

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Fourth Session
March 30, 2007**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 8:05 a.m., on Friday, March 30, 2007, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Marilyn Kirkpatrick, Chair
Assemblywoman Peggy Pierce, Vice Chair
Assemblyman Kelvin Atkinson
Assemblyman Bob Beers
Assemblyman David Bobzien
Assemblyman Chad Christensen
Assemblyman Jerry D. Claborn
Assemblyman Pete Goicoechea
Assemblyman Ruben Kihuen
Assemblyman Harvey J. Munford
Assemblywoman Bonnie Parnell
Assemblyman James Settlemeyer
Assemblyman Lynn D. Stewart
Assemblywoman RoseMary Womack

GUEST LEGISLATORS PRESENT:

Assemblyman Mo Denis, Assembly District No. 28



STAFF MEMBERS PRESENT:

Amber Joiner, Committee Policy Analyst
Scott McKenna, Committee Counsel
Rachelle Myrick, Committee Secretary

OTHERS PRESENT:

David Kallas, Representing the Police Protective Association and the Southern Nevada Conference of Police and Sheriffs
Ron Dreher, Government Affairs Director, Peace Officer's Research Association of Nevada
Gail Tuzzolo, Representing the Nevada State American Federation of Labor Congress of Industrial Organizations
Barry Smith, Nevada Press Association
Joseph Turco, American Civil Liberties Union of Nevada and Nevada's Attorneys for Criminal Justice
Robert Roshak, Sergeant, Las Vegas Metropolitan Police Department
Brian Sanchez, Major, Highway Patrol Headquarters, Department of Public Safety
Nicole Lambole, Chief Deputy, Office of the Secretary of State
Bru Ethridge, Notary Division Administrator, Office of the Secretary of State
Mark Taylor, Assistant Controller
Albert Delgado, President, Nevada Association of Hispanic Real Estate Professionals
Leticia Gardea, Executive Director, National Association of Hispanic Real Estate Professionals, Nevada Chapter
Robert Gomez, Chairman, Latin Chamber of Commerce
Steve Robinson, Deputy Chief of Staff, Office of the Governor
James Campos, Commissioner, Consumer Affairs Division, Department of Business and Industry
Andrew Barbano, Representing the National Association for the Advancement of Colored People, Reno/Sparks Branch

[Meeting called to order and roll called at 8:05 a.m.]

BDR R-1454—Celebrates the 95th anniversary of Girl Scouts in the United States and the 75th anniversary of Girl Scouts in Nevada. (Later introduced as [Assembly Concurrent Resolution 18.](#))

Chair Kirkpatrick:

We have a BDR request. It is a resolution for Girl Scouts ([Exhibit C](#)). There is a motion on the floor to introduce BDR R-1454.

ASSEMBLYMAN STEWART MOVED TO INTRODUCE BDR R-1454.

ASSEMBLYMAN BEERS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assembly Bill 50: Eliminates the exceptions authorizing the release of the home address of a peace officer by a law enforcement agency in certain circumstances. (BDR 23-146)

We will start with Assembly Bill 50.

David Kallas, Representing the Police Protective Association and the Southern Nevada Conference of Police and Sheriffs:

Assembly Bill 50 is what we refer to as a clean-up bill. During the 73rd Legislative Session there were significant changes made to *Nevada Revised Statutes* (NRS) 289, which is commonly referred to as the Peace Officer's Bill of Rights. There were several interested parties that met during that session including members of management, labor, and representatives from the American Civil Liberties Union (ACLU) to work out specifics. We believed at that time we had addressed the issues before you today, which is the authorization to release the home address of a police officer by a law enforcement agency.

Our agency, the Las Vegas Metropolitan Police Department, by current practice does not release the home address of an officer under any circumstances unless it is contained in a report that is accessible from public records.

We try to create a standard throughout the Legislative Sessions. Not just for our own agency, but for agencies statewide.

In February I was contacted by members of the Nevada Press Association about issues concerning the ramifications of the bill and if home addresses of our officers which were contained in reports could then be redacted. Members of the Press Association and I met on a couple of occasions and worked out language, which is now contained in the proposed amendment ([Exhibit D](#)) dated March 30, 2007, to address their concerns. The amendment is before you, and I urge the Committee to support A.B. 50 as amended.

Assemblywoman Pierce:

Has the home address of a police officer ever been released by the press?

David Kallas:

I do not know the answer to that. I know as a policy our police department does not release personnel information to anyone under any circumstances. If it is contained in a report the public would generally have access to, they would get that report just like they would any other report with any other person's home address in it.

Assemblyman Beers:

Would it not be logical to assume the release of a police officer's address under any circumstances could be extremely dangerous down the line?

David Kallas:

Yes. During the 73rd Legislative Session Assembly Bill No. 142 allowed officers of law enforcement agencies to apply to district court to have their names removed from the assessor's files in order to ensure that individuals they may have investigated and/or arrested could not locate their homes. Not so much for the officers but for the protection of their families. We do not release their addresses as a normal course of practice. Businesses do not release home addresses of their employees under normal circumstances. We are saying that we would like to follow the same standard.

Chair Kirkpatrick:

Which specific section do you want to go to? Is it NRS 289.025?

David Kallas:

Yes, that is correct. That would be added to Section 2, subsection 3. In Section 2, the home address portion would be removed and it would read "the photograph of a peace officer may be released" and then Section 3 would contain any information that is contained in the amendment.

Assemblyman Munford:

I know as a teacher, sometimes there was a certain degree of confidentiality toward teacher's personal information. There is no binding policy on it but it is a protection for teachers. If a teacher wants his information released, it is his decision.

Chair Kirkpatrick:

Section 1, line 3, is the home address to be included in that or not?

David Kallas:

Yes, the home address would be included because that dictates to the agencies they cannot release the home address or photograph. In the next section it gives them the authorization under certain circumstances to only release the photograph.

Assemblywoman Parnell:

It seems to me that anyone can get any kind of information at any time. How does this play into that? How does this protect them when so much information is available?

David Kallas:

We take whatever baby steps we can. There is no doubt, in this day and age, technology people can access information they never had the ability to access before. This is a matter of consistency and standard. Our agency already, as a practice, does not release that information. Our concern is some other agencies would have the tendency under certain circumstances to do it. We want to set a standard for all law enforcement agencies under this section of the statute.

If someone wants to find out where you live, if someone wants to hurt you, they are going to do it. It does not mean we need to make it easy for them.

Chair Kirkpatrick:

Anyone here in support of A.B. 50 who would like to speak?

Ron Dreher, Government Affairs Director, Peace Officer's Research Association of Nevada:

We would ask that you support this bill on behalf of all the information relayed to you by David Kallas.

Gail Tuzzolo, Representing the Nevada State American Federation of Labor Congress of Industrial Organizations:

We stand in support of this bill.

Chair Kirkpatrick:

Is there anyone who is neutral on A.B. 50?

Barry Smith, Nevada Press Association:

I put down neutral, but we are in support of the amendment. Our interest is in making sure that on an arrest report, or a jail booking sheet, et cetera we are not redacting information.

