

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

**Seventy-Fifth Session
April 24, 2009**

The Committee on Judiciary was called to order by Chairman Bernie Anderson at 8:12 a.m. on Friday, April 24, 2009, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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/75th2009/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:

Assemblyman Bernie Anderson, Chairman
Assemblyman Ty Cobb
Assemblywoman Marilyn Dondero Loop
Assemblyman Don Gustavson
Assemblyman John Hambrick
Assemblyman William C. Horne
Assemblyman Ruben J. Kihuen
Assemblyman Mark A. Manendo
Assemblyman Richard McArthur
Assemblyman Harry Mortenson
Assemblyman James Ohrenschall

COMMITTEE MEMBERS ABSENT:

Assemblyman John C. Carpenter (excused)
Assemblywoman Bonnie Parnell (excused)
Assemblyman Tick Segerblom (excused)

GUEST LEGISLATORS PRESENT:

Senator Bernice Mathews, Washoe County Senatorial District No. 1
Senator Maurice E. Washington, Washoe County Senatorial District No. 2

STAFF MEMBERS PRESENT:

Jennifer M. Chisel, Committee Policy Analyst
Nick Anthony, Committee Counsel
Katherine Malzahn-Bass, Committee Manager
Robert Gonzalez, Committee Secretary
Stephen Sisneros, Committee Assistant

OTHERS PRESENT:

Susan Meuschke, Executive Director, Nevada Network Against Domestic Violence, Reno, Nevada
Joni Kaiser, Executive Director, Committee to Aid Abused Women, Reno, Nevada
Estelle Murphy, Executive Director, Safe Nest, Las Vegas, Nevada
Lynn Etkins, Development Director, Legal Aid Center of Southern Nevada, Las Vegas, Nevada
George Flint, Government Relations, Reno, Nevada, representing Chapel of the Bells, Reno, Nevada
Margaret Flint, Reno, Nevada, representing Arch of Reno Wedding Chapel, Antique Angel Wedding Chapel, Silver Bells Wedding Chapel, and Chapel of the Bells, Reno, Nevada, and Vegas Adventure Wedding Chapel, Las Vegas, Nevada
Carolyn Ellsworth, Securities Administrator, Securities Division, Office of the Secretary of State
Scott Anderson, Deputy—Commercial Recordings, Office of the Secretary of State
Scott Scherer, Holland & Hart LLP, Carson City, Nevada, representing the Nevada Registered Agent Association, Reno, Nevada
Matthew Taylor, Vice President, Nevada Registered Agent Association, Reno, Nevada

Chairman Anderson:

[Roll called. The Chairman reminded all present of the rules and expectations of the Committee.]

Let us open the hearing on Senate Bill 14 (1st Reprint).

Senate Bill 14 (1st Reprint): Makes various changes to fees relating to a marriage license that fund the Account for Aid for Victims of Domestic Violence. (BDR 11-117)

Senator Bernice Mathews, Washoe County Senatorial District No. 1:

I am here today to speak on S.B. 14 (R1). Many people in the community of Las Vegas have contacted Senator Horsford and myself to look at the domestic violence bill. That bill was brought forth when Lieutenant Governor Wagner was here to address the increasing incidences of domestic violence across the state. In those days, it was mostly women and children. Now it could be either sex. Women use domestic violence against men too. It does not always have to be physical; it can be verbal as well.

Because of the budget cuts and Governor Gibbons' stance on taxes, we find domestic violence programs are underfunded. They are hurting and cannot serve all of the people in the community. Organizations all over northern and southern Nevada have come to us to seek a restoration of some of that money. We know that the Governor will not sign a tax bill, so we considered alternatives. We came up with the idea of a fee increase, as reflected in the bill. It has already been through Senate Finance, so the fiscal aspect has already been handled. It has already been amended into this bill.

In section 1, the bill adds a \$5 fee to obtain a marriage license. In section 2, the bill adds an additional \$5 for the county clerk to collect if a person requests a certified copy of a marriage license. This is the gist of the bill: two simple fees. If you cannot afford \$5 dollars, you probably ought not to be getting married at this time.

To speak about the domestic violence portion of the bill, I have brought two ladies with me today.

Susan Meuschke, Executive Director, Nevada Network Against Domestic Violence, Reno, Nevada:

I am here today to speak in support of S.B. 14 (R1), which adds \$5 to the fee charged for each marriage license, in section 1, and a \$5 fee for each copy of a certified marriage certificate or abstract, in sections 2 and 3. These fees would go to benefit domestic violence programs throughout the state.

You have just received a packet (Exhibit C). It contains a copy of my testimony, a recent editorial from the *Las Vegas Sun* supporting this bill, and letters of support from Family Support Council of Douglas County,

Advocates to End Domestic Violence in Carson City, and Winnemucca Domestic Violence Shelter.

There are three charts that give you some information about what has happened in the past. When we received fee increases, we have been able to leverage the additional revenue to provide services in excess of what the money would have produced normally. It also suggests that we are not close to meeting all of the need for domestic-violence support. The other chart shows the marriage license revenues and its decline. The final chart shows the projected need for services in Clark County.

[Read prepared testimony ([Exhibit C](#)).]

