MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Seventy-fourth Session
May 10, 2007

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 9:09 a.m. on Thursday, May 10, 2007, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mark E. Amodei, Chair
Senator Mike McGinness
Senator Dennis Nolan
Senator Valerie Wiener
Senator Terry Care
Senator Steven A. Horsford

COMMITTEE MEMBERS ABSENT:

Senator Maurice E. Washington, Vice Chair (Excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Susan Gerhardt, Assembly District No. 29
Assemblyman William Horne, Assembly District No. 34
Assemblywoman RoseMary Womack, Assembly District No. 23

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Committee Policy Analyst
Brad Wilkinson, Chief Deputy Legislative Counsel
Barbara Moss, Committee Secretary

OTHERS PRESENT:

Brian O'Callaghan, Detective, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department
Darrell Wade, Henderson Police Officers' Association; Southern Nevada Conference of Police and Sheriffs
David F. Kallas, Director of Governmental Affairs, Las Vegas Police Protective Association Civilian Employees, Inc.; Southern Nevada Conference of Police and Sheriffs
Ross Miller, Secretary of State
Scott W. Anderson, Deputy for Commercial Recordings, Office of the Secretary of State
Samuel P. McMullen, Snell and Wilmer, LLP
John Delikanakis, Snell and Wilmer, LLP
Dennis K. Neilander, Chair, State Gaming Control Board
Anthony Cabot, Nevada Pari-Mutuel Association
William Bible, Nevada Resort Association
Keith L. Lee, Carson City Gaming, LLC
Jeffrey A. Fontaine, Nevada Association of Counties
John W. Griffin, Olympia Gaming, LLC
Jason M. Frierson, Clark County; Clark County Public Defender's Office
Cotter C. Conway, Washoe County Public Defender
Joseph A. Turco, American Civil Liberties Union of Nevada
Sally Ramm, Elder Rights Attorney, Aging Services Division, Department of Health and Human Services,
Noel E. Manoukian, Senior District Court Judge, Administrative Office of the Courts, Nevada Supreme Court
Kathleen Buchanan, Public Guardian, Clark County
Andrea Sommers, Registered Guardian
Kim Spoon, Geriatric Care Manager, Guardianship Services of Nevada, Inc.
Shelly A. Register, JD-RG, Geriatric Care Manager, Guardianship Services of Nevada, Inc.
Ginny Casazza, Registered Guardian

CHAIR AMODEI:
The hearing is opened on Assembly Bill (A.B.) 352.

ASSEMBLY BILL 352 (1st Reprint): Prohibits the issuance of certain work cards to persons who have been convicted of certain crimes. (BDR 10-708)

ASSEMBLYWOMAN SUSAN GERHARDT (Assembly District No. 29):
I will read my prepared testimony (Exhibit C). I would like to share a personal story. My father died a few weeks before this Legislative Session began. In the months before his death, he was hospitalized, in rehabilitation facilities and assisted living. One morning, my mother came to see him, took his hand and noticed something odd about his wedding ring, which he had worn for many years and it could not be removed from his finger. Upon examining it, she discovered the diamonds had been pried out of the ring. We will never know whether he was awake when it happened or if he was frightened by it. We hope he slept through it; however, because he was unable to communicate, we will never know.

Assembly Bill 352 is important. I would not want this to happen to anyone else if it can be prevented. I hope you agree.

BRIAN O'CALLAGHAN (Detective, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department):
We support A.B. 352 and adding denial criteria for work cards. *Nevada Revised Statute* (NRS) 118A.335 protects individuals from harm caused by persons performing work or other type services for residents who live in dwellings designated for 55 years of age or older. Without clear denial criteria, convicted felons would be allowed to obtain work cards and/or the Las Vegas Metropolitan Police Department (Metro) could be challenged for denying work cards based on the applicant's criminal history. The Metro took a commonsense approach creating denial criteria for applicants.

On average, 15 work cards are issued related to NRS 118A.335 per month. Approximately five work cards per year are denied. None of the denied has been refuted by the applicants. The law already requires applicants to be fingerprinted and the prints sent to the state and the Federal Bureau of Investigation. This legislation will give issuing agencies reason to deny permanent work cards or cause to revoke work cards when necessary.

Assembly Bill 352 will enable the Metro to reasonably determine who qualifies for a work card for employment in such facilities based on an applicant's criminal history.

CHAIR AMODEI:
Do people working 20 hours a week need a work card? The circumstance you described is access, not access triggered by 36 hours or more a week.

ASSEMBLYWOMAN GERHARDT:
It refers to a person who cuts the lawn or a temporary worker.

CHAIR AMODEI:
The hearing is closed on A.B. 352 and opened on A.B. 323.

ASSEMBLY BILL 323 (2nd Reprint): Revises the amount paid to witnesses for mileage in traveling to and from a proceeding. (BDR 4-1176)

ASSEMBLYWOMAN ROSEMARY WOMACK (Assembly District No. 23):
Assembly Bill 323 is the mileage allowance added to the NRS in 1971, at which time the rate was 15 cents per mile. It was changed and upgraded in 1981 to 19 cents per mile and it remains that amount today. This bill raises the mileage allowance for people who testify in front of a jury to the current federal standard of 48.5 cents, which is what Legislators are paid.

I submitted two handouts to the Committee entitled: Mileage Allowance to the Federal Standard (Exhibit D) and Partial Fiscal Impact Report on Assembly Bill 323 (Exhibit E).

Revisions to NRS 50.225, as contained in A.B. 323, would make the bill effective July 1, 2008, due to the fiscal impact on the courts. They asked how the fees would be paid and we agreed to change the date to July 1, 2008, to enable them to put it in their budget.

DARRELL WADE (Henderson Police Officers' Association; Southern Nevada Conference of Police and Sheriffs):
We support A.B. 323. It is time mileage is increased to federal standard.

DAVID F. KALLAS (Director of Governmental Affairs, Las Vegas Police Protective Association Civilian Employees, Inc.; Southern Nevada Conference of Police and Sheriffs):
We support A.B. 323. We brought this bill to Assemblywoman Womack, not just on behalf of the officers who testify off duty in court every day but also for the thousands of citizens throughout Nevada who drive to the court. In

1981, the price of gas was $1.50 to $2 a gallon. Nobody will get rich or make money on the increase; we only want to set a statewide standard that will compensate for money spent, not only for gasoline but also parking facilities in Clark County.

SENATOR HORSFORD:
An amendment was added that created section 2 of A.B. 323. What is the purpose of that provision?

