

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Third Session  
March 22, 2005**

The Committee on Judiciary was called to order at 8:13 a.m., on Tuesday, March 22, 2005. Chairman Bernie Anderson presided in Room 3138 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4401 of the Grant Sawyer State Office Building, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Mr. Bernie Anderson, Chairman  
Mr. William Horne, Vice Chairman  
Ms. Francis Allen  
Mrs. Sharron Angle  
Mr. John C. Carpenter  
Mr. Marcus Conklin  
Ms. Susan Gerhardt  
Mr. Brooks Holcomb  
Mr. Garn Mabey  
Mr. Mark Manendo  
Mr. Harry Mortenson  
Mr. John Ocegüera  
Ms. Genie Ohrenschall

**COMMITTEE MEMBERS ABSENT:**

Ms. Barbara Buckley (excused)

**GUEST LEGISLATORS PRESENT:**

Senator Maggie Carlton, Clark County Senatorial District No. 2

**STAFF MEMBERS PRESENT:**

Allison Combs, Committee Policy Analyst  
René Yeckley, Committee Counsel

Carole Snider, Committee Attaché

**OTHERS PRESENT:**

Lucille Lusk, Chairman, Nevada Concerned Citizens, Las Vegas, Nevada  
Chris Escobar, Private Citizen, Las Vegas, Nevada  
Megan Jones, Adoptive Parent, Private Citizen, Las Vegas, Nevada  
Helen Foley, Adoptive Parent, Private Citizen, Las Vegas, Nevada  
Lisa Moore, Nevada Open, Las Vegas, Nevada  
Melissa Clement, Legislative Liaison, Nevada Right to Life  
Jean Uhrich, Nevada Open, Reno, Nevada  
Laurie Dunfield-Baker, Member, Mothers for Open Records Everywhere  
Gary Stagliano, Deputy Administrator, Program and Field Operations,  
Welfare Division, Nevada Department of Human Resources  
Louise Bush, Chief, Child Support Enforcement, Welfare Division, Nevada  
Department of Human Resources  
Donna Becker, representing the Nevada Women's Lobby and National  
Association of Social Workers:  
Mark Winebarger, Deputy Treasurer of Cash Management, Office of the  
Nevada State Treasurer  
Eric Mortenson, Laurie Webb Court Reporters, Las Vegas, Nevada  
Gloria Perry, Nevada Certified Court Reporters Board  
Pauline May, Board Member, Nevada Certified Court Reporters Board

**Chairman Anderson:**

[Meeting called to order and roll taken.] Let's turn our attention to  
Assembly Bill 50.

**Assembly Bill 50: Makes various changes concerning State Register for  
Adoptions. (BDR 11-674)**

**Senator Maggie Carlton, Clark County Senatorial District No. 2:**

Assembly Bill 50 was requested by the Legislative Committee on Children,  
Youth and Families. I served as the chairman of that subcommittee on adoption  
created by the chairman of the interim committee. We heard very  
heart-wrenching testimony from adoptive parents and children who were not  
given updated information regarding the medical history of the birth parents.

[Senator Carlton, continued.] Knowledge of this history could have prevented life-changing medical problems. One young father testified that if he had been given the medical history of his mother, who was adopted, doctors would have known not to give his beautiful daughter a routine \$27 shot at birth that caused a stroke, leaving her in need of feeding tubes and leg braces.

Since 1999, the Legislature has acted to strengthen the statute mandating that adoptive parents receive a complete, confidential medical, sociological, and psychological history of the adopted child and the natural parents at the time of the adoption. However, no formal procedures are in place to transmit updated medical information from the birth parents to adopted parents and children. A.B. 50 establishes a confidential procedure through which updated medical information can be transmitted through the state registry for adoptions known as "The Registry." It has been in operation since 1979 and is administered by the Division of Child and Family Services. This mutual-consent registry, and I repeat again, it is a mutual-consent registry, consists of names and other necessary information voluntarily provided by natural parents, adopted children over the age of 18, and other persons related to the adopted child and the natural parents. The registry will facilitate contact between an adoptee and birth parent where both have filed an application with the registry. If only one party registers, the application is just kept on file and no contact is initiated.

Informally, the registry can also be used to provide non-identifying information about birthparents, adoptive parents, and adoptees. The request must be in writing, and such non-identifying information may include the child's birth information, including social or health history, the age of the adoptive parents at the time of adoption, the height, weight, complexion, eye and hair color, ethnic background of the parents, the education, religion, occupation of the parents, and the health of the parents. A.B. 50 proposes to use the existing registry to ensure that updated medical information, if submitted, reaches the adoptive parents so that informed medical decisions can be made regarding the adopted child and future generations.

Now let me walk you through the bill starting with Section 3, which sets forth the primary purpose of the bill. Section 3 on page 2 of this bill, starting at line 16, requires the Division to notify the adoptive parents of any updated medical information submitted to the registry after October 1, 2005, the effective date of this bill. This notice must exclude any information that identifies or would lead to the identification of the natural parent.

Section 2 of the bill on page 2, line 3, sets forth a procedure for the adoptive parents to provide contact information to the Division. After an order of adoption has been entered, the court must direct the petitioner or his attorney

to submit contact information where the Division may send a notice if updated medical information is received. Section 2 also authorizes an adopted child to submit and update contact information after turning 18 years of age. Finally, Section 2 specifies that the Division may only use the contact information for the purpose of confidentially sending the new medical information, and the contact information must not be disclosed by the Division to any person.