Assemblyman Manendo:

What is the current fee for a certified copy of a marriage license?

Susan Meuschke:

It is \$10 per copy.

Assemblyman Manendo:

That seems to be very reasonable. To increase that by \$5, as in section 2, I cannot find a problem. It seems like that is your funding source. If we can grab more money out of this process, maybe you should increase that from \$10 to \$20 to double your revenues.

Susan Meuschke:

In having some discussions about this increase, there were some concerns expressed about other fees. There is currently another fee on certified copies in addition to marriage licenses that goes to fund foster children. We were concerned that there would not be a larger increase to that fee.

Assemblyman Manendo:

How much is that fee?

Susan Meuschke:

I believe that fee is \$1 on all copies that are made by the Recorder's Office, not limited to marriage licenses.

Senator Mathews:

Page 4, section 3, subsection 3, line 26, contains a \$1 fee.

Assemblyman Mortensen:

This graph amazes me. Are marriages truly dropping, or is there a problem in the collections, or something else? That rapid drop in marriages amazes me. Does anybody have a theory about what is happening?

Susan Meuschke:

We understand there are several things going on. First, there is a national decline in the number of marriages. I do not know why that is. Second, a reason why there is a decline in marriages in the State of Nevada is because other states have changed their laws and allow for obtaining a marriage license without getting a blood test or having a waiting period. Over time, we have lost marriages to other states. Finally, we have all seen a decrease in the number of people traveling to Nevada for a number of reasons.

Assemblyman Hambrick:

With respect to the potential reduced-funding pool, have you ever thought about going to the source of the problem and increasing penalties? It would be preferable to increasing fees to, instead, increase the financial penalty for being convicted of domestic violence. That is a penalty for doing something you should not have been doing in the first place. I could not care less if those penalties were doubled, tripled, or quadrupled.

Susan Meuschke:

In terms of other kinds of penalties, there are a variety of different penalties, fees, fines, and administrative assessments already levied against people who are convicted of domestic violence. I understand there is a great deal of difficulty collecting those fees. Some of that money goes to fund other services that assist victims of domestic violence, including programs in the Attorney General's Office, Legal Services, and a variety of other places. There is a lot of funding that is already coming from the penalty side.

Senator Mathews:

Some of those fees go directly to the court. We discussed this possibility earlier, but penalty fees represent a source that is already heavily utilized by other programs and could not be further tapped without increasing fees to an impractical level.

Assemblywoman Dondero Loop:

What is the total fee now with this money? Is it consistent throughout the state?

Susan Meuschke:

The current charge for a marriage license is \$55 in the State of Nevada. That is consistent throughout the state, although some counties have the ability to add a \$3 technology assessment. I do not know which counties do that, however, \$55 is the floor level. If we add \$5, it will go to \$60.

Assemblywoman Dondero Loop:

I am struggling to see the issue, because we now pay \$5 for a cup of coffee. We pay \$8.99 at least for a decent glass of wine or beer, so I guess I am just struggling with why there is an issue.

Assemblyman Gustavson:

I agree with my colleague from Clark County about punishing the people who are guilty of domestic violence to fund the programs that support victims of domestic violence. Not everybody who is involved in a domestic violence situation is married. Do you know the percentage of domestic violence cases between married and non-married couples?

I have a problem with increasing fees and taxes. I would rather punish those who are guilty. We ought to make them pay for this program. I understand it is hard to collect these fines, but I believe that is where the money should come from.

Susan Meuschke:

It is split about evenly between married and non-married couples. I will get the exact statistic for you. In 1981, this body decided that the marriage license was an appropriate funding source for the services. I believe that perpetrators should be held accountable, and if there was a way that perpetrators could fund the services, I would be happy to support such an idea. However, S.B. 14 (R1) represents a funding source that ensures the availability of domestic violence services. We are not saying marriage causes domestic violence, but we do know that domestic violence happens within marriage in a significant number of cases. This funding source is important to make sure that services are available to everyone.

Assemblyman Gustavson:

I would like to see these services continue, I would just like to find the best way to fund the services. Thank you.

Chairman Anderson:

I will disclose that Ms. Kaiser is my constituent.

Joni Kaiser, Executive Director, Committee to Aid Abused Women, Reno, Nevada:

I am here today to support the passage of S.B. 14 (R1). Ironically, today is the nine year anniversary of Assemblywoman Jan Evan's passing. I want to thank all of the former and current Nevada legislators who supported this enabling legislation.

[Read from prepared testimony ([Exhibit D](#)).]

Chairman Anderson:

This is not an issue of which we are unaware. We have been looking at this for some time because of the loss of funding and the decline in the marriage industry. It looks like a slam dunk kind of question to me, but it is never easy.

Estelle Murphy, Executive Director, Safe Nest, Las Vegas, Nevada:

I would like to defer to Ms. Etkins for the moment.

