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Senate Committee on Commerce & Labor
Room # 2135
S.B. 255 (Do Call)
Tuesday, March 18, 2003
7:00 a.m.

REMARKS OF ATTORNEY GENERAL BRIAN SANDOVAL

Good morning Chairman Townsend and members of the Committee. For the record, I am Attorney General Brian Sandoval and I am here today to encourage this Committee to enact effective legislation designed to protect the citizens of this State from intrusive telemarketing solicitations. I have previously provided written remarks to the Assembly Committee on Commerce & Labor. A copy of those written remarks, along with my testimony this morning, has also been provided to your Committee staff to be entered into the hearing record on SB 255.

Residential consumers in Nevada deserve the opportunity to limit unsolicited telephone calls without having to go to the expense of purchasing special equipment or telephone service features. SB 255 protects Nevada's citizens through the creation of a "do call" registry -- providing telemarketers with a list of phone numbers of only those consumers who are desirous of receiving telemarketing solicitations.

As the Attorney General, I support the concept of SB 255 which, as drafted, aids Nevada's consumers in preventing unwanted, unsolicited telephone calls. To best protect our citizens from potentially fraudulent solicitations, any telemarketing legislation enacted in Nevada:

- Must enable consumers to elect whether to receive telephone solicitations;
- Must establish easy registration for Nevada residents;

- Must ensure that enforcement efforts actually deter violations, and not merely serve as a cost of doing business; and
- Must earmark the necessary funding to effectively enforce such laws.

SB 255 – SUPPORTED PROVISIONS

I specifically support the provisions of SB 255 that require a consumer's express consent prior to the receipt of automated, prerecorded solicitations (Section 2); and prohibit telemarketers from soliciting during the hours of 9:00 pm and 9:00 am. (Section 2). This being said, however, I would support amending Section 2 to prohibit solicitations after 8:00 pm, rather than 9:00 pm.

I also support the provisions of SB 255 that require telemarketers to provide their name, address and telephone number to customers (Section 2); and provide free and easy registration for those who wish to be placed on the registry (Section 7).

Other important provisions of SB 255 that deserve to be highlighted are those that require telemarketers doing business in Nevada to register with the Consumer Affairs Division as a "seller" or "salesman" (Section 10); and provide graduated penalties for subsequent offenses (subsection 2 of Section 14).

As drafted, SB 255 assigns the Attorney General's Office with the responsibilities of administering, investigating and enforcing this legislation. While I agree that the Attorney General's Office is the most appropriate agency for investigating and

enforcing violations of SB 255, another state agency should handle the administration of this legislation. The administrative responsibility I speak of would include creating and maintaining the registry; collecting the necessary fees; drafting appropriate regulations; and reporting violations to the Attorney General's Office.

FISCAL NOTE:

The Attorney General's Office has currently placed a fiscal note on SB 255 in the amount of \$330,176 for the next fiscal year to fund the initial staff and technology needed to implement the bill in its current form, creating a "do call" registry. This is the same amount of the fiscal note this Office placed on AB 232 which creates a "do not call" list.

While the costs associated with enforcement and the initial purchase of equipment and technology would be similar under both SB 255 and AB 232, admittedly the staffing levels required for the creation and operation of the "do call registry" are expected to be less demanding. Therefore, the Attorney General's fiscal note should be revised to remove some of the costs associated with salary expenses.

As the Attorney General, I do not support the expenditure of general fund dollars to operate and enforce telemarketing laws. I do, however, support the use of the Attorney General's special fund created under NRS 598A.260 (copy attached).

NRS 598A.260 – ATTORNEY GENERAL'S SPECIAL FUND (B/A 1039)

Attorney General budget account 1039 is a special fund dedicated to and utilized for expenses relating to the enforcement of unfair and deceptive trade practices. This special fund is credited with all attorneys' fees and costs collected, plus 50 percent of all recoveries received through the enforcement efforts of the Attorney General's Office. The balance of the recoveries is then credited to the State's general fund.

On June 30th of each fiscal year, any amount in excess of \$200,000 reverts to the State's general fund (subsection 3 of NRS 598A.260). However, as required by subsection 4 of NRS 598A.260, this special fund must not exceed \$250,000 and any deposits resulting in a balance in excess of \$250,000 must immediately revert to the State's general fund. According to our records within the Attorney General's Office, as of March 7, 2003, the balance in budget account 1039 was \$835,237.90. Upon discovering this, I have directed my staff to work with the Budget Division to determine what amount of this special fund is immediately available for reversion to the State's general fund.

To ensure adequate funding is available over the next biennium for investigation and enforcement measures by the Attorney General's Office, I am requesting this Committee consider amending SB 255 to authorize an additional \$250,000 to be carried forward in the Attorney General's special fund. While the additional \$250,000 is currently available in budget account 1039, I recognize that without legislative authority to set aside this funding the additional \$250,000 would otherwise revert to the State's general fund.

CLOSING:

Nevadans deserve legislation that allows them to shield them from disruptive, unsolicited and potentially fraudulent telemarketing calls. If enacted, SB 255 would strengthen Nevada's laws against phone solicitation and would provide consumers with the legal recourse needed to fight back telemarketing giants.

I appreciate the Committee's attention this morning and I thank you, Mr. Chairman, for the opportunity to present these remarks.