public awarding agency that’s
ever collected a penalty against an offending contractor. There
may be. I’m unaware of it.

Secondly, as Mr. Daly just pointed out, to many low road
contractors this becomes part of doing business. If I do it 10
times and I get caught once I’m ahead of the game because only
when I’m caught I only have to pay what I was supposed to pay to
start with because the awarding bodies aren’t applying the
penalties. And so this process where the awarding agency is
investigating itself I believe needs to be changed.
And when that happens I think you’ll see awarding bodies become more diligent in the initial award in ensuring that folks are actually doing what they’re supposed to be doing when it comes to ensuring the prevailing wage is paid. So let’s call it what it is. It’s wage theft. You are stealing money from workers who go to work every day in some of the most vile environments there are, and we have contractors who part of their business model is to steal the wages of the worker. That’s what they’re doing.

In other jurisdictions throughout the country state attorney generals are prosecuting this wage theft and taking contractors and putting them in jail where they belong for stealing workers’ money. We have to fix this. Wage theft in this state is – I mean I can’t – I’m working with now a [inaudible] and we’re trying to figure out what is the wage theft in this state and what does it really mean? What does it mean to our tax base?

This has implications beyond just this conversation, and I believe steps that you’re going to take, that will help us ensure that we have a way to enforce this is the first step in the right direction. Thank you.

CHAMBERS: Thank you, Mr. Stanley.

SPEAKER: I’m [inaudible] from Las Vegas Paving. I handle Labor Compliance there. I deal with all the wage violations that come into our office for various contracts. We
have probably over 100 prevailing wage jobs. I can tell you first-hand that we have many different things that we see that come across that we have to spend the time as a contractor—we find [inaudible] that are late, we find wages that are underpaid, and as a contractor we don’t have any—well as far as like going and filing a claim with the Labor Commissioner we can do that, but it’s the awarding body that should be doing their job and finding these different scenarios.

We have certain awarding bodies that they’ll do their job and they’ll come after us and they’ll say so and so and so is in apprentice violation or so and so is late on [inaudible] or underpaid or so forth. But there’s many awarding bodies that are out there that are not doing that.

So here I have a subcontractor I’m like well, they’re probably going to get first time offense for violating NRS 338.070, but maybe not because the awarding body never sends the any letters and lets us know these people are late.

So I really think the Labor Commissioner in my opinion needs to govern the awarding bodies and make sure that they’re all found doing their due diligence and following NRS 338.070 and doing the penalties as far as 338.060. That’s all I have to say.

CHAMBERS: Thank you for your comments.

STANLEY: Commissioner, I’m sorry if I said...

CHAMBERS: Go ahead, Mr. Stanley.
STANLEY: Bill Stanley for the record. One of the things I believe that needs to be corrected here, and was just brought up, is the certified payroll was also changed during this timeframe. It goes to the awarding agency. I believe the certified payroll should come to your office. And so the certified payroll ought to be not laying out there – and all of the awarding agencies throughout the state and those of us who have an interest in it have to go dig through and everyone has a different even though it’s supposed to be the same, believe me, the practice of it, of obtaining those records aren’t the same across all agencies.

And so, your office would clearly have a delineated process for obtaining those records, and the redaction of it would be consistent so that those of us who have an interest in this area would be able to actually obtain records that were of value to us. And so, having one office, and I know during the last session of the Legislature there was, and I apologize, I forget the name of it, I know they have now created this new database where they’re trying to collect all this information from around the state from many areas, and I have also made the recommendation to them that they include the payment of prevailing wage into that databased for this exact reason.

And secondly, when we get back to the Legislature in 2019 when we want to know how many apprentices were employed on any one job or another that database should have collected that
information and it should be a few keystrokes to determine exactly how many apprentices have been employed in this state versus us having to go and weed through acres and acres of paper trying to determine that number. So thank you.

CHAMBERS: Thank you. Go ahead, Mr. Mallory.

MALLORY: Jack Mallory representing Painters and Allied Trades, District Council 15. I had not initially intended to speak on this but the lady from Las Vegas Paving brought up a very interesting point that I think expands on another issue. And in this instance, I think it would be appropriate not only to make sure the certified payroll reports landed in your office, but also on the desk of the general contractor.

There are additional implications with the changes to the 608.150 where this could be of extreme value to those general contractors and other forms of liability that they may be subject to. So, I think that there is this potential value of making sure that a copy of those CPRs is submitted to them as well.