Chair Kirkpatrick:

Is there anyone who is opposed to A.B. 50?

Joseph Turco, American Civil Liberties Union of Nevada and Nevada's Attorneys for Criminal Justice:

I request the amendments be made part of the record, and I believe everyone has a copy ([Exhibit E](#)). Not only has the American Civil Liberties Union (ACLU) represented the rights of officers, in my personal law practice I have done police labor union work and I appreciate the goal of the bill and so does the ACLU. There is an unintended consequence here however, if the bill is passed in its current form. It has to do with service of process. I think the proposed amendments set forth the problem as it arises under this bill.

In both criminal and civil matters I do not think anyone wants to de facto, in practice, create an extra layer of immunization for police officers in regard to subpoenas, service of process, et cetera. Under the present custom and practice, process servers are turned away. Often times process servers have to stake out officers coming on and off their shifts. It is difficult and it is costly. The proposal is pretty straight forward.

Anyone who has been involved in civil litigation understands if you are suing a company or a corporation, an agent is designated to accept service and that is all this amendment is asking for. Let us keep the criminal and civil legal processes flowing smoothly. If we can resolve that there will be no objection from Nevada Attorneys for Criminal Justice (NACJ) or the ACLU on this bill. It is a worthy goal.

Assemblyman Settlemeyer:

Do you have any idea what the fiscal impact would be to create a new agency to accept service of process?

Joseph Turco:

I do not see it that way. I can use a corporate example. It is merely a mid-level manager, someone at the front desk, who is designated to accept service. It is designating a person at his desk already existing to accept service. There is no creation of a new agency. It is a new relationship but not a new agency.

Assemblyman Settlemeyer:

If you give it to someone responsible for accepting service, he is expected to be able to give it to the person it is for. That is already covered.

Joseph Turco:

Persons you might think would be in that position to accept service have refused to accept. What we have then is the front desk saying no, then the officer saying no via sealing his personal information. How are they going to be served with subpoenas and other papers? It creates a complex problem. I do not think that was the intention. I believe the intention was to protect the officers. We are for that, but I do not believe they wanted to use this law to run from service of process.

Chair Kirkpatrick:

Are there any other questions? [There were none.]

Is there anyone else who would like to speak against A.B. 50? [There were none.]

Robert Roshak, Sergeant, Las Vegas Metropolitan Police Department:

On the amendments proposed by Officer Kallas, the police department was involved and we agree with him. With regard to the comments made about serving subpoenas to the department, we have a risk management area where if the department is being sued and officers are named in that suit those subpoenas are accepted there. We refer the servers with other subpoenas to the officer's substation so they can contact them there.

David Kallas:

The bill speaks for itself. The amendment we proposed addresses the concerns that were raised by the Nevada Press Association. We understand and do agree with them. That is why the amendment was proposed as you read it. In regards to the second amendment that has been proposed, I prefer not to address it because that is an agency issue. This part of the statute is not about agency issues or administration and how they handle things. I would ask that we not bog the bill down by something that could be handled administratively.

Chair Kirkpatrick:

We are closing the hearing on A.B. 50.

[Chair Kirkpatrick stepped down and Vice Chair Pierce took over the meeting.]

**Assembly Bill 380: Revises certain requirements relating to radar guns.
(BDR 40-1188)**

Vice Chair Pierce:

I will now open the hearing on Assembly Bill 380. Assemblywoman Kirkpatrick sponsored this bill and will speak to us about it.

Assemblywoman Marilyn Kirkpatrick, Assembly District No. 1:

Before you today is A.B. 380. It is a relatively simple bill. It is fiscally responsible and at this point I will turn it over to Mr. Roshak.

Robert Roshak, Sergeant, Las Vegas Metropolitan Police Department:

Under current *Nevada Revised Statutes* (NRS) police agencies that use radar guns are required to use guns that are listed on the International Association of Chiefs of Police (IACP) Consumer Product List.

What we have found is the various radar gun manufacturers have to supply guns to the IACP for initial testing and then they are certified and placed on the list. In order to remain on that list, the radar gun manufacturer must submit that same model every year for testing. Our department purchased radar guns. They were functional, but we found out they had been removed from the list because the manufacturer had either discontinued making them or had upgraded to another model. Based on NRS we could no longer use these guns. As a consequence it cost us \$50,000 to replace the guns and we are still short.

All we are asking for is if a radar gun has been certified by the IACP and has been placed on the list, law enforcement agencies in Nevada can continue to use it even if it has been removed. If there is a problem, if there has been a recall, or if it has been deemed unsafe, that would be a different set of circumstances. This would be a cost saving measure for all of the agencies.

Assemblyman Claborn:

Could you tell me how often these radar guns have to be calibrated?

Robert Roshak:

It depends on what type of calibration you are talking about. Every time the officer goes into service, he does his own check for calibration with a tuning fork. Then every three years they are sent to the factory to be calibrated and make sure they work. Every time they are sent in for repair they are calibrated.

Assemblyman Claborn:

You mean they are self-calibrating?

Robert Roshak:

Yes, there is a calibration button on the radar gun. You can also use a tuning fork. They are set to send out a frequency that mimics a certain speed.

Assemblyman Claborn:

I am asking because I know people that have been stopped by law enforcement and have asked when the radar gun was last calibrated. If it does not have a sticker on it showing when it was last calibrated then they may have a case in court. Is that correct?

Robert Roshak:

That may very well be if the sticker is missing. All of the agencies keep records of when they have been sent in for calibration.

Assemblyman Goicoechea:

This could be a real hardship on some of the smaller rural departments. If they have to replace them, they clearly cannot.

I am concerned about the calibration. It seems to me that three years is a long time between inspections. It invites challenges, especially in those big wide open spaces on Highway 50.

Robert Roshak:

That may be the case. The radar gun is also used as a backup to the officer's observation. The days of sitting by the side of the road with a radar gun waiting for it to beep no longer exists. It verifies the officer's view of what is approaching and confirms the speed that he has estimated in his mind.

Assemblyman Goicoechea:

I assume they are used in cooperation—most vehicles that have radar guns also have video capability, is that correct?

Robert Roshak:

I do not know. I know in our case we do not have video. I do not know if any of the other agencies do.

Vice Chair Pierce:

Is there anyone who would like to speak in support of A.B. 380?

Brian Sanchez, Major, Highway Patrol Headquarters, Department of Public Safety:

We are in support of this bill for the same reasons as the Las Vegas Metropolitan Police Department. We are a traffic entity specifically enforcing traffic issues. We invest a tremendous amount of funding into radars. Currently, this does not impact us. We do not have radars that are not on the list, but in the future if that occurs we would like to be able to maintain the devices in our fleet.

Vice Chair Pierce:

Is there anyone else who would like to speak in support of this bill? [There were none.]

Is there anyone who would like to speak in opposition to A.B. 380? [There were none.]

Is there anyone who would like to speak as neutral on A.B. 380? [There were none.]

Assemblywoman Kirkpatrick:

Thank you for allowing me to testify this morning. I am always looking for ways to be fiscally responsible and look out for my rural friends as well as those in the urban areas.