[Senator Carlton, continued.] Section 4 of this is a technical amendment. Section 5 amends the statute that creates the registry to provide for the exchange of medical information as part of its duties. The new subsection 5 on the bottom of page 3 clarifies that the consent of the natural parents is not required to release medical information voluntarily submitted to the registry to the adoptive parents or adopted child over the age of 18 if the information does not identify or lead to the identification of the natural parent.

In conclusion, I would like to emphasize that A.B. 50 is not about open adoptions. The bill simply establishes a voluntary, non-identifying procedure through which critical medical history information can be transmitted from natural parents to adoptive parents and children.

**Chairman Anderson:**

The issue is one we have now heard for several years. It looks like fairly good work has been done and I appreciate the time and concern you have put into it by taking on the arduous task of the subcommittee of the main committee.

**Assemblyman Mabey:**

If the medical information is received by the adoptee and that spurs additional questions, can that adoptee go through the same registry and try to get more specific information about the medical condition?

**Senator Carlton:**

Keeping in mind that the registry is voluntary on both sides, I don't remember any particular discussions about requesting more information going the other way. I'm not sure how we would handle that. This was allowing someone knowing of a medical condition, knowing that it runs in families, being able to relay that information. I think we would have to be very careful to make sure that the gate doesn't swing too far either way. We want to make sure that it is all non-identifying information and it is kept confidential. That really wasn't debated as far as going back the other way. It was only discussed going forward.

**Assemblyman Mabey:**

I support the bill and I don't want to change it, but there may be an instance where the medical information is received and the adoptee would take the information to their physician and they would want to know more. That would be helpful, but certainly this is a good thing. I just wondered if there was a chance to go the other way a little bit.

**Senator Carlton:**

Thank you for your viewpoint. That may be something we need to look at in the next couple years. I think we need to give this a chance to work first to see if there are any problems, but we always want to make sure that we guard the confidentiality. That may be our next step.

**Assemblywoman Angle:**

Could you clarify the language for me in Section 2: "After an order or decree of adoption has been entered, the court shall direct the petitioner or his attorney." Could you clarify for me who the petitioner is?

**Allison Combs, Committee Policy Analyst:**

The petitioner is the person seeking the adoption who would be the adoptive parent.

**Lucille Lusk, Chairman, Nevada Concerned Citizens:**

We are here today in support of A.B. 50. We are impressed with the balance that has been achieved in this bill as providing a way to share medical history, which is very important, and still maintain confidentiality for both the adoptive family and the birth parent. It is our understanding, by the way the language is written, which requires the adoptive parents to provide a name and address where the State Register for Adoptions may send medical information, that the contact information could be the adoptive parents' information or the contact information of a third party who would serve as an intermediary. Am I understanding that correctly? I appreciate that. Again, I'm here in support and am just very impressed with the work that has been done.

**Chris Escobar, Private Citizen, Las Vegas, Nevada:**

I also want to support this bill. I appreciate very much what the interim committee, in terms of balancing this out and providing a way for this critical information, to be received. I, like Dr. Mabey, believe that sometimes that information is sufficient and that we perhaps need to have a way to facilitate that flow of information. I know here in Clark County I am aware of some courts that have actually made contact for the purposes of obtaining medical information from a natural parent to be able to provide that when there are critical medical conditions. That is something that this Committee needs to

consider. I do appreciate the work that has occurred with regard to this bill and I support it.

**Megan Jones, Adoptive Parent, Private Citizen, Las Vegas, Nevada:**

[Submitted [Exhibit B.](#)] I'm here today to testify in support of A.B. 50. I'm a new mother and I'm a new adoptive mother. We received our daughter about six months ago. Gabriella's birth mother did not make the decision to give her up for adoption until she was actually in the hospital about to deliver, so the agency we went through was not able to collect much medical history for her. I hope you give A.B. 50 full consideration and pass it so that if, in the future, her birth mother decides to share more medical information, we will be able to receive it and make good medical decisions for her. I, therefore, urge the Committee to pass A.B. 50.

**Helen Foley, Adoptive Parent, Private Citizen, Las Vegas, Nevada:**

I am the mother of two adopted children. I strongly support A.B. 50. When I adopted my children through Catholic Charities, we received an extensive questionnaire that the birth mother filled out about all different kinds of things about the height, weight and medical issues involving not only the birth mother and birth father but their families, if they knew those situations. With A.B. 50, if over the course of time she ends up having breast cancer or the father has other children and finds out that there are serious issues that are related to him, it would be very nice to be able to have that placed as part of the registry for the adoptee to find out about those things. You don't always know what is going to be wrong with a person when they are in their twenties and give birth to a baby. So I think it is a great bill.

**Chairman Anderson:**

Let's turn our attention to those who are in opposition to A.B. 50. I received a letter from Jean Uhrich of Nevada Open and it is to be entered as part of the record ([Exhibit C](#) and [Exhibit D](#)).

**Lisa Moore, Nevada Open, Las Vegas, Nevada:**

I am an adoptee. I wanted to speak today to urge you to vote no on A.B. 50. This bill is to create a governmental database to direct private medical information of adult adoptees through the Division of Children and Family Services. As an adult adoptee, I feel this is an invasion of my privacy. No other adult has to have their private information reviewed by another agency. The State Adoption Registry was created to provide a means for the families of adoption who would like to be reunited to release identifying information for that purpose. It was not created to be a means of sharing anonymous information. If the Committee truly wants to act in the best interests of adult

adoptees, I urge you please to vote no on A.B. 50 and yes on S.B. 446, which should be coming before your Committee very soon.