CHAMBERS: Thank you.

JAMES: Evan James again. My office represents various [inaudible] trust funds that often try to collect unpaid benefits from companies, entities, whoever it may be, for the benefit of their participants. What Mr. Mallory just spoke of is very important for a procedural process in the law, 608.150, that information be available to the contractors. It also needs to be available to these various trust funds who seek to use 608.150.
But it’s also important for availability to the individual worker because 608.150 applies not just to the collection of benefits. It’s a direct wage claim so the individual worker needs to have access to that information as well to verify that wages were correctly paid or be able to challenge the correct payment of wages. Thank you.

CHAMBERS: Thank you, Mr. James. Anybody else in Carson? Anybody else in Las Vegas?

LEE: I have one more comment.

CHAMBERS: Please, go ahead.

LEE: The gentleman that was talking about the theft of the wages, we recently were fined 25 percent of our contract amount for a late certified payroll report and, you know, we were working as a sub to a general and they contacted us, you know, five weeks after we started the project. We weren’t aware of the reporting which that’s really not an excuse, but typically they’ll get us set up on like LCP tracker or something like that, and in a busy time you kind of lose track of those things. So by the time we were notified, got in our certified payroll reports, and within a week of submitting those to the awarding body we were given our fine notice and yeah, so I think that’s another angle on the theft of wages that’s maybe the opposite of what you were getting at, but it goes both ways.

CHAMBERS: Thank you.
BROWN: Can we get your name for the record, please?

LEE: Yeah, it’s Eric Lee, Battle Born.

CHAMBERS: Okay. So where do we go from here?

Obviously, we’ll go back and kind of analyze the comments. I think we got some very good feedback here today. I would ask all the parties here today, including those that spoke, that if you have specific language to please send it to our office. I’m going to give 60 days on this to come up with some language. And for those of you in the building trades and I would ask that to the extent you can work together to come up with a unified product. I know there’s going to be some issues that we may not all agree on, but the more we agree in advance the easier that this is going to be.

Again, I’m confident we can get some meaningful changes here. We may not get what everybody wants, but I’m committed to this and I’m committed going all the way, and if I go before the Commission and it goes nowhere, then I know I’ve done my due diligence, but I really think this is an opportunity with just the current environment and all the parties involved with these issues to again produce some meaningful changes that I think are going to help everybody for many years down the road. So again, I’m going to give 60 days which I think would be about November 9 if my calendar is right. I’m just guessing here.

BROWN: That’s correct.
CHAMBERS: Is that a weekday, Lleta?

BROWN: Yes, it’s a Thursday.

CHAMBERS: Thursday. Let’s make it that Friday just to be...

BROWN: It’s a holiday.

CHAMBERS: Oh we’re off, that’s right, Veterans Day.

So November 9, if you could get the comments to me. I know there are parties that have raised the issue of maybe creating a working group to the extent that any individuals in this room want to do that and want a representative from our office to participate in that, please contact me and let me know. My issue with working groups sometimes is they’re working groups that keep going on for years and years and years, and again, I’d like to get a product to the Legislative Commission before we are in temporary regulation land which believe it or not is right around the corner the way this year is going.

So, I encourage all the parties again work together. If there are other issues that weren’t raised here today that you think need to be addressed, please submit those to our office.

The email address that you can submit those to is mail1@labor.nv.gov. And again, you’re always welcome to contact me to get information on where to submit documents or where to find the advisory opinions, but I thank everybody for their participation and their time and like I said, I’m confident that we will have a good product going forward and we’ll have
something in place before the new Legislative Session begins. So thank you for your time on a Friday and...

SPEAKER: The email again?

CHAMBERS: Oh it’s mail1@...

SPEAKER: Is that mail1?

CHAMBERS: Yeah, mail1@labor.nv.gov. And for those of you that are traveling back to Reno just beware because I travel that. There were about three NHP on the freeway this morning and I’m guessing there’s going to be three on the way back, so I wouldn’t want anybody who came here today to really ruin your day by getting a ticket if you’re heading back that way, so just be aware. But again, thank you all for your time and we really appreciate it. Thank you very much.

SPEAKER: Please make sure you signed in. Anybody who didn’t, we have it right over there. Please give us your contact info.

[crosstalk]