Lynn Etkins, Development Director, Legal Aid Center of Southern Nevada, Las Vegas, Nevada:

We are a private, nonprofit 501(c)(3) organization in Clark County. We are the largest legal aid provider in the State of Nevada. We have a staff of 22 attorneys, five of whom focus their representation on domestic violence victims. We have a strong partnership with domestic violence shelters in Clark County which are critical to the success of our program. Last year we assisted over 13,000 residents of Clark County, and almost 1,100 of them were victims of domestic violence. We assisted with divorce, custody orders, and orders of protection. We have an incredible partnership with the shelters. Our attorneys teach classes on divorce and custody, and assist them with any of their legal matters or protection orders. We do individualized intakes with domestic violence victims. We have training sessions with the advocates at the shelters. Our partnership is critical for the safety and well-being of our clients. Our overall philosophy is that it is incredibly important that the shelters help continue to protect victims from further domestic violence and victimization. It is our responsibility that they are not victimized again by the legal system. The shelters are an integral part of our partnership. We have an incredible partnership to get these victims on the road to recovery, financial stability, and freedom from further victimization. We support this bill.

Chairman Anderson:

Does your organization get any funding from this program?

Lynn Etkins:

We do not receive any funding from this particular program.

Estelle Murphy:

My name is Estelle Murphy, and I am the Executive Director of Safe Nest in Las Vegas. I am here today to support S.B. 14 (R1). I represent one of the two organizations in Clark County that provide the bulk of services for domestic violence victims and their families.

[Continued to read from prepared testimony ([Exhibit E](#)).]

Chairman Anderson:

Does anyone else wish to speak in support of the legislation? Senator Washington, I have you here as neutral. Would you like to give testimony?

Senator Maurice E. Washington, Washoe County Senatorial District No. 2:

I am here on behalf of Senate Bill 14 (R1). I would like to set the record straight. We are not in opposition to trying to aid and assist domestic-violence victims or those who are providing a service to our community. We understand the great importance of their presence in the community. We applaud former Assemblywoman Jan Evans for her work in this area as well as former Lieutenant Governor Sue Wagner. There is an importance to dealing with domestic violence in our communities.

But I want to set the record straight today in regards to the funding mechanism that is in this bill. I was approached by Paula Berkeley and Susan Meuschke in regard to their funding issues and the cuts that may be proposed by the Governor in this area. They proposed to me that they were going to introduce a bill that would increase the marriage license fees by \$5. I responded, "Of course you know the Governor has made significant statements regarding the increase of taxes and fees; therefore, to aid and assist you in your efforts to find additional funding revenue, we will try to go to work and find something that will be amenable to you, the wedding chapel industry, and the Governor." In doing this, we are working with the chapel industry in trying to come up with a mechanism that we thought would be acceptable to both the survival of the wedding chapel industry as well as the survival of those who provide a valuable service to our community, to those who are suffering because of domestic violence.

The original bill proposed a \$5 increase. We came up with an alternative mechanism for funding to supplant the \$5 increase to the wedding chapel industry. The wedding industry has gone down. There are a number of reasons for the decline of the wedding industry. It has not declined only because of the economic plight we find ourselves in currently. This industry has been in decline since 2004. Ms. Flint will provide the Committee with a chart which

makes this decline clear ([Exhibit F](#)). You will notice that the weddings in 2004 in Clark County numbered 128,000. As of 2008, the number of weddings fell to 96,000. In Washoe County, the total number of wedding licenses issued was 18,000 in 2004. In 2008, it was 12,000. You can see the significant decline.

For certified marriage certificates, in 2004, there were 126,000 issued in Clark County. In 2008, 168,000 certificates were issued in Clark County. In Washoe County, 30,000 were issued in 2004. In 2008, there were 28,000. There was a slight decrease.

Why is this important? The industry has been suffering for some time. It is based on tourism. Tourism in our state has declined significantly, especially in Clark County. Due to the proliferation of Indian gaming throughout the country, the Interstate 80 corridor often being very difficult to traverse due to construction and weather, and the decline in downtown Las Vegas, we have seen a drop in weddings. Adding another \$5 increase to marriage licenses provides another disincentive to come to Nevada.

The people who come to Nevada to get married are usually young and take the opportunity to have a small vacation. However, they can get married in California for about the same cost. You heard the statistics from Susan Meuschke with regard to the average cost of a marriage being \$28,000 to \$35,000 dollars. These people who come to get married in this state do not have \$28,000 weddings. They come to the chapels to get married at a cost of \$100 to \$200 per wedding. If we start tacking on an additional \$5 to the marriage license fee, these young couples will think twice about coming to Nevada. They will have to consider if they will spend their money on wedding extras or retail establishments. We looked at this and asked if there was not a better way to find revenue. We came up with an alternative method of adding \$5 to the charge of obtaining a certified copy. Originally, the charge was \$7. We went with \$7 because the extra \$2 could be used by the counties for their administrative fees for processing these certified copies. Everybody needs a certified copy at one time or another. The current cost of a certified copy is \$10. One dollar of the fee goes to foster-children programs. If you look at the total revenue resulting from just the \$5 fee placed on certified copies in the two largest counties, it renders close to \$1 million. With their original bill, the \$5 fee for marriage licenses rendered them \$500,000. We found them an additional \$500,000 with this alternative. This \$5 increase for marriage licenses is crucial to the chapel industry, which is trying to survive just like the domestic-violence programs. We are looking at the private sector versus the public sector. They both provide services. We proposed this amendment to

Paula Berkley to substitute the \$5 additional fee for marriage certificates instead of the increased fee for marriage licenses so that both could survive.