Vice Chair Pierce:

I am closing the hearing on A.B. 380.

[Chair Kirkpatrick returned.]

Chair Kirkpatrick:

We are going to open the hearing on Assembly Bill 533. This measure revises provisions related to notaries public and was requested by the Secretary of State.

Assemblyman Goicoechea:

I need to disclose that my wife is a notary and this will not affect her any differently than any other notary.

Amber Joiner, Legislative Analyst:

This bill resolves a conflict in the current statute between provisions by providing an additional exception to the criminal penalty. It would allow a notary public to notarize the signature of a person who is unknown to him who provides a credible witness.

Assembly Bill 533: Revises provisions governing notaries public. (BDR 19-543)

Chair Kirkpatrick:

Is there anyone here in support of A.B. 533? [There were none.]

This bill came before the Government Affairs Committee during the 73rd Legislative Session. The bill passed out of Committee, and it died on the floor. It was the first and only one for the whole session. I am a little perplexed that no one is here to testify.

Is there anyone who is opposed to A.B. 533? [There were none.]

Is there anyone who is neutral to A.B. 533? [There were none.]

Assemblyman Claborn:

When you sign something that has to be notarized, the notary only witnesses your signature. That was my impression all these years. To be witnessed by the notary, and not by someone who knows you.

Assemblyman Goicoechea:

In some cases, when a notary notarizes a signature, he is supposed to either know you or be able to establish that you are who you say you are. This allows you to bring a witness that the notary would know to certify that you are who you say you are.

All the notary has to know is what the document is about, but they have to know the signatory or establish who the signatory is. You could have a witness when the notary knows that says, yes this is so and so. This bill facilitates the person.

Chair Kirkpatrick:

Ms. Lamboley, thank you for coming. We were a little perplexed about what to do since no one was here for this bill.

Nicole Lamboley, Chief Deputy, Office of the Secretary:

I will let Bru Ethridge talk about this bill and why we are seeking this change. We also have an amendment we would like for the Committee to consider ([Exhibit F](#)).

Bru Ethridge, Notary Division Administrator, Office of the Secretary of States:

We are here this morning to testify in support of A.B. 533. In Section 1 of the bill we are adding the ability for a notary to identify a document signer by using a credible witness. This is not a new requirement. Using a credible witness is

allowed under NRS 240.1655, subsection 4(b). Adding a credible witness to NRS 240.155, subsection 1(b), will help to better define all avenues in which a notary can identify a document signer. We came before the Legislature in 2005. In our amendment today we are asking for mandatory education. In 2005 we asked for mandatory education and it was denied at that time.

In this amendment to A.B. 533 we are again asking for mandatory education. Not only for new notaries but for current notaries who are not in compliance with NRS 240, which is the statute that governs notaries.

The amendment section of this bill outlines requirements of a course of study for new notary publics. In addition, the Secretary of State's Office offers affordable education. This section abolishes the voluntary training requirement and requires all new notaries to complete a four hour instructional course relating to the functions and duties of a notary public. It requires current notaries to attend a course of study only if the Secretary of State has proof that such a notary is in violation of NRS 240.

In the United States there are currently 14 states that offer some sort of education to a notary. States that require testing and education are North Carolina and California. States requiring education only are Oregon, Florida, Missouri, and Pennsylvania. States requiring testing only are Connecticut, Hawaii, Louisiana, Maine, Nebraska, New York, and Utah. The states offering voluntary education are Georgia and Nevada.

In the last year the Secretary of State's Office has seen dramatic increases in the number of notaries that are not in compliance with NRS 240. We had 132 complaints brought to our attention on documents that were not in compliance. This year we currently have 362 complaints. In 2003 we had 120 complaints. In 2004 we had 110 complaints. In 2005 we had 144 complaints. In 2006 we had 132 complaints. The number of complaints we are receiving for violations by notaries is growing.

The Secretary of State's Office conducts several notary classes throughout the year. We offer classes designed for a specific business. If the business wants us to come to its location, we will design a training course for their notaries specifically for those types of documents.

Last year alone we held three classes at the University of Nevada Reno (UNR) to benefit their staff and the county employees with their notary duties. Other businesses that have asked us to come to their places of business within the last couple of years have been Wells Fargo Bank, Boulder City Sheriff's

Department, Churchill County Clerk's Office, and the Elko County Sheriff's Department.

Assemblyman Claborn:

We see these people that sit out in front of a 7-Eleven collecting signatures on initiatives for an election. A person saying the initiative has to be a registered voter and the person collecting signatures has to notarize your signature. What if I came up there by myself? Does this bill make me come up there with a witness?

Bru Ethridge:

When you are signing an initiative for a petition, the person behind the counter will ask you if you are registered to vote. They take you at face value. If you say you are a registered voter you will sign the petition. It is the circulators' signature that is being notarized on that petition, which means that the circulator is the individual behind the desk who is asking the questions. He is saying he witnessed each individual sign the petition and asked each one the question. It is only the petitioner's signature that is being notarized.

Assemblyman Claborn:

What does this entail? Who is excluded?

Bru Ethridge:

Are you talking about who is excluded in getting their signatures notarized?

Assemblyman Claborn:

Who has to verify as a witness? Is it not the one that has notarized papers, is he not the witness if I am signing the paper?

Bru Ethridge:

You are asking me what a credible witness is?

Assemblyman Claborn:

What I am trying to do is narrow this down. I can see you have an example from the Department of Motor Vehicles (DMV) ([Exhibit G](#)). Does this mean that when I go to the DMV I have to bring a witness with me every time I have something notarized?

Bru Ethridge:

There are two forms of witness. The notary is a witness. He witnesses the signing of the document and identifies the document signer either through personal knowledge or through an identification card. When we talk about an individual who is witnessing the signing, that is different. That could be anyone

who witnesses a signing. We would have the witnesses signatures notarized. You are speaking about two separate instances.

The DMV document refers to the notary who is witnessing the signing of this document. The notary has certain requirements to follow. When you are asking that a document be notarized and witnessed, you are talking about a notary who is fulfilling the notary functions and then individuals not a party to the document who are witnessing the signing. In the case of a will, the notary is notarizing the witnesses' signatures and not the principle's signature.

Assemblyman Claborn:

This bill is so broad I would like to narrow it down. I am not against the bill, I am just trying to define who has to have a witness and who does not.

Bru Ethridge:

Which section are you talking about?

Chair Kirkpatrick:

So that she understands what section you are talking about, and because they have proposed a two-page amendment, could you clarify? You are talking about the original bill page 2, line 1, subsection b. I think that is where the question is. It says it provides a credible witness or a document. How do you define that?

Bru Ethridge:

A credible witness is an individual personally known to the notary and personally known to the document signer.

Chair Kirkpatrick:

That is still too broad when you put a credible witness in this particular statute.

Does anyone else have a question?

Assemblyman Settlemeyer:

I looked up Assembly Bill No. 508 of the 73rd Session. It is basically what this bill is with some changes. In the previous session it was three hours of training, and now they are going to four hours. It was amended at the last minute to add in fines and fees. You are not going to try to amend that in again, right? That is what caused 40 people to vote no on the floor.