BRAD WILKINSON (Chief Deputy Legislative Counsel):
It is an unfunded mandate clause that imposes an unfunded mandate on local government and does not identify a specific source of funding.

SENATOR WIENER:
Do they have to request an unfunded mandate?

MR. WILKINSON:
It is still identified as an unfunded mandate, but the cover of the bill says it was requested by affected local government.

CHAIR AMODEI:
The hearing is closed on A.B. 323 and opened on A.B. 25.

ASSEMBLY BILL 25 (3rd Reprint): Makes various changes to provisions governing business associations. (BDR 7-544)

ROSS MILLER (Secretary of State):
I am proposing an amendment to A.B. 25. A Congressional subcommittee has investigated Nevada's corporate filing practices and indicated Delaware, Nevada and Wyoming have lax corporate filing practices and security. This has made them safe havens for fraudulent activity, possible implication of terrorist activity and shielding of money laundering. Letters were sent to the governors of those states suggesting they take action.

I have been part of a National Association of Secretaries of State task force to resolve these problems. A local task force has been created comprised of attorneys, resident agents and members of law enforcement to find remedies for these problems.

I provided two articles, local and national, that highlight some of the problems: "Tax Report" by Tom Herman from *Personal Finance* (Exhibit F) and "Panel Looks at State Laws" from *the Las Vegas Review-Journal* (Exhibit G). There is also a binder that can be provided the Committee containing articles from *The New York Times*, *The Wall Street Journal* and *Forbes* magazine which are critical of Nevada's corporate filing structure and security laws.

The local task force attempted to create solutions to aid law enforcement in addressing fraudulent situations while not placing a barrier to commerce in Nevada. Nevada's Commercial Recordings Division of the Secretary of State's Office is second in number of filings; Delaware is first. This is important to the revenue of the state. Nevada generates $90 million in revenue every year that is turned over to the General Fund, which we do not want to jeopardize.

There has been a provision in the law allowing the Securities Division of the Secretary of State's Office to regulate transfer agents since the mid-1980s. As opposed to broker dealers and others that come under license of the state, a sunset provision withdrew our ability to regulate and license transfer agents. This is an essential component due to situations in which Nevada-based corporations have individuals operating outside state jurisdiction selling securities and pump-and-dump type schemes. Ability to license and inspect local transfer agents would get a jump on and prevent fraudulent activity before it occurs as well as intervene in situations of abuse.

MR. MILLER:
The amendment to A.B. 25 (Exhibit H) would restore what was in the law in the mid-1980s and give the Securities Division ability to inspect and license transfer agents. It would also give the Securities Division administrator power to inspect anyone they reasonably believe should have been licensed to sell securities in Nevada. Many situations involve people selling unregistered securities who have not complied with the law. This provision is within the model code of securities regulation and would allow the administrator to inspect those records. We would be allowed to inspect if it was reasonable to do so and the people were not registered with authorization from the Attorney General or designee.

There is also a provision addressing corporate custodian rules. Numerous articles have been written addressing abuse of Nevada's corporate custodian statutes. Individuals aware of a corporation falling into default take advantage of corporate custodian rules to gain control, then use that control to issue

securities in some type of offering through fraudulent activity to defraud Nevada investors of substantial sums of money. The remedy would be a provision in statute that would be followed by the district court before giving corporate custodianship of any entity.

There are a number of different provisions. District court would retain jurisdiction until the provisions were satisfied and a determination made whether the individual is working for the benefit of the entity. It would also require certain filings be made with the Secretary of State within ten days of being appointed custodian. This would make all disclosures public so an individual affiliated with the corporation or entity would have access to the information in a situation of abuse or somebody taking over a corporation without the best interest of the shareholders. It would also allow the Secretary of State to apprehend individuals in the event of false or fraudulent filings. In many instances, the Secretary of State or any law enforcement agency has authority to intervene. These amendments would enable law enforcement to take appropriate steps to address fraudulent practice.

Finally, the local task force prepared a proposal to address the commercial recordings statute that would enable law enforcement to acquire information. The Congressional committee is seeking a requirement that ownership of record be available to law enforcement in the event of an investigation. Many times a Nevada-based corporation is filed and determined to be involved in fraudulent activity. Owners of record are unable to be identified when perusing Nevada's Website and records.

The provision would enable law enforcement to acquire information without putting up a barrier to commerce. It would require any entity filed in Nevada to retain a record of statement as to the current owners somewhere within the United States and maintain the list. It would be provided upon request from the Secretary of State. In practice, the Secretary of State would assign a criminal investigator to work as a liaison with other law enforcement agencies. In a legitimate criminal investigation, an outside law enforcement agency could contact the liaison and request the list of beneficial ownership information. The Secretary of State could further assist by crafting interrogatories toward those entities. They would be required to produce the list and comply with the provision or the Secretary of State would reserve the right to terminate or suspend the entity's charter.

There is also a provision that all information would remain confidential on the record held by the Secretary of State's Office and only be used toward the end of law enforcement's investigation.

SENATOR WIENER:
What business entities would it cover, and would the Commission on Ethics have access?

MR. MILLER:
The provision would apply to any legal entity filed with the Secretary of State's Office.

SCOTT W. ANDERSON (Deputy for Commercial Recordings, Office of the Secretary of State):
I am present to support A.B. 25.

CHAIR AMODEI:
Are the amendments coming to the Senate after being heard in the Assembly?

MR. MILLER:
The legislation was proposed in the Assembly to craft regulations to address the issue as a result of working with the national and local task forces. We conferred with entities involved in securities regulation and other concerned parties. It required a more substantial amendment and statutory changes that we were unable to address through the regulatory process.

CHAIR AMODEI:
Is there an opportunity to coordinate with business law people or resident agents?

MR. MILLER:
We worked with them on the commercial recordings provision but not on the securities provisions. Part of the task force consisted of the former chair of the Business Law Association, president of the Nevada Resident Agents Association, other resident agent-type affiliate organizations and members of law enforcement.

CHAIR AMODEI:
Is Nevada's response to the federal issues the same as Delaware's and Wyoming's? Do you feel comfortable with these provisions to keep Nevada from being a haven for fraudulent activity while still competitive in terms of filing in the state?

MR. MILLER:
The feedback from the task force suggests these types of provisions would not make Nevada any less attractive as a filing state. It seemed to get at the heart of what the Congressional subcommittee is doing. We are concerned federal legislation might propose something Nevada would find difficult and change how business is conducted in the state. This provision would apprehend the bad actors while not getting in the way of good business, which is what we want to achieve.

CHAIR AMODEI:
What are your feelings about a preemption scenario and avoiding federal action despite what is done in Nevada?