Chairman Anderson:

So then you object. You are not neutral.

Senator Washington:

No, I am not objecting to the bill. I think the bill is important.

Chairman Anderson:

Do you have an amendment that you are submitting?

Senator Washington:

We do.

Chairman Anderson:

Are you distributing it?

Senator Washington:

We can. I have not yet distributed it.

Chairman Anderson:

If you do not have an amendment for us, you leave us in a difficult position. It was our intent to move this bill into a work session in the near future. I thought we were going to have a clean piece of legislation. I should not have called for you to speak. I was trying to get you back to the Senate so that my Committee would be able to get back to me. We got the idea. This is not what you wanted.

Senator Washington:

I want to reiterate that we are not against domestic violence assistance. We are trying to allow both industries to survive, especially during this economic downturn. The \$5 additional fee to marriage licenses would impose a significant hardship on the wedding chapel industry. The alternative, through the additional charge for certified copies was to provide additional monies to domestic violence programs and allow the chapel industry to continue to survive.

Assemblyman Horne:

I cannot imagine the argument of somebody in another state deciding to get married and declining to come to Nevada because of a \$5 fee increase.

Senator Washington:

Margaret Flint is here today, and she can probably speak to this bill from a more personal perspective.

Chairman Anderson:

I probably should have had her up before you. I was trying to show you a courtesy by having you up first. A protracted debate was not my intent.

Senator Washington:

I appreciate that, Mr. Chairman. I am a pastor, and I have done hundreds of weddings. In the church, I do them for free. My normal fee for performing weddings is \$0. I do it as a donation. If people give me a contribution, I take that. But when I performed weddings in a chapel, those that came to the chapel to get married were very young and of meager means. They were starting out and did not have a lot of disposable income. To them, it is an adventure. There are some that come again for second marriages. Some come to renew their vows. They were not extravagant. They were not affluent. They were of modest and meager income. This is just a testimony of the weddings I have performed.

Assemblyman Horne:

I appreciate that, Senator Washington. I do not think that the decision about where to get married hinges upon a \$5 fee increase. Perhaps I am too far removed, but I see it as a huge leap to say the fate of wedding chapels depends on the quashing of this \$5 fee increase. I do not object to the argument on whether or not both fees need to be in the bill.

Senator Washington:

When people make their decisions, they add up the totality of the cost. It is not just in \$5 or \$10 increments. It is the entirety of the cost of the trip. If that \$5 gets them over the line of making the decision not to come, they will not come. It may seem insignificant to us, but when people make their decisions, they base it on the entirety of what they are going to do.

I applaud Mr. Manendo's suggestion. Instead of burdening the wedding industry, we can remove the \$5 fee increase on marriage licenses and tack on another \$5 to the certified copies. That is reasonable. You then increase the revenue from \$1 million to \$2 million.

Chairman Anderson:

I am not familiar with the marriage industry. The majority of the marriages I have attended have been church weddings with large receptions afterwards and a great deal of pomp. I have also attended a couple of weddings at wedding

chapels for second marriages. In many cases, it seems to me that marriages are always special for the people who are engaged in them, regardless of their economic circumstances. Whether it is in a large church with all the bells and whistles or in a chapel that also provides an ambiance to create a memorable moment, the determination to come to Nevada is part of that couple's desire to make the marriage ceremony a special event. I appreciate the fact that economics or religious views may be a significant factor in deciding where to have a marriage. I do not think, however, that the cost of the marriage license is the primary determinant of whether or where to get married. In this day and age, there are too many people without the legal benefit of a marriage certificate. I do not think \$5 is a big issue in making the decision to get married or where to get married.

Senator Washington, did you present this on the Senate side?

Senator Washington:

I did not present it on the Senate side. I presented my proposal to Ms. Berkley, who took it to Senator Mathews. When it came out of Senate Finance, we found the \$5 fee increase on both the certified copy and marriage licenses in the bill. That was not our intent.

We do, in fact, have the amendment. I am sorry for misinforming you.

Chairman Anderson:

I see it ([Exhibit F](#)). It has Ms. Flint's name on it. We will take it up.

George Flint, Government Relations, Reno, Nevada, representing Chapel of the Bells, Las Vegas, Nevada:

My daughter and I signed in as neutral because we are supportive of what is being addressed here today. We would like to try to explain to this Committee why we have some concerns.

I love, respect, and admire Senator Mathews. That is important for me to say on the record because I do not want this fine lady to ever think that I am not supportive of what she is attempting to accomplish, along with such people such as Susan Meuschke and my good friend Joni Kaiser. I will tell you that the weddings in which I have officiated—approximately 100,000 in 48 years—have, because a portion of the license fee that those couples purchased goes to support victims of domestic violence, contributed in excess of \$2 million dollars to domestic violence programs. I am a big fan of these programs. I was supportive of Senator Wagner when she was Chairman of the Judiciary Committee and first came forward with this. It was not necessarily

Senator Wagner's idea inasmuch as it was a national trend to look towards the marriage license as a fee source for domestic violence.