Nicole Lamboley:

We did look at some of the legislative history, and I spoke with some of the Legislators who were here. One of the major concerns is, is this going to

require current notaries to receive training? We looked at the history of complaints. We have seen an increase this year. In one day alone we received 85 documents that had been improperly notarized. Secretary of State Miller felt there was some merit to requiring basic training for new notaries to explain to them what the current statutory requirements are for a document.

We all use notaries. Notaries can charge for their services. When we pay for those services we expect our documents to be accepted by the loan agency, the bank, or whomever. We feel we should be able to require some level of training, assuring the citizen or the person paying for the service that he is getting the document notarized correctly.

We will not be putting any fines in. There are statutory fines in NRS 240 if someone fails to comply with the laws. The other section of the amendment says if a current notary has received a violation and fine from the Secretary of State during his current appointment, when they seek renewal, we would recommend training to ensure that he is not continuing to fail to provide proper service.

Chair Kirkpatrick:

I was on this Committee last session, and we did not support the bill because there were questions on how often you had to take the training, and how much it would cost, et cetera. If you have taken the training once and your business is being a notary public, then you should be pretty current. It got voted out of Committee, went to the floor, and with all of the things about training and fees, it got killed on the floor. I think Ms. Lamboley has done a good job of addressing that from last session. People are probably more comfortable with this version than the last version. I suspect there will be a few people who do not want to have any training, but this is about the new people, not someone who has been a notary for 15 years.

Assemblywoman Womack:

Do we in Nevada recommend or require Errors and Emissions Insurance for notaries?

Bru Ethridge:

We do not require by statute that a notary have Errors and Emissions Insurance. It is a voluntary insurance policy.

Assemblywoman Parnell:

What do you have to do to become a notary? What kind of training? How often do you have to go back and take continuing education courses?

Nicole Lamboley:

There is no required training. You can apply for an appointment to the Secretary of State's Notary Division to seek an appointment as a notary. They provide a list of training classes that we host throughout the State on a regular basis.

Assemblywoman Parnell:

I would be much more comfortable with education language in this. I am having trouble with the credible witness part. I think it is rather shocking when we have individuals dealing with financial papers who have had no training. The four hours of training should be a requirement before you even become a notary. You have my complete support for that part.

Chair Kirkpatrick:

Are there any more questions?

On your first amendment subsection 1(a), does this mean the one time four hour training or is this—I just want to understand—provide courses for the study of mandatory training that provides at least four hours of instruction. Is that before or during?

Nicole Lamboley:

I did make a minor change to the amendment that I sent you. This would be the initial training but recognizes that someone may apply for a notary appointment today, and let us say, there is not a class scheduled for 30 days. I put in there we would have a grace period. We would address this through regulations that we already have in statute that would define that this grace period is upon your initial notary appointment.

If your appointment has lapsed for greater than one year, we would request that you take the training class because the laws can change in that time. If you are renewing and you have never had a violation, you get your appointment renewed. If you are new, we will require the class, which will be no more than four hours.

Chair Kirkpatrick:

If I went out and got my notary certificate before this bill took effect on July 1st, would I have to go back to take the four hour training or would I be okay as long as I do not have any violations within that first year?

Nicole Lamboley:

You would be okay. You would be grandfathered in. It would be effective upon passage and approval on the July 1st date.

Chair Kirkpatrick:

What scenarios have you had in the last two years that made you feel we have to insert this language? There must have been a reason you decided something was not working and a credible witness needed to be added in.

Bru Ethridge:

The ability to identify a document signer using a credible witness has always been in our statutes. What we did several sessions ago was try to centrally locate all of the requirements of the notary into a more cohesive area so that the notaries could go to specific areas and read their exact requirements and what they were supposed to do. In that session we accidentally left out the requirement of a credible witness in this particular statute. Last year it came to our attention that in NRS 240.155 the statute says there has to be an identification card, the notary has to be aware of the signature, and personally know the signer. We inadvertently left out "credible witness." If the notary specifically went to the statute describing how to identify a document signer they would not find the "credible witness." We have decided the best place to insert it is here.

A credible witness is used when the document signer has lost his identification. In order to verify who he is when going to the DMV to replace his identification or to get his signature notarized, he has to provide identification. If he does not personally know a notary and needs his signature notarized but does not have any identification, he cannot get his signature notarized.

If you happen to know an individual who knows a notary then you could go to that individual and say you need your signature notarized, then ask him if he will be your credible witness. The credible witness serves as identification. In most cases the notary, because he has created a relationship with the credible witness, will feel comfortable in notarizing the signature of the document signer who has no identification. The credible witness is the link between the document signer with no identification and the notary. The notary puts his faith in the credible witness. The notary will place the credible witness under an oath. The credible witness will verify the identity of the document signer. The document signer's signature can then be notarized. This is a standard practice across the United States. It was an oversight on our part when we tried to consolidate the statutes several sessions ago.

Chair Kirkpatrick:

I am trying to see if this truly impacts anyone in a harmful way.

Bru Ethridge:

The way the statute currently reads, we cannot identify a document signer using a credible witness. If he does not have an identification card with a picture and a signature, he cannot get his signature notarized in the State of Nevada. We can tell him how to do it if the credible witness is allowed, but under current statutes the credible witness is not allowed.

Assemblyman Settlemeyer:

My question goes back to the amendment. Florida has a three-hour course, and New York has a three-hour course. It seems like we have a shortage of people that can notarize. Is there any objection to putting the course time to three hours so it is common?

Bru Ethridge:

We have over 37,000 notaries in this State. Notaries are in several businesses like United Parcel Service (UPS) stores. Your local banks have notaries. There are notaries all over the State.

The three-hour course would be cheating the notary out of some valuable information. It is not only the statutes that we address in the training. It is the subtleties they will find as a notary, such as the copies of the documents I gave you. We can tell them they have to have the document signers appear before them. That is easy enough to understand. We can tell them how to fill out the journal and what the requirements are. It is the subtleties they see in day-to-day instances they do not understand.

Assemblyman Settlemeyer:

I am trying to figure out why a lot of other states say that three-hour courses are sufficient. I see that California has a six-hour course.

Chair Kirkpatrick:

Are there any other questions? [There were none.]

Is there anyone who would like to speak on behalf of A.B. 533? [There were none.]

Is there anyone who is neutral to A.B. 533? [There were none.]

Is there anyone who is opposed to A.B. 533? [There were none.]

Is there anyone in Las Vegas who would like to speak on A.B. 533? [There were none.]

I will close the hearing on A.B. 533.

Assembly Bill 559: Authorizes the Governor to designate a temporary replacement if the State Controller or the State Treasurer becomes temporarily incapacitated. (BDR 23-700)

We are going to open the hearing on Assembly Bill 559.

Mark Taylor, Assistant Controller:

The genesis of this bill was due to the unfortunate events of last summer with the controller who was found incapacitated. There was a short time between the incapacitation and her passing where conversations occurred between the Deputy, me, and the Attorney General's Office. There is some clarification we felt is needed in the law.