MR. ANDERSON:
I have been working with the National Association of Secretaries of State's (NASS) task force. If states do not take action and there is no proposal coming from NASS and the International Association of Commercial Administrators (IACA), the U.S. Senate will mandate potential legislation later in the summer. Our provision could be a model which we will take to the NASS and IACA task forces as a potential remedy to be used by all states. It could work for every state with minimal effect on our ability to file and accept these entities in Nevada.

SAMUEL P. MCMULLEN (Snell and Wilmer, LLP):
Snell and Wilmer, through John Delikanakis, had experience in applications for custodianships for revival of corporations. As the Secretary of State testified, it can be done for good purposes and bad in terms of abuse of the corporate structure and a publicly traded shell based on a Nevada corporation. We appreciate A.B. 25 because when we file a petition for custodianship and revival of a corporation, these are the types of protections, procedural items and informational disclosures that should be there. We support the amendment.

JOHN DELIKANAKIS (Snell and Wilmer, LLP):
We support A.B. 25 because it codifies a number of requirements any district court judge would look for when appointing someone to a custodial position in order to get a publicly traded company back up and running. There is nothing untoward—it basically asks for certain background information of the person applying for custodianship as well as their history in prior applications for custodianships in other jurisdictions. The judge can get a feeling for what the person has done in the past and what they intend to do to keep out bad people from taking companies, reviving them using shells and backing them into privately held companies for their own personal profit; there are provisions asking them to disclose in a sworn affidavit that they have not been the subject of any type of criminal, civil, U.S. Securities and Exchange Commission and National Association of Securities Dealers investigations in the past. If they have, the provision would allow the judge to inquire as to what they did and why. It gives the judge guidance regarding his or her role as gatekeeper because the statute, as presently drafted, gives a judge no guidance and allows people to apply for custodianships without having to go through basic disclosures to the court. In that respect, we wholeheartedly support this type of amendment.

MR. MCMULLEN:
The word affiliate is in the provision, the intention of which is to acquire ability to get information about all people involved in the custodianship, the reinstatement or revival of the corporation. It might be something the bill drafters would like to peruse. It is not necessarily an affiliate rule in terms of control of a corporation or normal affiliate definitions.

I would like clarification of section 4 of A.B. 25 in terms of the requirements of filing with the Secretary of State. I assume the purpose is to make sure the corporation is fully revived and reinstated, then brought up to corporate good standing as any other company, then report to some sort of conclusion with the district court or otherwise. We want to understand the continuing obligation for reporting. I assume it is the same as any other corporation that has finally gotten itself up, operating and in good standing with the Secretary of State. The amendment is good and we wholeheartedly support it.

CHAIR AMODEI:
Mr. Anderson, please explain how A.B. 25 got to the third reprint before this amendment. Chapter 90 of NRS talks about the administrator of the Securities Division, which I assume is in the Secretary of State's Office.

MR. ANDERSON:
It is in the Secretary of State's Office in the Securities Division.

CHAIR AMODEI:
Who is the administrator of the Securities Division?

MR. ANDERSON:
The administrator of the Securities Division is Gary Abraham.

The third reprint of A.B. 25 regards changes in fees. We pulled all fee references at the request of the Governor's Office. There was a fiscal effect of fee changes of approximately $3,000 annually. We were asked by the Governor's Office to pull those provisions.

SENATOR WIENER:
You are amending A.B. 26, a bill that has been processed. Would you provide some history regarding it?

ASSEMBLY BILL 26: Revises certain provisions governing the filing of certain organizing documents for corporations and other business entities. (BDR 7-549)

MR. ANDERSON:
Assembly Bill 26 is an amendment brought forward through Assemblyman Bernie Anderson, Chair, Assembly Committee on Judiciary, which is a requirement for business entities that have the words architecture or interior design in their name. It is similar to other provisions. It was implemented March 20, the effective date of the bill. It put into place what we were already doing and made it prospective rather than retrospective. It was implemented from the effective date forward and did not go back on previous entities.

CHAIR AMODEI:
The hearing is closed on A.B. 25 and opened on A.B. 535.

ASSEMBLY BILL 535 (1st Reprint): Revises various provisions pertaining to gaming. (BDR 41-591)

DENNIS K. NEILANDER (Chair, State Gaming Control Board):
Assembly Bill 535 is the State Gaming Control Board's omnibus bill. On a biennial basis, we go through the Nevada Gaming Control Act in an effort to update any statutory provisions that need updating based on circumstances during the prior two years. We are working off the first reprint. There is a further amendment to A.B. 535 (Exhibit I) which I will introduce for your consideration at the end of my testimony.

I will run through the provisions in this lengthy bill. The provisions are repetitive sections in the statute which are repeated changes in other portions of the statute.

Section 1 of A.B. 535 deals with the gray list, which is a list of denied applicants. The Board is required to maintain such a list and a denied applicant is prohibited from doing business with Nevada licensees without permission from the Nevada Gaming Commission. We consolidated those various provisions into one section, and the only substantive change is adding a process whereby someone can now make application to have their name or corporation removed from the gray list. At the present time, there is no procedure. From time to time, individuals in corporations may have been denied for whatever reason, and after a number of years, they have been able to rehabilitate their application. There is no process for that removal; therefore, this changes that process.

Section 2 of A.B. 535 captures some additional gaming employees currently not captured in terms of work or registration provisions. The first one captures all nonrestricted licensees whose duties are directly involved with the manufacture, repair or distribution of gaming devices. The present statute is limited only to employees of manufacturers. This will pick up individuals on the floor who are employees of licensees conducting modifications of gaming devices. Second, it picks up people in charge of processing gaming employee registrations. Those individuals have direct access to the Board's database and it is important they go through a background check.

Sections 3, 4, 7 and 8 of A.B. 535 deal with the same substantive item. In essence, these independent agents or junket reps are currently required in Nevada, if they are residents of Nevada, to get an employee registration as well as file registration under Regulation 25 of the Nevada Gaming Commission. They are treated disparately with independent agents from outside Nevada. This

treats them both the same. They will both register under Regulation 25 as junket reps.

Sections 5 and 6 of A.B. 535 are housekeeping amendments related to the gray list.

Section 9 of A.B. 535 is the casino patron dispute statute and is a substantive change. We are picking up tournaments, contests, drawings and promotions. Presently, only wagers at gambling games are covered by the dispute process. At a drawing or other promotional event, patrons who feel they have not been treated properly expect the state to help resolve the dispute. The current statute only applies to wagering activities. This is being extended for the state to resolve those other types of issues.