Having said that, I need to set the record straight, particularly this statement we keep hearing: weddings in Nevada are a \$3,000 to \$30,000 affair. Ms. Dondero Loop's daughter is going to be married one of these days, and she will probably spend \$30,000. That may not include the carat diamond at MJ Christensen Jewelers. Mr. Chairman, you have had a daughter married in this state, and you know what it costs. It costs a lot of money. Perhaps 5 or 7 percent of our weddings are indeed in that category. I was married for a second time myself 40 years ago, and I spent a few thousand dollars. But those are not the 80 percent of the weddings that come mostly from California as tourist weddings. I do not mean to indicate that every one of those are pauper weddings either. But to put some of this in perspective, I wish you would turn to the last page of my daughter's handout ([Exhibit F](#)) and see nine weddings that I officiated in June. God love these kids, but they are not riding in a stretch limousine or do not have a seven-tiered wedding cake. These are couples that hoped to come to Reno for a weekend, maybe put a couple of hundred dollars in their back pocket for a night or two at Harrah's or Motel 6, and maybe even hit it lucky on the green felt. These are couples that chose to come to Reno. The reality is that they probably only have \$150 dollars set aside for their wedding. If you will go to pages 6 and 7, I want you to see that from January 1 to March 8 we did the weddings for \$46, \$32, \$20, and \$36, and we did a few for free because they could not afford anything. These are the kind of couples who come to Nevada.

Let me explain something to you, if I may. Kids do not get married today based on practicalities. They do not get married today based on projections of what their wealth is or is not going to be in fifteen years. They get married today from the heart because they are in love. Or, they get married today to give the baby, which is due in six weeks, Daddy's name. Or sometimes they get married today because they just got a paper in the mail, old Bruce ships out to Afghanistan in two weeks, and they want to seize the moment; this may be all they will ever have.

When you look at page 8 of my daughter's handout, you are looking at those very people. Now what does the \$5 have to do with it? We have noticed a tremendous decline over the last five or six months in how much kids have to spend. We charge \$7.50 for a beautiful single rose for the bride to carry, similar to the one in the lower picture in the left hand corner, and you will notice that, of those nine weddings, only one has that rose. Do you know that we provide a lovely 8 x 10 inch glossy portrait of the couple's wedding for \$15?

Over the last five months that business has dried up on us. The kids only really have that little weekend-vacation money, and they only have that \$55.

If that couple has to pay \$5 more for the license—and you can look at these kids and see they are not necessarily very affluent—that is \$5 less they have to spend at the wedding chapel for that flower or maybe the down payment on that photograph. As a result, it worries us.

What does this have to do with adding the fee on to the certified copy? When the kids go home after they have had their little honeymoon in Reno, they find out that Social Security requires a certified copy of their marriage license. The same is true for a passport, a name change, et cetera. All of a sudden these couples are finding out that they need a number of copies. We see this as a completely after-the-fact opportunity as a money source.

People have come to Nevada, principally since the end of World War II, because it is quick, easy, convenient, and inexpensive to get married. With a few exceptions, these are not overly-costly weddings. We know, support, and understand Joni Kaiser, Sue Meuschke, Senator Mathews, and we want their program to be well-funded; as a result, we think that the sources we have found are good ones that do not impinge upon our business.

These concepts of multi-thousand-dollar weddings are not inaccurate in five or six percent of the weddings, such as for those of us who live here and want to do something special for our daughters and kids who are growing up. But I must tell you that even some of the famous people who I have married were married in this state for next to nothing. There are a lot of low-end weddings. We have a whole different mentality between what we hear about high-end weddings and how we make our living on a daily basis.

Chairman Anderson:

Mr. Flint, we had a bill on the Assembly side. You were very adamant that the money side of this question was going to be taken care of in another bill that was coming from the other house. Thus, we removed several major parts of the bill for the simple reason that we were assured this other bill was coming. Now it appears that this is all falling apart; I am terribly concerned about both the bills. This Committee has put a lot of time into listening to what should be relatively straightforward and simple pieces of public policy.

Margaret Flint, Reno, Nevada, representing Arch of Reno Wedding Chapel, Antique Angel Wedding Chapel, Silver Bells Wedding Chapel, and Chapel of the Bells, Reno, Nevada, and Vegas Adventure Wedding Chapel, Las Vegas, Nevada:

I would like to present the amendment that I drafted. It is in your packet ([Exhibit F](#)) on page 4. My proposed amendment would delete section 1 of S.B. 14 (R1), which is the increase in the marriage license fee itself. We would maintain sections 2 and 3, which is the increase in the certified copies. We believe that could generate in the area of \$1 million. I calculated five-year averages on page 3. The marriage license itself, if we only increased it \$5, would be \$644,693. A five-year average on the increase of the certified copies alone created \$1,006,782. In this amendment, I also propose to increase the fee that the commissioner of civil marriages charges in both Washoe and Clark Counties. The County Clerks were in support of this. The average fees on that would create about \$90,000 in new revenues. So if we followed through with the fee increases on the certified copies and the commissioner of civil marriages, I believe we could create about \$1.1 million.