**Assemblyman Horne:**

I am curious, as I have numerous emails from you and your group. How I read the legislation and the testimony today was that this information is voluntary. You speak of your private information being entered into a government database but you can chose not to register. Do you interpret this differently?

**Lisa Moore:**

My private medical information? I personally wouldn't be registering. It would be a birth parent who would register that kind of information and then would be funneled through a governmental agency. This is information that is private about me.

**Assemblyman Horne:**

You are an adult adoptee, so how I read it is, in order for your information to get in the registry, you yourself would have to put it there. Otherwise, it doesn't get there because you are an adult.

**Lisa Moore:**

I'm the adoptee. You're correct, the birth parents would have to register this medical information, which then would be forwarded to me.

**Assemblyman Horne:**

You're talking about if you were a child, the adoptive parent has a choice of putting your information there.

**Lisa Moore:**

As a child, I understand it would be very important to go through the adoptive parents and submit it that way. I definitely would support the confidentiality of the birth parents if I am a minor. But now that I'm an adult, I just feel this information about anything that could be wrong with my health would then be put through this database with the government before I can even see it. It's a concern of mine.

**Chairman Anderson:**

If you are under 18 years of age and your birth parent wanted to enter all the medical records in the registry, with this bill they would be able to enter whatever background information relative to your medical conditions. Once you turn 18, however, the birthparent would not be able to provide that history because you are over the age of 18 so you personally are unaffected. What Mr. Horne is trying to get at is you are over the age of 18. You are concerned

that you don't want your medical information shared even though the birth parent wanted it shared. Is that what your concern is?

**Lisa Moore:**

I guess I feel there is probably a better way to do that. There have been other states that provide this through the Department of Health. If there is updated medical information, it is filed with the adoption file and birth certificate with the Department of Health. I feel that the state's register of adoptions was formed to provide identifying information. I feel this is throwing in something else when this agency was originally created for people to register to be reunited. I just feel there is probably a better way to do that.

**Chairman Anderson:**

Your suggestion is that we should be put together a secondary healthcare network that would do this rather than this particular agency?

**Lisa Moore:**

Or just through the Department of Health.

**Chairman Anderson:**

At the county level?

**Lisa Moore:**

I believe the other ones are at the state level.

**Melissa Clement, Legislative Liaison, Nevada Right to Life:**

Nevada Right to Life supports A.B. 50 in its present form because it preserves the State Register for Adoption, which is an important function of the state. It protects the confidentiality of the birth parents and provides a means for the exchange of medical information, which is so important. It strikes a delicate balance between the rights and needs of the adoptee, the birth parents, and the adoptive parents. I just wanted to thank you for your time on this important bill.

**Jean Uhrich, Nevada Open, Reno, Nevada**

I come before you representing Nevada Open. We are a statewide grassroots organization comprised of birth parents, adoptive parents, and adult adoptees. Nevada Open presented yesterday an opposition letter to A.B. 50 into the official record ([Exhibit C](#) and [Exhibit D](#)). Regarding the Division of Child and Family Services' (DCFS) fiscal note on A.B. 50, I want to clarify one point; specifically, a citation from NAIC [National Adoption Information Clearinghouse]. DCFS states on page 2 that NAIC advises 37 states and American Samoa have a provision in statute that allows access to non-identifying information. This is



correct, but NAIC is not speaking to anonymous or non-identifying updated medical information. Instead, NAIC is advising that 37 states, just as already exists in Nevada Code [*Nevada Administrative Code* 127.371 (4)], allow for the sharing of non-identifying information between birth and adoptive families, and the adult adoptee.

[Jean Uhrich, continued.] Personally, I am not aware of any state that has made statutory provisions for anonymous and intermediary updating of medical information. Rather, my knowledge is of court judges granting petitions to unseal adoption records when medical issues are at stake. Further, Oregon, Alabama, and New Hampshire allow for private and confidential sharing of familial medical histories from a birth parent to the adult adoptees. The state is now allowed to maintain a copy of that private communication.

While uncomfortable to discuss, it needs to be mentioned that some adoption agencies fail to disclose to prospective adoptive parents the full and truthful medical background of children when placed for adoption. Perhaps they desired a speedy placement or perhaps they needed to remove the child from the state dole. But whatever the reason, the potential for life-saving or critical information was withheld. For example, Nevada's \$40,000 settlement to the Nolte family ([Exhibit E](#)) for DCFS' failure to provide complete background information and Catholic Charities' failure to provide complete and truthful information to the Coy family ([Exhibit E](#)) regarding the birth mother's health habits during pregnancy.

It is difficult and unwise for the families of adoption knowing this history to place their trust for updated medical information into the hands of an intermediary, specifically DCFS or private by licensed adoption agencies. For these additional reasons, Nevada Open opposes A.B. 50.

**Chairman Anderson:**

Your opposition with the bill deals with the fact that it creates a database.

**Jean Uhrich:**

It is one of our concerns. We would oppose the creation of a state database that would collect birth family and adult adoptee familial history that has been redacted and provided anonymously to an adult citizen.

**Chairman Anderson:**

These are merely copies of newspaper reports ([Exhibit E](#))?

**Jean Uhrich:**

Yes. They are exhibits to what I read as part of my testimony as examples of why the families of adoption would have concern that DCFS would again be responsible for providing to us full and complete medical information.

**Assemblyman Horne:**

If this is voluntary and adult adoptees can submit their information to this registry or choose not to, how is that intrusive to your organization?