There are some specific financial instruments that require a signature. There was not a risk to the financial operations of the State; however, there was a certain amount of urgency because of the signatures required by both cosigners, the Treasurer and the Controller.

At that time the Attorney General's Office, with us in agreement, indicated it might be worthwhile to put some kind of clarifying language together to allow for a temporary assignment for someone to be able to sign those financial instruments if it was necessary.

The current language in the NRS allows for the Governor to appoint someone if a vacancy occurs. Within the NRS you can see there are specific reasons or designations as to what constitutes a vacancy. Incapacitation is not in there. We thought we would try to add this clarifying language so incapacitation would be covered.

That is the purpose of the bill. We have been in contact with the Attorney General's Office and the Treasurer's Office. I spoke with the Legislative Counsel Bureau (LCB) staffer who was drafting the language. We all agreed there are enough statutes in place that would prevent any abuse or concerns related to what is considered incapacitation and when the incumbent would be able to resume his duties. We would be protected from any potential abuse.

Assemblyman Goicoechea:

The Governor could determine that someone is incapacitated. That concerns me. Where is that definition?

Mark Taylor:

That was one of the biggest concerns in the early language of the draft. We got into having competent medical physicians who can determine what is considered incapacitation. I do not have a firm grasp on all of the laws relating to appointments and how Governors can make those appointments. There is language in existing law that would prevent the Governor from deciding that he does not get along with someone and is going to declare him incapacitated. We thought perhaps we would have individual constitutional officers, such as the Secretary of State and/or the Lieutenant Governor, that would be allowed to have the ability to sign the checks.

Chair Kirkpatrick:

I was speaking with Legal, and we could put a common law definition in.

Scott McKenna, Committee Counsel:

Since the term incapacitated is not specifically defined in the statute, what we would do is go by a standard dictionary definition, which is disabled or not having the current faculties to carry out the duties of the job. If it was the desire to put a finer point on things, we could add a definition.

Assemblyman Goicoechea:

I feel a little more comfortable with that. If we are going to go this far and have a draft up, then let us work on a definition.

Chair Kirkpatrick:

Rather than coming back every two years to fix the unintended consequences, I want to make sure that it is not so broad.

Assemblyman Settlemeyer:

This all came about because of the Controller, and now we have added Treasurer. Should we be adding all constitutional officers, and if the Governor becomes incapacitated, then the Lieutenant Governor takes his position? Should we be trying to fix all concepts? If you want to leave it to the situation, then that is the Controller. You choose to expand it out to the Treasurer, and I wonder why you did not expand it out to all.

Mark Taylor:

The specific reason for the two being the Treasurer and the Controller is the necessity to have the dual signatures on financial papers. You will see those

two signatures on any check you get from the State. That includes all of the negotiable instruments, including bonds and other things.

There are other instances when you could ask why not the Secretary of State. We thought of these two because the financial needs and necessities to keep the financial wheel moving for the whole State warranted creating a BDR and then a bill for this.

Assemblywoman Parnell:

A little bit of heartburn in this is the Governor makes this determination. We do not have any language that says confirmed by a physician or with approval by the Legislature. It is just a single individual making this determination. I would not feel comfortable with the bill as long as it was that narrowly determined.

I do not know if you discussed any other possibilities, but there is not even a reference to a physician's statement with regard to incapacitation.

Mark Taylor:

This could be a 15-page or 20-page bill relating in detail to how incapacitation is defined, and how many physicians might be required to define that. I agree with Legal that we might be able to insert language as to who would define incapacitated and how it would be defined.

Assemblywoman Parnell:

I still would not be comfortable with that even with the definition. I would want someone else signing off on that determination.

Chair Kirkpatrick:

Does anyone else have a question? [There were none.]

Is there anyone who is in favor of A.B. 559? [There were none.]

Is there anyone who is neutral on A.B. 559? [There were none.]

Is there anyone who is opposed to A.B. 559? [There were none.]

Mark Taylor:

Given the fact that the financial status and state of the State of Nevada was so critical, we wanted to ensure we had the vehicle by which to ensure the wheel keeps turning.

Chair Kirkpatrick:

The Interim Finance Committee (IFC) meets quarterly. That would give us enough of a time frame to have them as the second person who could sign off on this. Usually you have a 30-day time frame and IFC is pretty consistent on when they meet. Then you would have the Executive Branch as well as the Legislative Branch making a determination. You could bring the finding before the IFC, and then you could move quickly to do whatever.

Mark Taylor:

We would be open to that. In this particular instance we were a victim of circumstance and timing when the Controller's death occurred.

The Controller went into a coma on Saturday, and we met Monday morning with the Attorney General's Office to ensure that everything was in place. As the Governor stated, and we stated in our press releases, there was never any immediate risk to the financial status of the State. However, because some financial instruments required a direct ink signature in a very short period of time, we felt this was something we wanted to make sure would allow for quick and immediate action.

Within the language regarding filling a vacancy, there is language which talks about a District Court convening quickly. There are lots of different ways you can do that. On the passing of the Controller, the Governor made an appointment the next day. In the hour that the new Controller was appointed, we were trying to get electronic signatures so we could make the transition very quickly.

Chair Kirkpatrick:

That unfortunate situation will not happen very often. I am trying to think of how we can narrow it down a bit so we can have some findings in place.

Assemblyman Settlemeyer:

Could we find someone else that we felt was suitable? If it was the Governor's and the Lieutenant Governor's decision or even if you had to find someone else, find two qualified people to make that decision. I worry that if we involve another body, it would take a longer time.

Assemblywoman Parnell:

The issue here is taking it out of politics and putting it in the hands of a physician. I think this bill is missing the word physician. The physician needs to make the determination as to incapacitation, and then direct the Governor to make the appointment. I could not support this unless we give that authority to a physician and take it out of the political realm.

Chair Kirkpatrick:

I will close the hearing on A.B. 559.

[Recessed at 9:25 a.m.]

[Reconvened at 9:38 a.m.]

I will open the hearing on Assembly Bill 530.

Assembly Bill 530: Creates the Office of Ombudsman of Consumer Affairs for Minorities. (BDR 18-1375)

Assemblyman Mo Denis, Assembly District No. 28:

Over the last couple of years I received many phone calls from my constituents and those in the Hispanic community who have called on consumer fraud issues.

I received a call from a person who had invested money with an individual. This individual had created a business and called it the Mexican Chamber of Commerce. This was an individual that was doing things on his own. These individuals invested \$2,000, \$3,000, or \$4,000. He would give them a stock certificate and tell them he would double the money within a year and pay them.

We started an investigation through the Secretary of State's Office, which then led to an arrest. We were able to get eight victims to come forward. That was difficult because the individual had threatened to call Immigration and Naturalization Services (INS) and to call the Federal Bureau of Investigation (FBI) so they were scared to come forward. We were still able to get an arrest.

As soon as it hit the media, we were able to get additional victims. Another 13 to 15 victims came forward after this incident. That is still moving through the courts.

Two years ago I came before the Judiciary Committee on an issue concerning notaries public. The term notario publico, which is the Spanish version of notary public in most Latin American countries, means lawyer. We have individuals in the community that are doing lawyer's work, such as immigration, divorce, et cetera. They are charging the same amount as a lawyer, but yet they are paying their \$30 fee to become a notary public.