In talking to my clients, the wedding chapels that I represent, they would be less opposed to increasing the certified copies to \$7, or even as far as \$10, rather than increasing the marriage license fee at all. The marriage license is an immediate fee. The fees described in my proposed amendment are fees that people pay sometime later; it is not something they have to dig into their pocket to pay right now. If we could work in that direction with the domestic violence people, we would be happy to do that.

Assemblywoman Dondero Loop:

I have three daughters, and if any of them came to me and said they could not pay the fees for a marriage license for any reason, I would tell them they needed to save their money. Love has always been about being in love. It is very plain and simple. That is the reason we all get married, whether we are young or older. But I think this fee is not about those of us who get married and then maybe we will or will not have domestic violence; it is about everyone in our families. It is about our mothers, daughters, friends, sisters, husbands, brothers, or whoever else may be abused. I think that you are correct, the mentality has changed. We have a different mentality now. Thank God we do, because now we are taking care of those that have been abused. I support this fee; I support any fees that will help any of us in the future.

Chairman Anderson:

We will make sure the amendment is in the work session document. Are there any questions for the Flints? Thank you very much.

George Flint:

Thank you for your courtesy, Mr. Chairman.

Senator Mathews:

I have talked to all the parties involved. We thought we had this resolved. This portion of the marriage certificate would not have ever been there had it not been for Senator Washington bringing forth that amendment to include the marriage certificate.

Chairman Anderson:

There is a letter from the Attorney General in support of the legislation to be entered into the record ([Exhibit G](#)). I will now close the hearing on S.B. 14 (R1) and open the hearing on Senate Bill 101 (1st Reprint).

Senate Bill 101 (1st Reprint): Makes various changes relating to securities.
(BDR 7-416)

Carolyn Ellsworth, Securities Administrator, Securities Division, Office of the Secretary of State:

Senate Bill 101 (1st Reprint) was submitted by the Secretary of State's Office and contains several amendments to existing statutes as they relate to the activities of the Securities Division of the Secretary of State's Office.

[Continued to read from prepared testimony ([Exhibit H](#)).]

The housekeeping matters would cover items such as changing references within the existing statutes from the National Association of Securities Dealers (NASD) to Financial Industry Regulatory Authority (FINRA), because there has been a change in the name and organization of the self-regulatory body. It would also clarify some exam requirements for licensees.

The more particularized sections of the bill deal with records inspections, which would clarify those record inspections that are done by the compliance audit investigators within the Securities Division, in order to assure compliance with the Uniform Securities Act, do not require oversight and the blessing of the Attorney General's Office. That appeared as of last session. We do not know why that ended up in the law, but we are trying to clarify that we do not really need the Attorney General's Office to look at each inspection. We currently have three audit compliance investigators. They are doing five inspections a month, each. These are pretty detailed inspections using conduct rules that are set forth by FINRA. They are complex issues, and the Attorney General's Office is far too busy with prosecuting our securities fraud cases to try and oversee our compliance audit investigators. That is one portion of the bill.

An additionally important part of the bill would increase the civil penalties that can be assessed against licensees for violations of the securities rules and regulations, up to \$25,000 per violation. Currently, the civil penalty is up to \$2,500 per violation, with a cap of \$100,000 for a series of violations. Since some regulated firms are extremely large, that is completely inadequate to serve the punitive and preventative purpose of the civil penalty section. The change to the law would allow \$25,000 per violation without any cap. So it would give enough discretion to make the civil penalty appropriate to fit the violation.

We ask that the costs and attorney's fees incurred by the Securities Division—both on the administrative side in administrative hearing processes and on the conviction side—be able to be assessed against the violation either by the administrator in an administrative proceeding or, in another portion of the bill, by a judge after a criminal conviction.

Unlike other criminals who sometimes violate our laws but cannot afford to pay back the costs of a police investigation, fraudsters who are sophisticated and well-educated most certainly can pay back the costs, which can be considerable. Some of our investigations in the Securities Division take in excess of two years to complete. They are very in-depth and sophisticated investigations.

Additionally, another section of the bill would make an amendment to *Nevada Revised Statutes* (NRS) Chapter 239A, which allows subpoenas to be issued for financial records obtained from financial institutions regulated by the Financial Institutions Division (FID). Those would not be national banks but rather state banks, credit unions, and those types of financial institutions that are regulated by FID here in the state.

Assemblyman Horne:

In which section of the bill do I find the part about subpoenas?

Carolyn Ellsworth:

That would be page 12, section 9 of the bill as amended. I am proposing to add NRS Chapter 90 as one of the titles or chapters that is exempt from NRS Chapter 239A.

Assemblyman Horne:

So this would have the effect of not requiring a court-ordered subpoena?

Carolyn Ellsworth:

No, we would still issue a subpoena. It would remove the requirement that the subpoena be first served on the account holder 10 days before it is served on the financial institution. For instance, we believe there is a Ponzi scheme, and we have victims who have come forth saying they have been defrauded of millions of dollars. We are trying to investigate this claim, which is a violation of the Securities Act. One of the primary tools of doing that is obtaining the bank records. In the past, when we issued the subpoena and served it on the account holder, two things happened. One, the account holder has fled the jurisdiction: when we go to look for him, with the warrant that has been issued for his arrest, he has left the country. We have to await his return if we do not have a treaty of extradition with the country to which he fled, or we have to expend a lot of state resources for the cost of the extradition process. Two, the account holder has emptied the accounts before we can get to the financial institution.