**Jean Uhrich:**

We don't believe it's the state's job, once we are all adults, to be an intermediary between the sharing of family medical information.

**Assemblyman Horne:**

Your opposition to this is not purely that the parties voluntarily wish to share information but that the state is helping them do that.

**Jean Uhrich:**

Redacted and anonymously.

**Assemblyman Mabey:**

Let's say a mother who gave her baby up for adoption and 20 years later finds out she has a medical condition. She wants that information conveyed but she doesn't want to release who she is. How would you do that under the law? This bill, in my mind, would set up a mechanism where that could happen.

**Jean Uhrich:**

I don't recognize the anonymity provision and I think many adult adoptees do not either. I understand she may have a desire for anonymity, but it's not a right recognized in Nevada.

**Laurie Dunfield-Baker, representing Mothers for Open Records Everywhere (MORE):**

[Submitted [Exhibit E.](#)] MORE is the United States arm of Origins, Inc. MORE are birthmothers who fully support open records for adult adopted citizens. Our U.S. affiliate is comprised of 850 members, including members from Nevada voters. We hereby state publicly and unequivocally that we were never promised, nor requested, privacy or confidentiality regarding the surrender of our children to adoption. MORE opposes A.B. 50. It is an unacceptable, alternative bill to providing unfettered access by our adult adopted children to their state-held birth and adoption records. MORE opposes the use of any intermediary, including the Division of Children and Family Services, that would redact submitted information and make us anonymous in handling and

distributing the medical information we provide to our grown children. We do not need protection from our own children. A.B. 50 is an expensive and unnecessary endeavor that disrupts the integrity and purpose of the Nevada State Adoption Registry. MORE seeks your no vote on A.B. 50.

**Chairman Anderson:**

Let me clarify for myself that your concern is that this is not what the registry was set up for and you consider it to be another governmental intrusion into your private life.

**Laurie Dunfield-Baker:**

That is correct.

**Chairman Anderson:**

The hearing for A.B. 50 is closed. Let's turn our attention to A.B. 192.

**Assembly Bill 192: Provides that provisions of Uniform Disposition of Unclaimed Property Act do not apply to State Child Support Disbursement Fund. (BDR 10-650)**

**Gary Stagliano, Deputy Administrator, Program and Field Operations, Welfare Division, Nevada Department of Human Resources:**

[Submitted [Exhibit F](#).] I am here to present A.B. 192, which would exempt any unclaimed property from the State Child Support Disbursement Fund from the provisions of the Uniform Disposition of Unclaimed Property Act. This bill was requested by the Department of Human Resources and submitted to the Legislature through the Governor's Office.

To better understand the need for this bill, please consider that the Nevada Child Support Enforcement Program is a federal, state, and local partnership operated under Title IV-D of the Social Security Act [42 USC §651 *et seq.*]. This program provides federal statutes and regulations which establish program requirements that states must comply with in order to receive Title IV-D funding. The federal government at present reimburses the Child Support Enforcement Program 66 percent of its expenses. Federal funding and state-retained collections are the principal funding sources in the Nevada Child Support Enforcement Program. As many legislators may know, there are no General Funds in the Child Support Enforcement Account.

According to *Nevada Revised Statutes* (NRS) 120A.220, funds held by a government entity that have remained unclaimed by the owner for more than

three years after becoming payable or distributable are presumed abandoned and must be transferred to the State Treasurer. Unclaimed child support collections are considered abandoned according to federal rules once the monies are transferred to the state's unclaimed property account. Federal rules further specify that the child support collections received by the state are presumed abandoned and are declared as program income for federal purposes. That is an important distinction.

[Gary Stagliano, continued.] Currently, the way the Child Support Enforcement winds up with undistributed collections or unclaimed property is simply this: we either lose contact with the individual who applied for service and can't distribute those funds, or payments come in with insufficient information to identify them to a noncustodial parent to credit their account. We do our best to attempt to locate those individuals, but sometimes we have money we can't identify, and then we rely on the payor to ask why the monies weren't applied against their account.

Under the current statute, the Child Support Enforcement Program will transfer approximately \$726,000 in unclaimed child support to the Treasurer's Office. As detailed in the fiscal note, this transfer will cause the Child Support Enforcement Program to suffer a decrease in federal funding because the federal government will consider the transfer as program income and reduce the amount of federal reimbursement available to the state. That is the 66 percent reduction.

It is estimated that the Child Support Enforcement Program will lose \$479,000 in federal financial participation with this transfer, which would mean, essentially, that to make the Child Support Enforcement Program whole, it would have to be backfilled with General Funds.

In the state fiscal year 2006, the state will potentially lose another \$207,000. In the state fiscal year 2007, another \$414,000 will potentially be lost. There is currently no substitute for the lost federal funding because the Child Support Enforcement Program does not receive General Funds. This will impact the resources of the Child Support Enforcement Program and the child support services available to Nevada's families.

By exempting the Child Support Enforcement Program from the requirements of the Uniform Disposition of Unclaimed Property Act, the program would manage its own unclaimed property without compromising federal financial participation because the funds would not be considered program income by the federal government. Accordingly, we respectfully request the adoption of A.B. 192.

**Chairman Anderson:**

That was a very thorough presentation. Of course, the question of the statutory transfer of dollars to the State Treasurer means due to the law of unanticipated consequences that we are losing 66 percent in the area of \$497,000 in federal participation. Ms. Bush, did you wish to add anything?