After discussion and working with the Research staff, we came up with creating an Office of Ombudsman of Consumer Affairs for Minorities.

The bill creates this office. The Director of Business and Industry appoints an Ombudsman. It is created within the Consumer Affairs Division of Business and Industry. This individual would be charged with, as it says in Section 2, line 13, providing for continued educational outreach and service programs for minority groups pertaining to consumer fraud. On line 15, it says to provide assistance to members of minority groups who are victims of consumer fraud.

One of the things that became apparent as I started to work with these individuals is when you tell them they need to call an agency, they end up making four or five phone calls to get to individuals that might be able to help them. This ombudsman will be able to keep track and help them get to the people they need to, whether it is a state agency or the local police department if it is some kind of criminal case.

As we did some more research, we realized there was a Commission on Minority Affairs that was going to sunset after this session. We thought that it could be a useful thing. I received phone calls from several people, including the Governor's Office, about trying to keep this Commission.

We decided if we also made the ombudsman the executive secretary, we took away the sunset. Now we have an individual that could help the Commission along. The Commission was created and has been in existence for awhile but has not done much because it has not had administrative support, and it did not have any funds. It would continue the Commission, and then the director for this industry could provide additional support, whether it is secretarial or administrative support.

The last part of the bill creates a fiscal note. It provides money for travel and supplies that the Commission would need.

Just a few weeks ago the organization Progressive Leadership Alliance of Nevada (PLAN) released a report that was done by Robert Ginsburg, who is a research analyst for the Center on Work and Community Development out of Chicago, Illinois. They did *The Demographic and Economic Facts about Hispanic Immigrants in Nevada*. I want to point out a few of the details that were in there. They note in the report that \$2.6 billion in federal taxes are collected from Hispanic immigrants in the State of Nevada. In addition to that, \$1.6 billion in State and local taxes are collected. Compare that to the \$3.4 billion that has been proposed for this current year. The Hispanic immigrants are contributing a great portion of our State budget.

The report talks about how 108,380 jobs were created because of the Hispanic immigrants in the State. There is a huge need for consumer protection.

Assemblyman Kihuen:

That is not just an issue in your district. It is an issue across the State that must be addressed as soon as possible.

Currently, where do people go if they have an issue? Who do they call? Is there a person that can speak to them in Spanish?

Assemblyman Denis:

In this particular security fraud case they called me, and I called Constituent Services, then we worked with the Secretary of State's Office. There is an individual in the Secretary of State's Office who speaks Spanish. That person's job is not necessarily to deal with the Hispanic population, but that individual has been receiving a lot of phone calls lately because the number was given out.

There is not one place that someone can call. I requested a list from all the State agencies of the employees that speak Spanish that could attend to the minorities that call for assistance. Most of the agencies have at least one person that speaks Spanish, but some of them do not have any. Some of them have someone in a different department that can translate. There is not an easy way for someone to call and get that help.

Assemblyman Kihuen:

The reason I asked that question is in my district I get those phone calls every single day. People call here thinking I can do something about fraud. Obviously, they do not know the difference between a Congressman or a State Assemblyman or a Consumer Affairs person.

This is an issue that is important in your district, in my district, and across the State. Immigrants contributed \$1.6 billion in local and State taxes. Issues such as this should not be ignored.

Assemblyman Munford:

When you say minorities, are you speaking in terms of...

Assemblyman Denis:

This is not limited to just Hispanics. This could deal with people across the board. I have heard of issues of consumer fraud in the Ethiopian community in Las Vegas. It is not limited to that. Obviously the individual would need to speak Spanish to deal with the Hispanic population, but he could deal with any consumer fraud issues in any minority community.

Assemblyman Munford:

I get calls about that myself. I wanted to know how many minorities would be included.

Assemblyman Denis:

I should say that the Commission on Minority Affairs is made up of various minorities including African-American, Hispanic, Asian-American, et cetera.

Assemblywoman Womack:

In my district and working as a realtor for 28 years, I have seen this firsthand. Someone is charged an exorbitant amount of money for a loan or as a fee tacked onto a real estate contract. When you talk to them about it you find it is a notary public they are paying, but they think it is an attorney. I see it in the insurance industry. I see it in the mortgage lending industry. I see it in the real estate industry.

Assemblywoman Pierce:

What was the thinking on Section 3, line 19, the part about serving as the Executive Secretary to the Nevada Commission on Minority Affairs? Why the Executive Secretary and not just a member of the Commission?

Assemblyman Denis:

With a lot of the committees that are created, there is a paid staff person that is in charge to help get things together. The Executive Secretary would do the administrative function.

Assemblywoman Pierce:

Who would be doing the Executive Secretary function now on the Commission on Minority Affairs?

Assemblyman Denis:

If we do not get rid of the sunset feature, it will not matter because it is going to go away.

Assemblyman Kihuen:

Is this a department you are trying to create or one position? You are not trying to create a whole department, correct?

Assemblyman Denis:

Correct. This is an individual who would serve under the Commissioner of Consumer Affairs in the Consumer Affairs Division of Business and Industry.

Chair Kirkpatrick:

I would not want it limited to one particular minority group. I hope that women would be included as a minority group, as well.

Assemblyman Denis:

The Commission on Minority Affairs has that full representation in the Commission. The intent is to help the whole community. I just happen to deal more with the Hispanic community. If there are these kinds of fraud issues happening with consumers, then this particular ombudsman would be able to deal with those.

Assemblyman Kihuen:

Is this person going to be a bilingual person? Is it going to be someone that can educate the community? In comparison to the Spanish-speaking communities, other minority communities are educated. They know where to call. They know where to call to find someone to help them. In the Spanish-speaking community, there are a lot of people that are not educated. They do not speak English, and they are not as educated as other people, so they would not know where to call. Is this person going to be doing outreach and education?

Assemblyman Denis:

Yes. As I mentioned on line 13, page 2, Section 3, it says "provide continued education, outreach, and service programs for minority groups pertaining to consumer fraud." I would assume this individual would be out there working. I know the Consumer Affairs Division also has some consumer fraud individuals there that could help. My desire is for him to be able to communicate with the community and those who are calling in. I see this as being a bilingual position.

Assemblyman Christensen:

The changes in the Las Vegas valley, the State of Nevada, or the western United States over the last ten years has been significant. Growth and population sectors, issues, what this gets down to is keeping an economy moving. Economies move through confidence and security of industry. That is the genesis. What changes have you seen over the last ten years? How has this been addressed?

Assemblyman Denis:

The minority community has grown over the last ten years. Many of these things have been going on all along because of the numbers of people that are coming in. Many have been afraid to come forward when they have been discriminated against or have consumer issues. It is not only in Hispanic communities.

Other states, such as California, have tried to crack down on things like the notario publico. Many of those individuals get run out of town, and so they come to Nevada.

The individual that started the Mexican Chamber of Commerce came from California. As they realize authorities are going to start cracking down, they move. Many of them have moved into Nevada where they have fresh opportunities.

