

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

**Seventy-Sixth Session
March 22, 2011**

The Committee on Judiciary was called to order by Chairman William C. Horne at 8:11 a.m. on Tuesday, March 22, 2011, 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/76th2011/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 William C. Horne, Chairman
Assemblyman James Ohrenschall, Vice Chairman
Assemblyman Steven Brooks
Assemblyman Richard Carrillo
Assemblyman Richard (Skip) Daly
Assemblywoman Olivia Diaz
Assemblywoman Marilyn Dondero Loop
Assemblyman Jason Frierson
Assemblyman Scott Hammond
Assemblyman Ira Hansen
Assemblyman Kelly Kite
Assemblyman Richard McArthur
Assemblyman Tick Segerblom
Assemblyman Mark Sherwood

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Nick Anthony, Committee Counsel
Karyn Werner, Committee Secretary
Michael Smith, Committee Assistant

OTHERS PRESENT:

Barbara Buckley, Executive Director, Legal Aid Center of Southern Nevada
Ollie Hernandez, Private Citizen, Las Vegas
Dashun Jackson, Private Citizen, Las Vegas
James Hardesty, Associate Justice, Supreme Court of Nevada
Michael L. Douglas, Chief Justice, Supreme Court of Nevada
Chris Bayer, Director, CASA of Carson City
Kelsey Stegall, Committee Intern, Reno, Nevada
Erin Neff, Executive Director, ProgressNow Nevada
Mark Lipparelli, Chair, State Gaming Control Board
Jan Gilbert, Northern Nevada Coordinator, Progressive Leadership Alliance
of Nevada
Pete Ernaut, representing the Nevada Resort Association
Michael Alonso, representing Caesars Entertainment

Chairman Horne:

We have two bills on the agenda, Assembly Bill 219 and Assembly Bill 259. I know that Speaker Buckley wanted to go first, but I am the Chairman and I want to go first. If you promise yours will go fast, I will give you the courtesy to go first with Assembly Bill 259.

Assembly Bill 259: Requires a portion of certain existing fees to be used for certain programs for legal services. (BDR 2-817)

Barbara Buckley, Executive Director, Legal Aid Center of Southern Nevada:

I am pleased to be back in Carson City, and pleased to bring you Assembly Bill 259. For those of you that I know very well, you know what I did for my day job, besides serving in the Legislature. For those that I have not had the opportunity to meet or get to know, I have the privilege of being the Executive Director of Legal Aid Center of Southern Nevada. I have been with Legal Aid since 1989, for 21 years, and I have watched it grow from a small nonprofit having a couple of attorneys to an organization that now has 28 attorneys and a staff of 60.

If you are accused of a crime, you get a lawyer. But what if you are an abused child? What if you are a victim of domestic violence? What if you believe in the person sitting next to you in church, you invest your life savings with him, he rips you off, and the deed to your house ends up in his name? You are only entitled to what philanthropy gives, or to what Legal Aid is able to provide through filing fees. That is how nonprofit legal aid services are funded in the State of Nevada. Assembly Bill 259 seeks to increase the amount of funding for legal services, and the revenue is fee-neutral. I will explain how that is possible at the end of the brief presentation.

Now, I have a little presentation about Legal Aid of Southern Nevada ([Exhibit C](#)). It was founded in 1958, and is a 501(c)(3) nonprofit organization. In Clark County, there are six major programs: the Children's Attorneys Project (CAP), Domestic Violence Project, Consumer Rights Project, Pro Bono Project, Community Legal Education Project, and the Civil Law Self-Help Center. The Pro Bono Project asks every attorney in the community to volunteer to provide free legal services to the poor. We have an amazing rate. We told the attorneys that no matter what kind of law they practice, we would provide mentoring, free training, free malpractice insurance, free court reporting, and free private investigators. All of these attorneys volunteered with our office. We currently have 280 private attorneys, who only represent abused and neglected children, and we have over 1,000 cases with these private volunteer attorneys. It is really rewarding to see some of the best lawyers in the community appear before a judge on behalf of a victim of domestic violence or an abused child. Once I requested that Mike Sloan, when he was a gaming executive, go before Judge Hardcastle in abuse and neglect court, and I thought her jaw was going to drop to the ground. It was great because these lawyers are able to see what life is like for people who have no access to justice otherwise.

Our Children's Attorneys Project gives a voice to children in foster care. We enforce a child's right to visit siblings. We provide volunteers that we train to advocate for children with special education problems in the school district. Of all the things I have done in my professional career, including the Legislature, nothing makes me prouder than the Children's Attorneys Project. Before we started, the government had an attorney, the parents who abused their kids had a voice, but no one listened to the kids. No one told the judge what the kids wanted. There is just something wrong with that picture.

The Domestic Violence Project seeks to level the playing field. The biggest obstacle to leaving an abuser is the fear that the kids will be taken away from the victim of domestic violence. The CAP levels the playing field, providing representation in custody actions to ensure the person with the power and

money does not have greater access to justice and an opportunity to take the kids.

We have a Consumer Rights Project that helps people with bankruptcy, foreclosures, lawsuits, and medical bill problems such as, "I have a medical bill that is five years old. My insurance company said they would pay it but they did not. I am being sued. What do I do?" Right now, of course, we see people in this town who have never been without a job in 36 years, but have lost their job and cannot obtain another job. These people are getting divorces, losing their home in foreclosure, or are being sued. They put their head down on our desks and cry. It is like nothing I have ever seen in my 21 years. That situation is played out day after day, person after person. You know that; you see it with your constituents. We see it in our office.