**Louise Bush, Chief, Child Support Enforcement, Welfare Division, Nevada Department of Human Resources:**

I am basically here to support what Mr. Stagliano has to say and to encourage the Committee to approve this bill.

**Donna Becker, representing the Nevada Women's Lobby and National Association of Social Workers:**

[Submitted [Exhibit G](#).] I am an M.S.W. [master social worker] student at UNR [University at Nevada, Reno] doing my comprehensive project on child support. I am here representing the Nevada Women's Lobby and NASW [National Association of Social Workers], Nevada Chapter, which both support this bill. I am a single mother of two and have not received child support for three years. I am still owed over \$42,000 in back support.

I support A.B. 192. In 2002 and 2003, Nevada collected over \$27 million in child support that was not distributed. I submitted printed testimony and I will just give the highlights as I don't want to repeat what Mr. Stagliano said. A.B. 192 would improve our opportunities to compete for incentive money for the state. Since Nevada doesn't receive General Fund money for the Child Support Division, that money would really help to locate, collect and distribute more money for all the custodial parents who are receiving their court ordered child support. This process would also help get the money to the children in a more timely manner once the families are located.

According to the Federal Office of Child Support in the preliminary statistics for 2003, in Nevada 135,921 children are supposed to receive child support but \$889 million is owed in back child support. Only 35 percent of Nevada's children receive their child support. Children who receive child support have better grade point averages and significantly better test scores, remain in school longer, have fewer behavior problems and are more likely to have contact with their fathers.

This incentive money could really help the Office of Child Support Enforcement with their task. Please support A.B. 192 for all the families not receiving their child support. I feel this will be a great help.

**Mark Winebarger, Deputy Treasurer, Cash Management, Office of the Nevada State Treasurer:**

The Treasurer's view is that this appears to be good government, but we would like assurances from the Welfare Division that they will continue to try and find these parents and return these monies to them. It is their job to do that and we would like to make sure it is completed.

**Chairman Anderson:**

Mr. Winebarger brings forth a good question. We would like the reassurance that the unclaimed property is still going to be looked for the people that fall into this category. You aren't going to give up looking for them?

**Gary Stagliano:**

Yes, we absolutely intend to do that. In fact, we will be adopting regulations if this bill were to pass that sets forth certain rules about contacting parents.

**Chairman Anderson:**

Is there anybody in opposition to A.B. 192? The hearing is closed on A.B. 192.

ASSEMBLYMAN HORNE MOVED TO DO PASS ASSEMBLY BILL 192.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION CARRIED. (Ms. Buckley was absent for the vote.)

**Chairman Anderson:**

I will assign this bill to Mr. Mabey. Let's turn our attention to A.B. 91 ([Exhibit H](#), [Exhibit I](#) and [Exhibit J](#)).

**Assembly Bill 91: Revises provisions governing fees of reporters of district courts. (BDR 1-472)**

**Chairman Anderson:**

A.B. 91 is a bill we have heard before relative to court reporters ([Exhibit H](#)). I thought we were about to move with it as we had some additional information that we were looking into. Mr. Mortenson, do you have some information that you planned on giving us relative to what you hope to accomplish with the issues you wanted to bring forth and wanted us to amend into A.B. 91. You sent us materials ([Exhibit I](#)) to change existing law of NRS 656. If you will

explain to the Committee what you hope to accomplish by the changes and how you perceive this bill could be amended to take care of the problem. You need to explain what the problem is and what you hope to accomplish with your amendments.

**Eric Mortenson, Laurie Webb & Associates:**

[Submitted [Exhibit I.](#)] For NRS 656.160, the word "written" in these housekeeping bills were proposed by the Court Reporters' Association for the state. They will now start computerized testing so taking the word "written" out of this NRS will allow us to do that.

**Gloria Perry, Nevada Certified Court Reporters Board:**

NRS 656.220 was entered in order to raise the fees that the Court Reporters Board charges. The board has not raised their fees for over two years and that is the intent of change in NRS 656.220.

**Chairman Anderson:**

The need for additional income is based upon the fact you haven't raised your fees in over two years?

**Gloria Perry:**

The need for additional income is so the board can cover their expenses. The current fees are not adequate for that purpose.

**Chairman Anderson:**

You don't take any dollars out of the General Fund?

**Gloria Perry:**

We do not.

**Chairman Anderson:**

Is there an account of the dollars that you do receive?

**Gloria Perry:**

Yes.

**Chairman Anderson:**

When was the most recent accounting of those dollars?

**Gloria Perry:**

August 2004.

**Chairman Anderson:**

So the additional dollars are needed to keep up with operational expenses?

**Gloria Perry:**

Yes, to keep up with operational expenses and to be able to accomplish the duties of the board.

**Chairman Anderson:**

And how many additional dollars will this generate?

**Pauline May, Certified Nevada Court Reporters Board:**

The increase in range of fees is what this intends to accomplish. Our current fees are set but this will allow us, if we should feel the need, to increase those beyond what is set statutorily already. The accounting is done on a monthly basis, just to let you know. We do have an audit that happens every two years. We are prepared to do that for the upcoming year as well.

**Chairman Anderson:**

How big of an increase does this represent? Do you currently have a set fee or a range of fees?

**Pauline May:**

It is a range. Currently, our board licensing fees are \$160 and this would increase the range to \$250 and that is for individual court reporters. It also increases the range for firm ownership as well from \$150 to \$250.