Now, within NRS Chapter 239 there is a provision that allows the Division to go to court and seek a special order, but that takes a lot of time, and the order is only in effect for so many days before it has to be renewed. Many times it takes a year to examine the bank records or even to receive the bank records from the financial institutions that have these accounts. If we need all of the statements and all of the instruments that were issued in that account to determine where the money went...

Assemblyman Horne:

But that is after you have obtained the documents through the subpoena. The issue I am concerned with is, basically, it is inconvenient to go this route because it takes days to get it, so you just want to be able to get it without giving a heads-up to your target that you want it and without the inconvenience of following the procedures. These procedures are there for a reason.

Carolyn Ellsworth:

They are there to protect people and to give them notice so that they can come in and file a motion to quash the subpoena.

Assemblyman Horne:

Certainly, if somebody believes that there is an unwarranted intrusion of government into their personal affairs, they ought to have a way of contesting it. There are times when people are investigated and there is no illegal activity uncovered. Maybe those people would like those procedures in place so they have an option to contest the subpoena.

Carolyn Ellsworth:

What they can do, under the statute, is apply to a court for a motion to quash the subpoena. Before I, as the administrator, sign any subpoena, there must be a reasonable suspicion that the bank records would reveal something of importance. A person seeking to thwart the subpoena would have to go to court, move to quash that subpoena, and apply to the discovery commissioner for that purpose. It is unlikely that he would be able to do that, but it would buy him time to be able to flee the jurisdiction. That is our concern. We can apply to the court multiple times. Under current law, we can obtain an *ex parte* order, under which there is no obligation to give notice to the account holder, and it must be renewed every 30 days, I believe. However, this expends a lot of court resources to go back and renew the order. The banks do not give us the records in a timely-enough fashion to allow us to avoid renewing the order numerous times.

Many other subpoenas are exempt as well.

Assemblyman Horne:

Are we going to go down a road later where we are going to have more entities in different areas asking for the same type of subpoena-related procedural exemptions? I have expressed that I have some concerns.

Carolyn Ellsworth:

The last portion of the bill deals with the ability of our criminal investigators to obtain drivers' licenses for the times when they are engaged in undercover investigations. They would be able to obtain a driver's license that shows they are someone else. There is an existing provision within the law that allows law enforcement to get such licenses for the purpose of undercover investigations. We often do sting operations in the securities fraud area, and this would make that easier. These investigations are important, and many times having an undercover officer in that position to conduct the investigation is helpful.

Assemblyman Horne:

I will close the hearing on S.B. 101 (R1).

Chairman Anderson:

Let us open the hearing on Senate Bill 55 (1st Reprint).

Senate Bill 55 (1st Reprint): Makes various changes concerning commercial recordings. (BDR 7-413)

Scott Anderson, Deputy—Commercial Recordings, Office of the Secretary of State:

Senate Bill 55 (1st Reprint) proposes several changes to Title 7 and Chapter 360 of the *Nevada Revised Statutes* (NRS) that will further standardize and refine the processes of the Secretary of State's Commercial Recordings Division and will allow the Secretary of State to move forward with electronic filing and the Nevada One-Stop Business Portal.

[Continued to read from prepared testimony ([Exhibit I](#)).]

Chairman Anderson:

In your sections 4, 9, 13, 18, 20, 24, 26, 32, 34, 40, 42, 47, and 48 scenario, regarding the inclusion of emails and other forms of electronic delivery, while it removes the mailing requirement, you are expanding the language so that it includes an acceptable means where it is applicable. It is not required. If someone does not have email is that acceptable? Can you still carry on with the business?

Scott Anderson:

This just expands the methods by which we would be able to notify our customers. Many people do want that electronic version, but we do have those that want mailed copies.

Chairman Anderson:

I understand there is a potential amendment coming forward. Have you had an opportunity to review it?

Scott Anderson:

Yes, Mr. Chairman. I have reviewed the amendments. I was aware of these amendments but had not seen them until recently. We are not opposed to those amendments.

Scott Scherer, Holland & Hart LLP, Carson City, Nevada, representing the Nevada Registered Agent Association, Reno, Nevada:

We are here today to propose an amendment to S.B. 55 (R1) ([Exhibit J](#)). I apologize that the amendment is coming to you at this point. We had discussed in concept some of these amendments with the Secretary of State's Office on the Senate side. Unfortunately, they had not had a chance to see the language and decide what their position would be on this specific language. We did not want to hold the bill up with the deadlines that were imposed on the Senate side. We do support the bill as a whole. These amendments that we are suggesting are simply clarifications. The first group is a clarification of the charging order. That was the major policy change that occurred last session,

Senate Bill No. 242 of the 74th Session, which allowed for a charging order in small corporations. Since that passed, there have been a couple of minor criticisms in some different articles. One of them, for example, argued the "Rights of an Assignee" is not defined. What we have done is to define the "Rights of an Assignee" as the rights a person would have when they receive a charging order with regard to someone's shares in a small corporation. A second criticism was that the maximum number of stockholders ought to match the Internal Revenue Services (IRS) limit for subchapter S status. This simply changes the number for the maximum from 75 to 100 to stay consistent with the IRS rule for subchapter S corporations. Finally, the last criticism was that the language could be interpreted to allow private agreements to supersede the corporation's articles or by-laws. This amendment simply makes it clear that those private agreements cannot conflict with the corporation's articles or bylaws or any shareholder agreement. Those supersede any private agreements.