Sections 10, 11, 12, 15 and 18 of A.B. 535 have to do with foreign limited partnerships and limited liability corporations (LLC). Currently, they are not allowed to hold a state gaming license. There is no regulatory reason for that provision. There is a waiver provision now and the Commission routinely grants waivers to foreign limited liability companies. When that provision was put in place, there were not many foreign entities operating in Nevada, but there are at present. There is no rationale to leave that in place.

Sections 13, 16 and 19 of A.B. 535 deal with granting of options by holding or intermediary companies. Currently, the options are not specifically captured in the statutes and we want to capture them for holding companies.

Sections 14, 17 and 20 of A.B. 535 deal with the exercise of options. The first batch is the granting of the option, which is available with administrative approval. The second batch deals with exercise of the options. In both instances, the language has been changed from ineffective to void; if it is not previously approved, it is void as opposed to ineffective. That makes it consistent with other provisions in the statute that deal with options. Void is a stronger legal term than ineffective and is a specifically defined term.

Section 21 of A.B. 535 grants specific authority to call forward owners of nonvoting securities in a registered publicly traded corporation. These would be debt or equity securities that do not have voting rights. In the last three or four years, we have seen an increase in that type of security. It is a hybrid between debt and equity security but carries no voting rights. In some

circumstance, there may be reasons to take a look at those individuals and this gives express authority to do it. There is some discretionary authority in the regulations, but it is better to put it in statute.

Section 22 of A.B. 535 clarifies that all licensees and affiliates are prohibited from associating with persons on the gray list. We have not had the argument they are not, but in looking at the statute, we think there could be an argument made. We want to make sure the statute is clear.

Sections 23 and 25 of A.B. 535 have to do with offtrack, pari-mutuel wagering.

Section 24 of A.B. 535 expands the criminal portions of the statute to cover unlawful possession, sale or manufacture of counterfeit items in a gambling game. Current statute only covers use. The reason for this is because ticket-in, ticket-out systems have become popular. There is a reduction in types of cheating activities that had to do with physically altering a gaming device using a light wand or some other mechanism. People now focus on attempting to counterfeit tickets and crimes related to tickets. In essence, many casinos no longer have coin—it is all tickets. It is difficult to prosecute some of those cases, and we are not capturing something that was not already illegal. It should not have an impact on the debates you have had about prison population and things of that nature. We are only capturing an activity in which individuals are already engaged.

SENATOR WIENER:
How many entities are on the gray list and what prompted you to bring it forward? Is it a lifetime listing? Have organizations approached you to present their case when they have been rehabilitated and wish to have a second chance?

MR. NEILANDER:
Individuals and corporations on the gray list for 20 years have reported the great things they have done in the community since that time. There have been individuals who failed to cooperate or were not able to fund their investigation, which are grounds for denial. People have asked how to get off the gray list, but there is no mechanism or process to do it. There should be a process wherein a person may apply to be removed from the gray list.

SENATOR WIENER:
If an individual, through law or regulation, got off the gray list and then, for whatever reason, was put back on, would they be on the gray list forever after failing one rehabilitation opportunity?

MR. NEILANDER:
There is a five-year waiting period modeled after a similar provision in the gaming employee registration arena. If a person is denied once, reapplies and is denied again, they must wait five years. Therefore, if a person made application and were unsuccessful, they would have to wait another five years before applying again.

SENATOR WIENER:
If a person returns a second time for a rehabilitation opportunity, would any evidentiary information gathered in their history come before the Board in order to build a case, or would they get a clean slate in the next application process?

MR. NEILANDER:
It would be the normal standards enunciated in NRS 463.170, which require the State Gaming Control Board and Nevada Gaming Commission to look at a person's entire history. That would not change. The normal investigative process done for licensing would be applicable in this situation.

SENATOR HORSFORD:
Please explain the added language on page 11, section 7, subsection 12, paragraph (g) of A.B. 535.

MR. NEILANDER:
Another provision in existing law allows the Nevada Gaming Commission to condition a person's gaming employee registration. Typically, it comes up when there are drug issues. An individual who has had a few drug arrests may be going through a period of rehabilitation. Based on the circumstances, the Nevada Gaming Commission may grant a person the privilege of being registered; there may be ongoing concern about a relapse and they may impose a drug testing condition. It would be a random test in which agents go out and test the individual.

There have been occasions when an individual fails the drug test and fails to meet the condition on their employment. Rather than going through an entire

revocation hearing, this language would allow us to go back into the work permit process, file an objection and go through an appeal. Once the objection is entered, if there is failure to pass the drug test, the employee is entitled to a hearing before an administrative hearing officer. Depending upon the outcome of that hearing, the employee can appeal to the State Gaming Control Board; depending upon the outcome of that hearing, the employee can appeal to the Nevada Gaming Commission. This language would kick in the normal appellate process.

SENATOR HORSFORD:
Could State Gaming Control Board agents conduct the drug test?

MR. NEILANDER:
We notify the individual to report to the state-contracted laboratory to take a drug test. Depending on the circumstances, an agent will sometimes accompany them.

SENATOR HORSFORD:
Would this be based on whether they have a conditional license?

MR. NEILANDER:
That is correct. It is a condition the Nevada Gaming Commission uses from time to time when they want to support a person but are a little concerned about their history. It is a way to enforce the limitation specifically, rather than going down the avenue of revocation.

The amendment to A.B. 535, Exhibit I, referred to earlier, inserts a new section 23. The language up to page 3 of the amendment is existing language. Page 3, section 23, subsection 9 of the amendment, which is the definition of antique gaming device, was previously defined as a device manufactured before 1951. We suggest it be amended to 1961. There are a number of collectors in Nevada who are interested in antique slot machines. Some valuable antique slot machines were found in a barn in Washoe Valley and there was no mechanism to auction them off; therefore, a process was created. The cutoff date of 1951 was somewhat conservative. There are many mechanical slot machines in the 1960-1961 era and we think it is appropriate to update it. It will be easier for people to distribute true antique slot machines and, at the same time, make sure we have a handle on it. We have an obligation to make sure those devices

go to legal jurisdictions. A number of states still do not allow any kind of gaming device, antique or not.

CHAIR AMODEI:
Under the heading of full disclosure, I attended an auction at the Liberty Belle Saloon in Reno several years ago. I was put on the mailing list for the auction outfit headquartered in Las Vegas. I subsequently received a brochure and traveled to Las Vegas for their next auction six months later. Upon signing in, a person asked whether I was in the Legislature, which was the start of a myriad of complaints regarding selling gaming devices. I initiated a dialogue with Mr. Neilander's staff to ascertain whether something could be done; part of this amendment is the result of that dialogue.