**Chairman Anderson:**

That is in the suggested language change. Are there any questions on the suggested changes on NRS 656.220 from any member of the Committee? The fee for reinstatement of a license for a court reporter firm is \$150 and must be fixed by the Board annually but be no more than \$500 or less than \$175. That is a new provision in (f), (g), and (h). That range was not available to you before. Under current statute, for reporting it was from \$150 to \$250 under (f) and the opportunity to go all the way up to \$500 was not available to you before. Am I correct?

**Pauline May:**

That is correct. I think the purpose would be to allow an increase for court reporter firm owners up to \$500. As a firm owner, a larger range would be applicable to them. The difference is that firms can employ multiple court reporters as opposed to individual court reporters.



**Chairman Anderson:**

The range doesn't currently exist for a court reporting firm. It has a set fee currently in statute at (f), (g), and (h). This is a new idea. I'm unsure as to why you just don't go to \$150 and \$175 that you are asking for.

**Pauline May:**

Is your question why are we asking for a range as opposed to just increasing the amount?

**Chairman Anderson:**

Yes.

**Pauline May:**

It gives us flexibility. Currently those fees are \$150. It does give us more flexibility to raise those fees as we see fit, as opposed to coming back every legislative session and asking for that increase. That way, you won't have to see us for a few more years.

**Chairman Anderson:**

When did you last receive an increase?

**Pauline May:**

If I recall correctly, the firm ownership \$150 fee has been the same since its inception two or three years ago. We did an increase of \$40 on licensing for individual court reporters from \$120 to \$160, which I believe was accomplished last year. Prior to that, it had been \$120 for many years.

**Chairman Anderson:**

The last time this statute was amended was in 2001 and that was for the individual fee.

**Assemblyman Horne:**

How much do you anticipate raising these fees currently to meet your costs? I ask because if we were to do this, in next session are we going to be inundated with reporters saying their fees jumped to \$350 or \$400 in one fell swoop. If we grant you this flexibility, there is that danger of that happening.

**Pauline May:**

I do understand your concern on that. Certainly the Board is cognizant of our licensees and their concerns. They have the ability to voice their opinions and public comment at our meetings. I can tell you the sentiment would be that we certainly only want to raise these on small increments as needed. We look at the bottom line every month and decide whether we are running in the black

and are solvent. That would be the criteria we would base that on. I think if you would look at the history of the operation of the Board and the incremental increases, the fees have been very, very small. One thing we have looked at in the past year is our fiscal well being. We should have increased these fees on a regular basis rather than implement increases from \$120 to \$160 in one jump. So that is one of the reasons we want to have some flexibility. We don't want to have to increase in large increments. We would rather do small increments over time.

**Assemblyman Horne:**

Can you tell us, if you could increase the fees today, approximately what would you increase it to?

**Pauline May:**

It would be speculation because at this point I currently sit on the Board; I'm pretty much the financially knowledgeable one and I look at the books on almost a daily basis. Frankly, I can't see a need to raise these fees at this point. The fee increase we had last year from \$120 to \$160 was certainly sufficient. We have also done some other cost-cutting measures to avoid raising these fees. At this point, I don't see a need to raise those fees. We just want to have the flexibility.

**Chairman Anderson:**

If I am to understand, if we were to pass this in the form that is presented here, the fee would go from \$150 to \$250 for a firm because you set the floor at not less than \$250. For the renewal, it also goes up from \$150 to \$175 so you have a \$25 increase. You have a \$100 increase for a firm because that is the floor that would be required in (f), (g), and (h).

**Pauline May:**

Those strictly pertain to court-reporting firm licensing fees. Our feeling was that certainly court-reporting firms derive a monetary benefit relative to the individual court reporter that is much more. Our feeling is that since they derive that benefit, perhaps their range should be higher. Certainly the administrative costs of the firm regulation and what we have to do in the office to administer those is every bit as much, if not more, than the court reporters individually.

**Gloria Perry:**

In talking to some of the other boards that are relatively the same size as we are, they are able to cover all of their costs strictly from their licensing fees. Although we have taken every measure we can to budget, it has been very difficult for us with the fees as they are now. So that is another reason for us wanting to raise the fees so we can cover our costs from our licensing fees.

**Chairman Anderson:**

I think that is what we are trying to understand is what those real costs are so that we don't set the fees so high.

**Assemblyman Carpenter:**

I was wondering what kind of costs you have. Do you have permanent staff and rent? What exactly are your costs?

**Pauline May:**

We do employ a half-time staff who is our executive director who handles and administers pretty much everything. She handles the collection of the continuing education and making sure our licensees have conformed to that. She reminds them of any renewal in fees that need to go out every year. We also administer the test twice yearly which is rotated by sites. We are currently preparing for Reno testing at the end of April and issuing the candidates their licenses in that regard. She also administers the financial records and just overall record-keeping. Yes, we do have a full-time office. We conduct meetings as needed, but they usually occur every other month.

**Chairman Anderson:**

So, if I make an application currently I would have to pay \$250?

**Pauline May:**

That is correct.

**Chairman Anderson:**

So if I pay the \$250 and then if I am successful in my application, you would issue a certificate then you would charge me another \$150?

**Pauline May:**

I believe the \$250 would include your first year of licensing. But then upon renewal every year after, it would \$175, if approved.

**Chairman Anderson:**

Then what is the purpose of (b), the fee for the original issuance of certificate?

**Pauline May:**

I believe that refers to individual court reporters.

**Chairman Anderson:**

But you have charged them \$250 for an examination which is fixed by you. Then to get your certificate, you are going to charge them again?

**Pauline May:**

That is correct.

**Chairman Anderson:**

So then they are paying another \$150?

**Pauline May:**

That is correct.