Chair Kirkpatrick:

Is there anyone who would like to speak in favor of A.B. 530?

Albert Delgado, President, Nevada Association of Hispanic Real Estate Professionals:

I have personally been serving the minority consumer for the past 19 years in the real estate and financing field.

We are in favor of the bill because we know it is necessary for the minority communities to be able to contact someone to get things going in cases of fraud or of misrepresentation.

The National Association of Hispanic Real Estate Professionals is a non-profit 501(c)(6) trade association with over 14,000 members in 48 states and 52 affiliate chapters across the nation. Based in Washington, D.C., our members are real estate agents, brokers, loan officers, mortgage brokers, title officers, escrow officers, appraisers, insurance agents, and more. They are from diverse cultural backgrounds as membership is not limited to professionals of Hispanic descent.

Our mission is to increase and sustain Hispanic homeownership rates by empowering the advisors that serve the Hispanic population. We accomplish this by providing educational tools to the industry, a networking forum, and legislative and regulatory advocacy supporting sustainable Hispanic homeownership.

Our vision is not just to tap into the purchasing power of the Hispanic market but to utilize home ownership as the cornerstone by which Hispanic families can achieve financial stability and economic wealth.

I am going to read a little bit from an issue brief that the National Council of La Raza has regarding high predatory practices and minority lending.

The Latino population has continued to grow rapidly. With explosive growth has come considerable demand for homes and accompanying financial services. Banking institutions are searching for ways to engage the underserved Hispanic market. Despite their efforts the mainstream housing market has moved too slowly to develop appropriate and affordable mortgage products and outreach services that effectively meet the needs of the Latino consumer.

With mainstream institutions invisible to many Latinos other mortgage lenders have aggressively moved to capitalize on the ownership aspirations of Hispanic workers by bombarding Latino media and neighborhoods with advertisements for mortgages and other financial products and services from these institutions and agents. In this targeted market where regulation and oversight are poor and consumers are largely uninformed, the ground has become fertile for questionable mortgage lending practices known industry wide as predatory lending.

I am reading now from an article from the *Washington Post* dated March 26, 2007. This article says that nationally, 375,000 high interest rate loans were made to Hispanics in 2005, and nearly 73,000 of them are likely to go into foreclosure. This was a statement from the Director of Latino Affairs for the Center for Responsible Lending.

In addition to that, about 1.1 million homes in the United States are expected to go into foreclosure in the next six years. Many native-born Americans are likely to be stuck with burdensome loans, but immigrants are getting hit first in part because their incomes tend to be lower. The Center for Responsible Lending has also projected foreclosure rates for this year. In Carson City, Nevada, it is projected to be 22.5 percent foreclosure across the board. For Las Vegas the projection is 23.7 percent, and for Reno and Sparks the projection is 23.2 percent. Anything over single digits in this field is irresponsible lending.

These people need a bill like this, and they need a representative like this to be able to talk to and bring people who are doing it out into the public. Predatory behavior manifests itself in the Latino community through a variety of abusive tactics by lenders and brokers. First they use push tactics, which are aggressive marketing techniques whereby consumers do not seek but are affirmatively offered credit or loan products by a loan officer, broker, or finance company often sold via door to door sales, mail, or phone solicitation.

Other tactics that are used are independent third party brokers. These are the names of services that should come out into the community or the community should be aware of what companies are doing predatory lending.

Many Hispanic families, who might otherwise be intimidated by the home buying process, rely on independent third parties, such as real estate agents, mortgage brokers, appraisers, and translators to help them overcome the barriers to services discussed with regards to the kind of product to use, what kind of realtor to use, what kind of title company to use, and who to go to for a loan. In some cases the unscrupulous agents steer families to dubious products and high cost loans or push them to unnecessarily refinance their home or automobile. The family unknowingly and blindly trusts the agent because of their cultural connection.

A great majority of the business that goes to minorities comes from mortgage brokers from a variety of sources, including depository institutions, mortgage companies, and wholesale lenders. The advantage of using a mortgage broker is the wide variety of loan products to which they have access. The disadvantage is they have an economic interest in pushing the cost of a loan higher to produce a higher fee for themselves. This is called a Yield Spread Premium.

In 2002, mortgage brokers originated approximately 2/3 of the nation's mortgages and between 65 and 80 percent of the nation's nonconforming mortgages. Those are sub-prime mortgages. This market share is higher in the minority communities. Approximately 45 percent of Hispanic purchased mortgages and 25 percent of refinanced mortgages are nonconforming.

Several studies have determined that between 35 and 50 percent of sub-prime borrowers could qualify for an A or A minus product, which is sold by the prime banking institutions. Some lenders allow people to take out loans without verifying their income and their ability to repay. Lenders have found a trend of sorts in financing loans by turning to investors who bought the loans as package securities. These kinds of loans are not supervised in the same way as loans made by banks and held in their portfolios.

The best way to stop predatory lending is to bring out the person who is doing this bad practice to the community. The National Association of Hispanic Real Estate Professionals (NAHREP) believes that anyone engaged in predatory lending practices must face severe regulatory penalties and should be subject to permanent disbarment from this industry. This bill is a great start, and I urge you to approve the bill.

The reason I am bringing up predatory lending is those are the people who are attacking and bringing fraud into the community. They are the ones needing to be reported to the Commission mentioned the bill.

Leticia Gardea, Executive Director, National Association of Hispanic Real Estate Professionals, Nevada Chapter:

I am going to give you some practical issues that have happened in our community and the reason we are adamant about educating our consumers to prevent all of this predatory and fraud abuse.

Within our member base, friends, and affiliates of over 2,000 in our Nevada chapter, I can give you 100 of those who have three to five stories of victims that have endured this type of abuse. Unfortunately, there is no actual conduit to be able to assist this community.

The information distributed from this office would be viable. I also wanted to reiterate that our Hispanic consumers are not ignorant. They are well educated. The fact is they do not have this process. It has been noted in the national press that it is not the language barrier causing this. Hispanics are victimizing other Hispanics. They are abusing, gouging, and causing real estate fraud as well as lending fraud.

In our office we partner with our media to help educate the consumer. We can educate, guide, and give them the resources that exist. At this point there is not one resource we can guide them to so they can create accountability for this type of abuse. We all agree that it is affecting our economy. Now we are number one in foreclosures. We are all interested in the aspect of reducing that rate.

There are real estate practitioners in Las Vegas that are capitalizing on fraud abuse with their commercials, with their advertisements, and saying do not fall under predatory and fraud abuse, call us and we will help you. Unfortunately they are practicing fraud. There is still not a means to prevent our community from falling under predatory fraud abuse. They are swarming to these individuals. There is not an office to control this type of abuse. We need an office that can handle the bilingual aspect, provide the resources, and educate our community, as well as take in all of these phone calls and guide our community. I am in support of this bill.

Chair Kirkpatrick:

Are there some other examples you can use aside from consumer fraud that will enlighten us?

Robert Gomez, Chairman, Latin Chamber of Commerce:

The Latin Chamber of Commerce is the most-known permanent agency advocating for Hispanics in social, cultural, and business issues affecting our State and all Nevadans who are members. It has been around since 1975.