MR. NEILANDER:
The second area where we are proposing an amendment is on page 24, lines 35 through 41 of section 23 of A.B. 535. To provide some background—the law allows licensees in Nevada to set up systems whereby people can enter into arrangements with other states and accept wagers from those states. There are approximately 17 other states currently allowing interstate telephone wagering on pari-mutuel horse racing.

In the interim, there were concerns whether or not someone could claim there was a commerce clause argument if we did not allow Nevada residents to wager outside Nevada, but we took wagers from outside Nevada. We looked at it with the Attorney General's Office after A.B. 535 was drafted and they were comfortable with going forward with the law the way it was and not make this amendment.

An unexpected consequence of this amendment is that Nevada does not allow rebates. In 2001, a number of bettors in California were coming to Nevada and wagering on horse racing because they were getting rebates from the books. California was upset about that and enacted a law that their tracks could not deal with states accepting rebates. Because Nevada accepted rebates, California ultimately blacked out the signal from all the tracks into Nevada. As a result, Nevada passed a regulation prohibiting rebates.

The current concern is allowing Nevadans to wager via telephone outside Nevada. They will be able to wager in locations that grant rebates and, in effect, this will put Nevada at a competitive disadvantage. The purpose of this

section of the bill was an attempt to drive the handle up for horse racing. Therefore, we need to remove lines 35 through 41 of section 23 of A.B. 535.

Page 27, lines 44 and 45 and page 28, lines 1 through 3 in section 25, contain a criminal provision. In essence, if that proposed language is deleted, the law will return to what it was and we will no longer have the rebate problem. There are others who want to support it from the industry side. There is concern it may have the effect of doing the opposite of what we are trying to do if we allow people to place wagers in states that grant rebates.

SENATOR MCGINNESS:
Is pari-mutuel strictly offtrack? We are not capturing those one-, two- or three-day events in Winnemucca, Elko and Ely. They are still protected.

MR. NEILANDER:
That is correct. This only has to do with interstate horse racing. Intrastate horse racing is going very well. We just awarded dates for Winnemucca, Ely and Elko and, in each instance, we saw a huge increase in the handle year over year based on increased purses that came about from Senator Dean A. Rhoads' bill a few sessions ago. Limited horse racing events are going well in the rural communities. We intend to visit the rural communities after race dates are done to have public hearings to update Regulation 30. It has not been updated for some time, and there is new technology in the horse racing industry that affects the rural races.

ANTHONY CABOT (Nevada Pari-Mutuel Association):
The Nevada Pari-Mutuel Association represents 81 licensed race books in Nevada. We currently accept approximately $600 million a year in wagers on interstate horse racing. We support removal of sections 23 and 25 of A.B. 535. I will not address all the arguments because Mr. Neilander was well-spoken. The unintended results of those sections would have been to allow non-Nevada race books to accept Nevada residents and give them significant rebates that are not allowed. That would have caused a significant competitive disadvantage with a result of potentially losing millions of dollars in handle, revenue and taxes to Nevada. We support removal of those sections of A.B. 535.

WILLIAM BIBLE (Nevada Resort Association):
We endorse the amendment proposed by Mr. Neilander for the reasons articulated by he and Mr. Cabot.

KEITH L. LEE (Carson City Gaming, LLC):
I represent Leroy's Sports Book, a division of American Wagering. We also support the amendment and echo the comments of Messrs. Cabot and Bible.

CHAIR AMODEI:
Mr. Neilander, please explain the reason your amendment was offered in the Senate and not when A.B. 535 was heard in the Assembly.

MR. NEILANDER:
I had not thought about the rebate problem until the bill passed in the Assembly. I will see Assemblyman Anderson to make sure he is aware of the circumstances surrounding the pari-mutuel amendment.

JEFFREY A. FONTAINE (Nevada Association of Counties):
I am offering an amendment on behalf of the Nevada Association of Counties (NACO) (Exhibit J). The NACO Board of Directors approved as one of their bill draft requests (BDR) a clarification of the authority for local governments in all counties, with the exception of Clark and Washoe Counties, to adopt local standards they could apply to establishments in having to meet licensure for nonrestrictive gaming licenses. As a result, A.B. 248 was drafted, heard and passed out of the Assembly. That bill was subsequently reconsidered and amended; therefore, none of the original provisions of A.B. 248 remain.

ASSEMBLY BILL 248 (1st Reprint): Makes various changes to provisions governing gaming. (BDR 41-383)

The amendments proposed by NACO are the original provisions of A.B. 248 with the addition of one provision that clarifies the requirements could only be applied prospectively to existing gaming establishments. In other words, it would be a grandfather clause. It was added to address concerns expressed by Assemblyman John C. Carpenter and others in the original bill. Specifically, the amendments authorize counties under populations of 100,000 to adopt standards to require a gaming establishment to have things such as a minimum number of rooms or other specific amenities such as restaurants. It prohibits the Nevada Gaming Commission from granting a nonrestricted gaming license to establishments in these counties unless they have met those standards, or if they have not adopted standards, they do not apply.

Assembly Bill 535 gives the 15 rural counties in Nevada the same authority that currently exists in Clark and Washoe Counties

JOHN W. GRIFFIN (Olympia Gaming, LLC):
We support the NACO amendment to A.B. 535.

CHAIR AMODEI:
The hearing is closed on A.B. 535 and reopened on A.B. 323.

ASSEMBLY BILL 323 (2nd Reprint): Revises the amount paid to witnesses for mileage in traveling to and from a proceeding. (BDR 4-1176)

SENATOR CARE MOVED TO DO PASS A.B. 323.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR WASHINGTON WAS ABSENT FOR THE VOTE.)

* * * * *

CHAIR AMODEI:
The hearing is reopened on A.B. 352.

ASSEMBLY BILL 352 (1st Reprint): Prohibits the issuance of certain work cards to persons who have been convicted of certain crimes. (BDR 10-708)

CHAIR AMODEI:
Section 1 of A.B. 352 applies to people who work 36 hours or more per week. The proposed language added in the work card context for protection of vulnerable people would only apply to those seeking to work 36 hours or more a week. Is that concern worthy of further consideration?

SENATOR WIENER:
How would the hour requirement capture people working full time between employers?

CHAIR AMODEI:
I had not considered that aspect. We will revisit the bill tomorrow.

The hearing is closed on A.B. 352 and opened on A.B. 63.