**Chairman Anderson:**

So now you are going to raise the range from \$150 to \$250?

**Pauline May:**

That is correct. That is for individual court reporters.

**Chairman Anderson:**

So they are going to take the test, which costs \$250, and then, assuming they are successful with the test, they will pay at least \$150 more, right?

**Pauline May:**

Correct.

**Chairman Anderson:**

Under (d) for the renewals, you are going to increase that amount between \$50 to \$100 more so the renewal would be up to \$150?

**Pauline May:**

Correct, except it is currently \$160.

**Chairman Anderson:**

It states "on such date as specified by the Board" rather than a specified date of May 15. So you could raise your fees twice or three times during the year rather than once a year on May 15?

**Pauline May:**

The rates would be established and if we felt the need to raise them, that would only occur once a year. Let me explain about the language concerning May 15. It was our intent, further down the road, to get rid of the May 15 deadline and do it on a birth date renewal time. So the money situation would flow and we wouldn't get the majority of our operating funds in a three-month period of time. It would space it out on a more regular basis. That's strictly the intent of change to the May 15 date.

**Assemblyman Carpenter:**

I believe that the witness stated the fee was \$160 for a renewal. According to the way I read this, the annual renewal fee is supposed to be not more than \$150. I don't know how they got the \$160.

**Pauline May:**

That's a good question. I would definitely have to go back and look at that.

**Eric Mortenson:**

I would like to make one last comment. Gloria and I are associated with the association but we are firm owners as well. We do support this. We see the financial responsibility that the Court Reporting Association has. We know that we need more help in our industry. As independent firm owners, we do want to see those fees raised. We have an obligation to our court reporters when we are looking at those fees and they are being raised to make sure they are happy as well.

**Gloria Perry:**

I wanted to state that as firm owners, we are pleased with the help that the Board has provided court reporters and the industry. Also, in employing a full-time executive director, a lot necessary things were being accomplished. In order to meet our budgetary needs, we had cut the executive director's hours by half and employ her part-time. We all feel the Board does need a full-time executive director and if we raised the fees, we would probably be able to do that again.

**Chairman Anderson:**

So we understand there is a need. Let's turn our attention to the proposed amendments to NRS 656.250, grounds for denial. We're adding that anybody who violates the regulations in [subsections] 11, 12, and 13, and the subsections are being renumbered. Has this been a problem?

**Gloria Perry:**

We clarified and defined certain violations in the NAC [*Nevada Administrative Code*]. These three new violations that we're adding to the NRS are in one aspect to match the NAC with the NRS. Those are three new violations that were necessary that we have clarified in the NAC and now need to add them to NRS.

**Chairman Anderson:**

Generally speaking, we like to believe the NRS precedes the NAC. It's one of those nuances of the law that we like to believe the *Nevada Administrative Code*, which is approved by the Legislative Commission, reflects the needs of

issues of the law. In [subsection] number 9, under the current law, the current line says "except as otherwise provided in subsection 10, willfully violated any of the provisions of this chapter or the regulations adopted by the Board to enforce this chapter." Why is that not sufficient grounds for you to do what you have outlined here in your new [subsections] 11, 12, and 13?

**Gloria Perry:**

[Subsections] 11, 12 and 13 were included in the additions that we clarified in the NAC. They were to cover a problem that we have had in this industry called contracting. Nevada is an anti-contracting state as far as court reporting goes. We needed to add regulations that would clarify for court reporters as to what was allowed and what was not allowed as far contracting goes. We were able to pass the NACs that covered this, but although they were introduced at the same time, the NRS was not able to go through last legislative session. So this is just to try and get what we did not get in last session for the NRS.

**Chairman Anderson:**

In looking at the NRS, both [subsections] 9 and 10, "except as otherwise provided in subsection 10," address willful violation of any the provisions of this chapter. [Subsection] 10 is a violation of any regulation adopted by the board relating to unprofessional conduct, and makes it appear that 11, 12, and 13 are already covered by 9 and 10. You're telling me you're looking for clarification and specificity of the law rather than the general open statement?

**Gloria Perry:**

Yes, and that's why we were able to address them as we did in the NAC because of number 10. You're correct, adding 11, 12, and 13 would make it clearer and it would give us more specificity.

**Chairman Anderson:**

We will see what the bill drafter has to say about that one. The changes that you are proposing to NRS 656.340, you want to strike language in the current law?

**Gloria Perry:**

That sentence is being struck to give the Board more flexibility to cover its rural courts. Right now there is a problem in the rural areas in having Nevada-licensed court reporters. This would give more flexibility to reporters licensed in other states, for example, California or Utah, to cover the rural courts in the north.

**Chairman Anderson:**

Apparently, you also want to add language to designated firm owners as to a person who is an owner of the firm but is not a court reporter. Each firm must select at least one person as the person responsible for the actions of the firm, take and pass an exam, and comply with continuing education requirements.

**Eric Mortenson:**

That simply assures that the person in charge of the firm understands and knows the NRS that apply.

**Chairman Anderson:**

This is an issue we have heard before in previous sessions. I am curious. Were you unhappy about the outcome or you want to go back and revisit it? Is this a big issue for you?

**Gloria Perry:**

It is basically to make sure that whoever is managing the business, who may not be a court reporter and does not have to be tested regarding the laws, that that person also knows all of the regulations regarding court reporting and all the Nevada state laws regarding court reporting and basic business ethics. Right now there is no kind of testing in place for the business managers of these firms. We would like to institute some kind of practice so that the Board can be assured that we have people managing these firms who will be ethical and know the laws.