The second thing this amendment would do is allow the domestication of a corporation that is formed in another state of the United States. This would allow someone to move their corporation from Arizona to Nevada and keep that corporation's history. We currently have a law that allows that for international corporations, but surprisingly enough, we do not allow it for corporations from others states. The real benefit of that is, if you have a financial history and credit history and you want to move your business to Nevada, but you do not want to start all over again with a new corporation or new company that has none of that history and might have difficulty getting credit, this would allow you to bring your history with you. This would also include limited-liability companies (LLCs) in Chapter 86 of *Nevada Revised Statutes* (NRS). It would be for both corporations and LLCs. The other thing that may not be absolutely clear is the fee that would be charged for articles of domestication. Our intent was the fee would be the same as that charged for filing articles of incorporation. There would be a fee charged to do this, just as if you were forming a new company here in the State of Nevada for the first time.

Chairman Anderson:

There is no revenue lost doing this? The domesticated corporation would be treated exactly the same as a new corporation in terms of paying fees for articles of incorporation?

Scott Scherer:

Correct. You bring your history with you. If there were lawsuits, you cannot escape them because there are provisions in this amendment that say you would have to face the music for any lawsuits that arose prior to relocation to Nevada.

Matthew Taylor, Vice President, Nevada Registered Agent Association, Reno, Nevada:

We are in full support of S.B. 55 (R1). We wanted to offer further clarification as far as the reasoning behind this proposed amendment in relation to the domestication of businesses. One of the things that stands as an obstacle to enticing traditional businesses to relocate here to the State of Nevada is the fact that, up until this point with the current process, they have two choices: either they need to maintain dual jurisdictions or dual registrations in their original state of incorporation and the State of Nevada or they need to closedown their existing corporation and open up a new one, which creates a number of difficulties with reputation, with having an established business, or, as Mr. Scherer indicated, with interference with the ability to obtain credit or to show prior history. It is also a consumer protection issue that, because the company continues to exist, there is no black hole into which existing liabilities can drop. The company still maintains responsibility for its history. It maintains responsibility for its previous acts as well. It just allows them to relocate their business here to the State of Nevada.

Assemblyman Horne:

These corporations have been incorporated somewhere else and are still in existence, but they may not be a good corporation.

Scott Scherer:

In the amendment section 2(a)(2), they are required to provide a certified copy of the original articles of incorporation in the jurisdiction where they were originally incorporated. We probably should add to that a requirement for a certificate of good standing from that jurisdiction as well.

Chairman Anderson:

Mr. Horne, what is your concern about the amendment?

Assemblyman Horne:

Mr. Chairman, it was within the amendment. Mr. Scherer pointed out that language could be added that a certificate of good standing be required.

Scott Anderson:

I am amenable to that proposal. We require a certificate of good standing in a number of cases. When a foreign corporation is qualifying to do business in the State of Nevada, we require that a certificate of good standing be provided at that time as well.

Chairman Anderson:

I will close the hearing on S.B. 55 (R1). We are adjourned.

[The meeting adjourned at 10:25 a.m.]

RESPECTFULLY SUBMITTED:

Robert Gonzalez
Committee Secretary

RESPECTFULLY SUBMITTED:

Karyn Werner
Editing Secretary

APPROVED BY:

Assemblyman Bernie Anderson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: April 24, 2009

Time of Meeting: 8:12 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda.
	B		Attendance roster.
S.B. 14 (R1)	C	Susan Meuschke	Prepared testimony in regards to <u>S.B. 14 (R1)</u> .
S.B. 14 (R1)	D	Joni Kaiser	Prepared testimony in regards to <u>S.B. 14 (R1)</u> .
S.B. 14 (R1)	E	Estelle Murphy	Prepared testimony in regards to <u>S.B. 14 (R1)</u> .
S.B. 14 (R1)	F	Margaret Flint	Prepared testimony in regards to <u>S.B. 14 (R1)</u> . Includes marriage fee statistics and color copies of wedding photographs.
S.B. 14 (R1)	G	Catherine Cortez Masto	Letter from the Office of the Attorney General in regards to <u>S.B. 14 (R1)</u> .
S.B. 101 (R1)	H	Carolyn Ellsworth	Prepared testimony in regards to <u>S.B. 101 (R1)</u> .
S.B. 55 (R1)	I	Scott Anderson	Prepared testimony in regards to <u>S.B. 55 (R1)</u> .
S.B. 55 (R1)	J	Scott Scherer	Proposed amendment to <u>S.B. 55 (R1)</u> .