ASSEMBLY BILL 63 (1st Reprint): Revises provisions governing the additional penalty for the use of certain weapons in the commission of crime. (BDR 15-151)

ASSEMBLYMAN WILLIAM HORNE (Assembly District No. 34):
Assembly Bill 63 is a product of A.C.R. No. 17 of the 73rd Session, which I chaired and was heard during the interim. Senators McGinness and Nolan were also members of the committee. Assembly Bill 63 is an attempt to address sentence enhancements, particularly that which came out of the 1995 Legislative Session in regard to truth in sentencing and equal and consecutive sentences. What has transpired since that time is prison costs and overcrowding.

There was testimony concerning judges having no discretion in sentences such as use of a deadly weapon. They had no discretion in sentences enforced on a defendant. For instance, a person convicted of robbery would receive a two- to five-year sentence. If it was determined they used a deadly weapon, they were subject to an additional two to five years, which means they would begin serving their second, two- to five-year sentence after being paroled on the first sentence or completion of that underlying sentence. It is burdensome when looking at higher sentences as well.

Chief District Judge Kathy A. Hardcastle illustrated a case in which two juveniles were fighting over the ownership of a bicycle. One of the youths hit the other with a rock and took the bicycle, which is robbery with use of a deadly weapon. The youth was convicted and received the same sentence as a person who entered a 7-Eleven store and demanded the clerk empty the till. The judge did not have discretion to give an equal and consecutive sentence.

With the broad use of the definition of deadly weapon, particularly of functionality, there are various types of crimes on which this sentence enhancement and end result are applied.

Section 1 of A.B. 63 was amended in the Assembly. It provides the judge discretion to give a sentence in the range of 1 to 20 years on this enhancement. The judge can ascertain from the facts the actual weapon used when determining what type of consecutive sentence to apply. Rather than cookie

cutter, a person will receive an equal and consecutive sentence. This enhancement also cannot exceed the underlying sentence of the crime. This will provide more discretion for judges in sentencing with the ultimate result of providing relief in the prison population and giving convicted persons an earlier opportunity to begin serving their consecutive sentence and being released.

SENATOR WIENER:
I also served on that committee and appreciated your chairmanship. I do not remember where the enhancement would be longer than the initial crime. Please provide an example of how that might occur.

ASSEMBLYMAN HORNE:
In some cases, there will be enhancements to the sentence for things other than the weapon used. Some enhancements can run concurrent.

SENATOR WIENER:
It says "must not exceed the sentence imposed for the crime." My understanding is it is not cumulative enhancements; I am curious where one enhancement would have surpassed the time served for the crime itself.

ASSEMBLYMAN HORNE:
The fact the judge will have discretion of a 1- to 20-year sentence; theoretically, the judge could sentence 2 to 5 years for robbery and 10 years for the enhancement.

JASON M. FRIERSON (Clark County Public Defender's Office):
The Clark County Public Defender supports A.B. 63, which simultaneously allows us to deal with deadly weapon cases but also allows the court to acknowledge the reason the case exists is because of the underlying crime and not the enhancement. The enhancement is just that—an enhancement of another crime. It also allows us to take into account prison population issues and ways to deal with it as well as distinguish between people who use truly inherent and dangerous weapons and those who do not.

Discussions in 1995 brought us to this point. We tried to figure out what types of deadly weapons should be included. Originally, there were some inherently dangerous guns and knives and questions regarding crowbars and other things. Current legislation came out of those discussions and included both inherently

dangerous weapons and weapons that could be dangerous in how they were used in functionality tests.

Unfortunately, since that time, items have been used that are not inherently dangerous. One reason for this legislation was to deter people from bringing inherently dangerous weapons into an altercation. If the weapon is not inherently dangerous, the deterrent goal is not achieved. For example, if the weapon is a cup, there would be no deterrent in bringing a cup to a fight and the goal in dealing with enhancements is not necessarily achieved.

The Clark County Public Defender's Office has seen various items charged as deadly weapons under the functionality test, such as a vacuum cleaner, a can of pumpkin mix, a candlestick, a television remote control, a pin, the ground, asphalt, water and, recently, a tree switch. In another assault with a deadly weapon case, the deadly weapon was a safety pin. Those are not the types of items a deadly weapon enhancement would serve to deter a person from bringing them to an altercation.

Assembly Bill 63 does not propose to redefine any of those things; it proposes to provide the court the opportunity to take those circumstances into consideration and treat somebody who brings a gun to an altercation differently than someone who brings a tree switch or safety pin. In most instances, 1 to 20 years will allow them to give an equal and consecutive sentence if deemed appropriate. This would only impact some life-type sentences where the offender is already serving life. In all other cases, the court would have discretion to give up to 20 years as an enhancement. In limited cases with mitigating circumstances, A.B. 63 would give the court, the system and attorneys involved the opportunity to negotiate, consider and address situations where weapons were involved and used improperly as well as un-condoned conduct. It would give the system a chance to address less inherently dangerous circumstances appropriately.

SENATOR WIENER:
Are enhancements part of the plea agreement or is it just the original charge?

MR. FRIERSON:
The enhancements are part of it because the charge is automatic, not discretionary. If there is a deadly weapon conviction, currently the enhancement is not equal and consecutive. If A.B. 63 passes, it still would be a mandatory

enhancement, but it would not be mandatory to be equal and consecutive. We take that under consideration in negotiations.

CHAIR AMODEI:
Discretion has always been an issue and I agree with the concept; however, the sentencing judge should be communicative in using that discretion. In the context of this bill, when a judge uses discretion, there should be special findings with respect to the context in which the weapon was used or the actual alleged weapon, whichever is relevant. When a judge sentences a person for using a weapon, whether a safety pin or assault rifle, there should be findings to ascertain why the person received the sentence in the context of whether a weapon was used. It is probably form over substance but without the form, people will say justice was not done in that case.

The problem will continue to occur until people are sentenced appropriately in the context of resources required to operate corrections. Discretion is fine, but we need to put more emphasis on being communicative in using that discretion. I am prepared to give discretion back; however, I do not want a victim's convention every other year in this Committee where we are told justice was not done.

Mr. Wilkinson, please ascertain what other states have done in regard to giving discretion in circumstances of special findings.

COTTER C. CONWAY (Washoe County Public Defender):
The Washoe County Public Defender supports A.B. 63 for all the reasons put forth by Mr. Frierson and Assemblyman Horne. I support giving discretion back even if it requires specific findings in order to have a good record. I would want a judge to give findings but they do not always do so—they give their decision and leave us wondering why. I am opposed to findings on many cases but would not object to it in this situation. The broad definition of deadly weapon creates concerns where we need discretion to address each case on an individual basis.