**Chairman Anderson:**

Let's take a look at your suggestions to renumbering in NRS 656, examination of designated firm owners. Is that all part of this question?

**Gloria Perry:**

Yes, that's correct.

**Chairman Anderson:**

Then your change to NRS 656.187 is to submit evidence adding a new paragraph (d) to Section 1 of NRS 656.155 to submit evidence to the board of completion of the requirements for continuing education for firm owners unless the requirement has been met. The Board shall adopt regulations requiring designated firm owners to participate in continuing education. This all revolves around the issue of ethics for non-court reporters?

**Gloria Perry:**

That is correct.

**Chairman Anderson:**

Then your change to NRS 656.260 is if there is a change of owners, they need to let you know that that is going on.

**Gloria Perry:**

Yes, sir.

**Chairman Anderson:**

The new owner has to comply in a similar fashion in case one of them was a court reporter and one was not.

**Gloria Perry:**

Yes, sir.

**Chairman Anderson:**

Are there any questions from the Committee concerning the amendments of this section of the statute? I think the fee question is the only stumbling block that I have concern with in regard to what has been proposed here. Clearly, the changes to NRS 656.220, they need additional money in order to put the executive director in a full-time position. I'm a little reluctant about (f), (g), and (h) to fix the Board annual fee to no more than \$500 and no less than \$250. I'm not willing to give them that level of flexibility. It sounds to me as if the \$250 at (f) sounds reasonable. Maybe if we put the renewal fee at \$200 for a court reporter and a reinstatement at \$200 or \$175, it makes no difference to me since they are moving the other fees forward \$50. I understand the need to tie it to somebody's birth date, but I'm a little concerned regarding that. What is the Committee's feeling about the bill?

**Assemblyman Carpenter:**

I guess I feel the same as you. It is quite a large range from \$175 to \$500. I think we should cut the range down or put a specific figure in. Maybe we want to see them a little more often than every 20 years.

**Chairman Anderson:**

There are going to be some other bills dealing with another aspect of court reporting in regard to new technology that is going to cause some concern. I don't think this will be the last time we were be hearing from these folks.

If you recall, we looked at some amendments in a work session document some time ago in the original bill which set up a dual structure. We have a change in fees for court reporter document that Ms. Combs has prepared for us relative to what has happened over time since 1989, 1995, 1999, and 2005 relative to how they have changed ([Exhibit H](#)).



**Assemblyman Carpenter:**

If we had a budget from these people to know what the executive director costs them, it would make it a lot simpler to fit fees to what their budget needs are.

**Chairman Anderson:**

We can wait for them to submit the additional paperwork, Mr. Carpenter, if that would make you feel comfortable. What I was going to suggest was to amend A.B. 91 as we had outlined earlier so that we don't have a dual standard for both sides of the envelope for private and criminal to set up the specific fees. We don't have to move this bill at this particular time, but I will go with whatever the Committee is comfortable with.

**Assemblyman Carpenter:**

I just feel if we had some information it would be better than being in the dark.

**Chairman Anderson:**

Mr. Mortenson, Ms. May, or Ms. Perry, if you would supply some sort of budgetary information to Ms. Allison Combs in our Research Division here regarding what cuts you have had to make relative to your current status and the need for the Board to have increased fees so that we can solve the questions put forth by Mr. Carpenter. We will discuss your suggestions with Legal. Your language, although very well constructed and very clear, needs to be perused by our Legal staff and put into their language. I am particularly concerned about the questions in NRS 650.250 and what the implications are relative to whether it is necessary or a redundancy. We don't like to put redundancy into the law any more than we already have. Any other issues anyone else would like to discuss? I would really like to see this bill moved along and so would the court reporters. Will you be able to provide us with this information?

**Gloria Perry:**

We will provide the information today.

**Chairman Anderson:**

The hearing on A.B. 91 is closed. [The meeting was adjourned at 10:19 a.m.]

RESPECTFULLY SUBMITTED:

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Carole Snider  
Committee Attaché

APPROVED BY:

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Assemblyman Bernie Anderson, Chairman

DATE: \_\_\_\_\_

## EXHIBITS

**Committee Name:** Committee on Judiciary

**Date:** March 22, 2005

**Time of Meeting:** 8:00 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
AB 50	B	Megan Jones, Private Citizen	Statement to Committee received 3-22-05 in support of A.B. 50.
	C	Jean Uhrich, Nevada Open	Statement to Committee dated 3-22-05 in opposition to A.B. 50.
	D	Jean Uhrich, Nevada Open	Statement to Committee dated 3-21-05 in opposition to A.B. 50.
	E	Laurie Dunfield-Baker, Mothers for Open Records Everywhere	Statement to Committee dated 3-22-05 in opposition to A.B. 50.
AB 192	F	Gary Stagliano, Deputy Administrator, Program and Field Operations, Nevada State Welfare Division	Statement to Committee received 3-22-05 in support of A.B. 192.
	G	Donna Becker, Private Citizen	Statement to Committee received 3-22-05 in support of A.B. 192.
AB 91	H	Chart prepared by Legislative Council Bureau	Chart for Assembly Committee on Judiciary
	I	Eric Mortenson, Laurie Webb Court Reporters, Las Vegas, Nevada	Statement to Committee received 3-2-05 regarding suggested language change to A.B. 91.
	J	Janyce Rossall, Letter Perfect, Reno, Nevada	Email to Chairman Anderson dated 3-3-05 in support of A.B. 91.