Earlier you were asking who these people call. They call us. We have worked closely with Assemblyman Kihuen and Assemblyman Denis in regards to trying to get an advocate to represent them. We are in support of this bill.

There is immigration fraud going on. Payday loan fraud is going on. Real estate fraud is going on. Hispanics are getting taken advantage of in a criminal nature.

Our staff handles around 25 to 30 calls per week dealing with all types of fraud. The most recent was of a physical nature. People were being preyed upon in the Hispanic community. Thieves were following them, targeting them, beating them up to the point where they killed one person. We and the Metro Police joined together to get a message out to the consumer saying they are known to carry a lot of money on them and they need to be careful.

Everyone knows these issues are there. The problem is we have nowhere to send them, nowhere to give them a person that can speak for them, or be an advocate for them and lead them to the correct agencies. In the Latin Chamber of Commerce this is not specifically our field.

We desperately need an Ombudsman of Consumer Affairs for Minorities. When these issues arise, we can take them to a person who is knowledgeable. If they do not have the knowledge, they have the list and the resources to send these people to the correct agency or person.

Everyone knows the problem. We need a representative we can send the people to. We would like that position to be Hispanic and bilingual because a lot of the people being taken advantage of are Hispanic.

The bill talks about educating. If I had a person that I could bring in, an ombudsman, to attend my Latin Chamber luncheon or one of my business education meetings, I could have this person help educate my community. This would be a valuable tool.

I urge you to pass this bill.

Chair Kirkpatrick:

I appreciate your input. I think it is important.

Is there anyone else in Clark County who would like to speak in favor of this bill? [There were none.]

Is there anyone in Carson City who would like to speak in favor of this bill?

Steve Robinson, Deputy Chief of Staff, Office of the Governor:

We support this bill. We think lending the support of the Business and Industry Department for staff assistance will be an improvement over the situation as it is now. The Director of the Department has pledged her assistance to see this program work and to activate the Commission mentioned in the bill and make sure its existence does not expire. We also think there should be a travel budget so the Commission is able to meet regularly.

I will add one cautionary note about the addition of another full time employee (FTE). We are all going to be engaged over the next 60 days in a lot of budgetary choices. Before you create a new position I ask you to consider that very heavily.

James Campos, Commissioner, Consumer Affairs Division, Department of Business and Industry:

I want to reiterate the same thoughts.

Chair Kirkpatrick:

I understand that we have to look at where we are financially when considering creating a new position. Do you feel that creating the policy first, then if there were some extra money, it would go for this position? This would set policy, and then we would allow the budget committees to decide.

Steve Robinson:

That would be a good way to go.

Assemblyman Kihuen:

Do you have someone within your office going out to the community in general, educating on consumer fraud, et cetera?

James Campos:

Presently we have a bilingual member in our office and in Las Vegas. We are starting the education process and starting to go out into the communities.

Chair Kirkpatrick:

Is there anyone else who would like to speak in favor of A.B. 530?

Andrew Barbano, Representing the National Association for the Advancement of Colored People, Reno/Sparks Branch:

Last night at our executive board meeting, the branch asked me to come here this morning and not only support the bill but bring up some pertinent issues regarding funding. In the ebb and flow of conversation this morning a couple of other points have occurred to me.

Our president sits on the Nevada Commission on Minority Affairs. When I brought this issue up last night, she and another member made the point that the Commission has not met in a year because there is no money for it to do anything. Looking at the existing law in the last paragraph of this bill, it is almost like saying do not dare spend any of the pittance we gave you a couple of years ago, and make sure it all reverts to the general fund. That is okay. Spending the \$15,000 that was given is going to be difficult anyway because you cannot do much with that kind of money.

This echoes many conversations and admonitions the Reno/Sparks branch has had to issue to governments over the years. If you are going to propose a program, you have to fund it. You cannot fund it with small amounts of money. The Nevada Commission on Minority Affairs is essentially dormant today and it needs money. It not only needs a travel budget but a budget to accomplish something.

I will confess to being a bit in the dark as to what the Commission is supposed to accomplish because I do not sit on it. This also echoes a scenario I went through in 1981 when now Senator Townsend and I lobbied through the consumer advocate bill. It took 21 years from the introduction of the first legislation in 1960 to give Nevada a public utility consumer advocate. That office has now been folded into the Division of Consumer Affairs and is still quite active. It has saved consumers quite a bit of money.

One of the things we had to convince the Legislature of in 1981 is if you are going to have a Consumer Advocate's office it has to have a staff and a budget. I will confess to proceeding with imperfect information with respect to what the Department of Consumer Affairs has been doing on behalf of Latino and minority consumers in the past. From what the people in Las Vegas have brought forward, it seems like you have a crying need for consumer representation in the area of consumer fraud. It appears that whatever good auspices the Department of Consumer Affairs has been able to accomplish in the past with the one person in Las Vegas who does this, it does not appear

that that is enough. You not only need to establish this ombudsman's function, you need to see to it the ombudsman is funded as opposed to the caveat that Mr. Robinson brought forward that you may not be able to fund this position. I do not think this Committee needs to be put in a position of passing a bill to create an office for which there will be no funding. That needs to be actively lobbied.

We will work with State officials to form a budget and a staffing recommendation for the Ways and Means Committee to fund this function properly because there seems to be a need among Nevada consumers for exactly what you are talking about.

The Reno/Sparks NAACP endorses this bill.

Chair Kirkpatrick:

Does anyone have any questions? [There were none.]

Is there anyone who is neutral on A.B. 530? [There were none.]

Is there anyone who is opposed to A.B. 530? [There were none.]

Assemblyman Denis:

Rena Meyers-Dahlkamp from PLAN said that they are in strong support of A.B. 530.

Assemblyman Munford:

What is the approximate cost?

Assemblyman Denis:

The position is an unclassified position. There is a fiscal note attached that is approximately \$55,000 to \$60,000. There was not any money for the Commission on Minority Affairs. This adds to the \$15,000 that we put in there before. I did not want to get too greedy. Since they did not have anything before, I figured we had enough in there for them to meet at least four times per year and also have additional supplies.

Chair Kirkpatrick:

We are going to close the hearing on A.B. 530.

Is there any public comment? [There was none.]

[Meeting adjourned at 10:31 a.m.]

RESPECTFULLY SUBMITTED:

Rachelle Myrick
Committee Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: March 30, 2007

Time of Meeting: 8:00 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance roster
BDR R-1454	C	Assemblywoman Marilyn Kirkpatrick, Assembly District No. 1	Bill Draft Resolution
A.B. 50	D	David Kallas, Representing the Police Protective Association and the Southern Nevada Conference of Police and Sheriffs	Proposed amendments
A.B. 50	E	Joseph Turco, American Civil Liberties Union of Nevada and Nevada's Attorneys for Criminal Justice	Proposed amendments
A.B. 533	F	Nicole Lamboley, Chief Deputy, Secretary of State	Proposed amendments
A.B. 533	G	Bru Ethridge, Notary Administrator, Secretary of State's Office	Examples of notarized documents that were notarized incorrectly.