JOSEPH A. TURCO (American Civil Liberties Union of Nevada):
The American Civil Liberties Union of Nevada generally does not like enhancements; although not entirely happy about it, we support A.B. 63. In legal settlement negotiations, they say if all the parties walk away a little

unhappy, then somebody has done the job correctly. Perhaps that is what is happening here.

We have done a lot of granting discretion back to judges this Legislative Session and this is another example of it. It is true somebody deserving a sentence of 20 years may well get it—while a silly shoelace case might get 1 year. The range is good given our very able bench at this time and in this state. It helps with the prison population and brings us in line with other states. If A.B. 63 passes, we will no longer be the only state with automatic doubling in an enhancement scenario.

CHAIR AMODEI:
The hearing is closed on A.B. 63 and opened on A.B. 522.

ASSEMBLY BILL 522: Provides for licensure of private professional guardians. (BDR 13-1343)

SALLY RAMM (Elder Rights Attorney, Aging Services Division, Department of Health and Human Services):
I will tell you the reason for A.B. 522 as well as the process we went through to come up with the amendments presented today. This bill is not meant to solve an existing problem, it is meant to prevent the problem from happening. Other states have passed legislation to license and regulate professional guardians and fiduciaries after many elderly and incapacitated persons have been stripped of their assets, their family and their dignity. This bill is to prevent elderly Nevadans from becoming victims, which is especially important in view of the large increase in population that will happen in the near future.

The guardianship system was originally meant for families faced with the prospect of taking care of an incapacitated family member. Now, many guardians, probably over 50 percent, are not related to their wards. Nevada courts are overburdened with cases and underfunded. No formal investigation is done prior to the appointment of a guardian. A small percentage of potential wards appear in court when their guardian is named. Due to lack of resources, courts must often trust the professional guardian is doing the right thing regardless of a lack of evidence to support that trust.

Assembly Bill 522 addresses the fact anyone can come into Nevada and call himself or herself a professional guardian with no regulation or accountability.

The law currently states the court may appoint a certified guardian unless there is a good reason not to do so. The certification process does not include a background check.

Over a year ago, Senior District Court Judge Noel Manoukian, Administrative Office of the Courts, Nevada Supreme Court, and Mo Hernandez, an attorney in Gardnerville, called me with concerns about cases they had seen in which people had been exploited by their caregivers who were not guardians. We got together and began talking about it. Mr. Hernandez is licensed in Arizona where there are private fiduciary laws. The conversation evolved to regulating and licensing professional guardians. I returned to my office and researched other states that have these types of laws—Arizona, Florida and California—and came up with some wording and tried to conform it to the Nevada statutory scheme and language. I created language for this bill, sent it to a member of the Nevada Guardianship Association and requested they disseminate it to their membership. I also sent it to Senior District Court Judge Manoukian and Mr. Hernandez.

I received return comments from Nevada Guardianship Association members, Senior District Court Judge Manoukian and Mr. Hernandez and incorporated them into the language. Senior District Court Judge Manoukian then arranged a meeting with Assemblyman Anderson, Chair of the Assembly Committee on Judiciary. We showed him the proposed language, he took it to his Committee and they decided to use one of their BDRs to submit it to the Legislative Counsel Bureau (LCB). The bill came out late as evidenced by the number and did not have the same language as that submitted because the LCB put it into the language they use.

After considering the proposed legislation, concern was expressed by the Nevada Guardianship Association and private guardians. There was a meeting and some amendments created that were taken to the Assembly; however, there was still disagreement and concern. Assemblyman Anderson sent us to his woodshed to come to some agreement. He managed to get everybody to agree to pass it through the Assembly without any amendments because the first deadline was approaching.

In the meantime, we had hours of meetings and people working individually to come up with amendments to A.B. 522 (Exhibit K, original is on file in the Research Library). Some of the people listed on the amendment's

recommendations did not agree with all of them, but everyone was involved in discussing them. In a spirit of compromise, the names are all listed. One name was omitted—Shelly Register—who will testify. She did a credible amount of work on the amendments.

NOEL E. MANOUKIAN (Senior District Court Judge, Administrative Office of the Courts, Nevada Supreme Court):
I will submit my prepared testimony (Exhibit L). There is no fiscal impact on A.B. 522. The first State Board of Examiners will have to patiently await some revenue from professional guardians and other enrollees who will eventually pay. They can then recover out-of-pocket expenses and per diems.

I am familiar with the bill as presently set forth. It is longer than it was when it came over from the Assembly. If it is fortunate enough to get out of the Senate, there will be a conference committee. I had 16 years on the bench and several more recently as a senior district court judge.

Judges have burgeoning caseloads and rarely see the wards brought to court or look into the accounting of their case. The Board of Examiners, together with its staff, will help judges review and approve guardianships that come to court. Unless they are contested guardianships, judges do not have a good handle on the facts. The Board of Examiners will have investigators look into cases and the application process will be a good one. There are probably no more than 15 full-time professional guardians in Nevada. That number will grow with many elderly people coming into the state who will add to the list of potential wards.

Assemblyman Anderson said A.B. 522 is long overdue. He was pleased with the bill, but he will be more pleased with what returns to the Assembly after Senate approval.

California and Arizona have had many problems with abuse, particularly of assets of the elderly. They are ahead of us in that regard, but this is a good step to take in Nevada with its burgeoning growth. The City of Henderson is among the five fastest-growing cities in the nation, as well as Clark County, pushing 1.6 million population; Washoe Valley is growing and Carson City is approximately 65,000 population.

With that growth, a good percentage of elderly will need the help of those who are honest and caring in reporting their affairs to the court. Let me say, I like

Senate Concurrent Resolution 4, which will focus on guardianships as well as caregivers, public administrators, public guardians and other fiduciaries in order to keep ahead of embezzlement and other abuse that may occur regarding the elderly.

SENATE CONCURRENT RESOLUTION 4: Directs the Legislative Commission to conduct an interim study concerning guardianships for adults. (BDR R-386)

I request a do pass of A.B. 522 as amended by the committee that has worked very hard. Although I have not attended all the meetings, I provided my input. This bill meets all legal and constitutional requirements.

KATHLEEN BUCHANAN (Public Guardian, Clark County):
I am neutral on A.B. 522.

ANDREA SOMMERS (Registered Guardian):
I oppose A.B. 522 because there are a number of problems and I have worked with the changes. We have been using Arizona, California and Texas guardianship models, which took years to accomplish what we are trying to do in weeks. The amended bill is much better than the original proposed A.B. 522 in protecting the growing population of seniors in Nevada; however, in my opinion, it still has major problems.

There are holes in this proposed legislation that could cause more problems for seniors than it cures. As currently written, the proposed Board of Examiners has too much power in some spots and not enough in others. The Board of Examiners consists of five members instead of the original seven. These five members could end up proposing legislation that does not have to be put into statute which would make guardianships impossible for private-pay guardians, possibly affect public guardians and make the lives of certain judges impossible.

Registered guardians and master guardians are not part of the Board of Examiners. They are people in the trenches who have only a minor voice in what the Board of Examiners does. I urge you to reject this bill as it is and allow the committee to work the next two years to provide Nevada guardianship statutes that other states will look up to and use as their model.

KIM SPOON (Geriatric Care Manager, Guardianship Services of Nevada, Inc.):
I am a private professional guardian working in northern Nevada. I have been involved with legislation for private professional guardians for several years. I was here two years ago to pass a bill regarding the certification of private professional guardians as well as putting a definition into the statutes regarding the who and what of private professional guardians. That bill went through and worked well in terms of private professional guardians regarding the fact they have experience, knowledge and work under the standards of ethics developed by the National Guardianship Association. At that time, I said this was the first step to becoming licensed. We all want to become licensed and feel it is a positive aspect.

Because we are a small group at this time, we did not press forward with a licensure bill. We were working on other legislation brought to this Committee. We plan to bring a licensure bill next Legislative Session. When we create a bill, we want to do it right. We want to give it plenty of time and open it to public comment in north, south and rural Nevada. We try to make sure we have as much consensus as possible on bills and amendments that come to the Senate and Assembly.

Ms. Ramm brought this legislation to the Nevada Guardianship Association and we returned our feedback. However, none of the licensure bill was part of the material provided us. Knowing it was going to licensure, there was some language on it; however, the licensure information that became the bill presented was much more complex and involved than anyone imagined. That area of the bill holds the most problems for private professional guardians.

I want to make clear to the Committee we are not against licensure and respect the fact the bill came forward. We would not have worked so hard in the short time we had if we did not believe it needs to be done. Unfortunately, we lost a lot of billable hours, have not been able to do our work and it has been difficult.

This bill with the amendments is rife with issues that still need attention. We ran out of time. This is a complex bill involving seven NRS chapters. The more we do, the more we find that needs doing. I do not understand why we are attempting to get a bill through so quickly. We have protection for private professional guardians that works well. In fact, most of A.B. 522 has been changed. The original bill was only for private professional guardians, now it is

much broader and involves guardians as a whole. It changed much language in NRS 159, brought in public guardians for licensure, developed a two-tier process for licensure and enrollment for guardians that do not have a professional side to them to protect the wards. The bill also has several incorrect areas where the language needs to be reworked.

Due to those problems, A.B. 522 should not be passed because it is too problematic. I am concerned because this is our livelihood and could cause more harm than good. We want good law. We are almost there but are not there yet. I cannot stress how strongly we feel about good law in order to do our work and protect our wards as they deserve to be protected. We are willing to work on it and return next Legislative Session.

SHELLY A. REGISTER, JD-RG (Geriatric Care Manager, Guardianship Services of Nevada, Inc.):
I am a partner in Guardianship Services of Nevada, Inc, a private professional guardian as defined under the NRS, a registered guardian under the National Guardianship Foundation since October 2003 and a member of the Nevada Guardianship Association. I have been a guardian or guardian case manager for the past five years in Nevada and worked as an attorney in Missouri for the Department of Social Services and did guardianships for the Division of Aging in that state.

I worked with the woodshed committee. When we went to the Assembly, we were concerned the bill was premature and without amendments. At that time, there were nine private guardians. We added public guardians, but they do not pay fees. We added individual guardians who were not family members to be enrolled because a number of people were appointed guardians, which caused problems in Las Vegas. We wanted to expand from private professionals to all guardians and make sure licensure was there.

One of the problems with the amendments is identification of the licensure and enrollment category, but we did not clearly identify who should be in there, how they are described and their components. We tried to make it less of a burden to individuals who wanted to serve for a friend or in some other way when they are not professional or necessarily paid. We specifically excluded relatives within the third degree of consanguinity for award, but if a court directs the person to be enrolled, the ward can enroll them.

There are many details in this portion that should be hammered out. Because we have been working furiously since April 10, we have a situation with unintended consequences. We removed the registered or master guardian requirement for private professional guardians, which is one of the categories we still want. We also want private professional guardians or licensed guardians to be certified by the National Guardianship Foundation as master or registered guardians.

We have not been able to finish the effective dates. Due to the lack of funding, members of the Board of Examiners would be appointed. They cannot do anything without funds. The fees they charge are not to be more than $100 for a professional licensee and $50 for enrollees. That will not provide much of a fund. There will be a budget bill the next time around if we do not postpone this and return with an actual budget.

It has been said other boards began without funds. The problem is, as private guardians, we are required to be licensed, but there is no board or entity to provide licenses and we cannot be appointed unless we are licensed. We discussed some of the effective dates being postponed. It will be 2009 by the time they get a budget anyway.

I want to commend all parties, including Ms. Ramm, Mr. Hernandez, Senior District Court Judge Manoukian, Angela Dottei, Ginny Casazza, Andrea Sommers and all those who worked on and provided the amendments. We agreed on many concepts but do not have the language to support them. I ask you to take no action on A.B. 522 and allow us to work on it in the interim.

GINNY CASAZZA (Registered Guardian):
I am director and secretary for the Nevada Guardianship Association. I will read my prepared testimony (Exhibit M), submit an amendment to A.B. 522 (Exhibit N) as well as suggested changes to A.B. 522 (Exhibit O). I would like to hear from the Guardianship Commissioner in Clark County as to the authority of the Board of Examiners before going forward with changing the role of the court to the Board of Examiners.

JASON FRIERSON (Clark County):
Clark County was initially neutral with respect to A.B. 522; however, with the amendments, I am not in a position to expand on the attorneys for Clark County opinions. I would like to submit the proposed amendments to them in order to

ascertain whether it changes their initial concern that public guardians were impacted, which might have not been the intent. It sounds like it is more of a global focus and public guardians are intended to be included.

CHAIR AMODEI:
The hearing on A.B. 522 will be held open for submission of additional written material until 5 p.m., Friday, May 11.

There being no further business to come before the Committee, the hearing is adjourned at 11:09 a.m.

RESPECTFULLY SUBMITTED:

_____
Barbara Moss,
Committee Secretary

APPROVED BY:

_____
Senator Mark E. Amodei, Chair

DATE: _____