I have described the Pro Bono Project. In addition to asking lawyers to take cases, we also have a free "Ask a Lawyer Program." We help 40 people with family law questions every week on Thursday. People line up at the door to get a golden ticket to have 15 minutes with a lawyer. That is the only opportunity they will ever have to speak to a lawyer about their case. On Wednesdays, we have a landlord/tenant "Ask a Lawyer Program." We just started a foreclosure mediation "Ask a Lawyer Program" on Tuesdays.

Every week we offer free community legal education classes in conjunction with the William S. Boyd School of Law, which has been an incredible partner to us. Each week there is a class on guardianship, bankruptcy, small claims court, divorce, custody, and foreclosure mediation. Since those classes began ten years ago, when the law school opened, they have helped over 40,000 people. There are 150 in attendance each week. We have a couple of former teachers at the community education classes on this Committee, because every Boyd law student is required to do community legal services with our office. They do it by teaching these classes.

We also have begun a unique contract with the district and justice courts where we have created a Civil Law Self-Help Center in the courthouse. It is a legal emergency room for people in need. We opened December 7, 2009, and last year alone, we saw 31,000 people who were being sued, evicted, foreclosed on, and a landlord who rented a room in his house and did not know what to do when the tenant went crazy. We handle any legal problem.

We have recruited 1,000 lawyers to help us with our project. So why are we here today? You know the numbers. We have a 14.2 percent unemployment rate, and we continue to lead the nation in foreclosures. Chief Justice Douglas and Justice Hardesty are co-chairs of the Access to Justice Commission.

The Commission conducted a study to see how much progress we are making. This is where we are. Only 20 percent of the civil legal needs of our low-income residents are being met. That means 80 percent of individuals in need of help are not getting it. More specifically, we represent only one-half of the children in foster care, which means 1,500 kids do not get the representation they deserve. The government has an attorney, and the county spends over \$3 million annually so the parents have attorneys. What about the kids who have done nothing wrong? Why do they go without an attorney? Someone asked me why this is important, and I think this sentence sums it all up: Would you want the government to be your parent? That is what these kids have. If they want to have a sleepover with their best friend, their best friend's family has to be fingerprinted first. Government is not a very good parent.

To compound this increased need, our revenue through filing fees is down. Our shortfall is \$700,000 for our center alone. That is almost one-fifth of our entire budget. Filing fee revenue is typically the revenue that is relied upon for legal services throughout the country. This bill would give \$20 to the legal aid organization pursuant to *Nevada Revised Statutes* (NRS) 19.031. This fee was included in Assembly Bill No. 65 of the 75th Session, but was redirected at the last minute. In Clark County, this would provide an additional \$700,000 to provide civil legal representation. It would also redirect \$15 of the \$50 foreclosure notice of default fee. We, of course, consulted with the court representatives regarding this bill, and they are generally supportive, and will be offering some testimony. The court representatives have one other issue they want to check, but they are generally supportive.

Assembly Bill 259 would allow our community to reach our goal of providing vital civil legal assistance at a time when our constituents need it the most. With that, I would be happy to answer any questions.

Chairman Horne:

Are there any questions?

Assemblyman Sherwood:

I have seen your work with folks who are suffering with foreclosure and having issues with homeowners' associations (HOA). Would the part of your program that redirects foreclosure fees be earmarked money just for HOAs? If that is the case, is there anything else we can do to augment that, or do you have other legislation pending that would help those folks? It seems like a lot of the issues could be addressed on the front-end if we were not penalizing people for being foreclosed on.

Barbara Buckley:

The \$15 redirected from the notice of default fees would primarily be used to help people with foreclosure problems. Right now, we help about 20 new people a week coming in with questions about foreclosure mediation. We are assisting people through our free classes. We try to get the most bang for the buck, so we train the most folks we can in a class format. Then we screen those with the best cases who are income-eligible for representation. We continue to try to supplement it. Sometimes you are only as good as the laws provide when you are representing someone who has been sued by an HOA or a collection company. Although the original debt was \$100, the HOA is suing for \$3,000. I cannot just say, "This does not seem right," which it does not. As a lawyer, you have to explain what is being violated. You have to go to the contract. If the party in charge has authorized those fees in the contract, you are sunk, unless it is outlawed by NRS. I think there are six, and maybe more, HOA bills on this topic. It is in your hands. My opinion from what I see is that you should always watch out for imaginary fees. When times are tough, people want to create profit centers. If that happens, the \$100 fee turns into \$3,000 and then 25 percent of the homeowner's income is garnished until the debt is paid. I see some people paying on a \$100 or \$200 debt for four years. That is absurd. We will then try to argue unconscionability. We will try to create something, but there is no substitute for the law being clear and outlawing profiteering.

Assemblyman Hansen:

In your testimony, you mentioned this would provide Clark County \$700,000. Does that mean someone else is being shorted \$700,000? Who is being impacted by that money being taken away from wherever it is currently being used?

Barbara Buckley:

Last session, A.B. No. 65 of the 75th Session authorized a filing fee increase. The total increase was \$99, and included \$20 for legal aid. It was always part of the business plan that legal aid would receive that money. At the last minute of last session, then-Governor Jim Gibbons requested that legal aid not receive it.

Assemblyman Hansen:

It was part of the original package that passed, but the governor stopped it?

Barbara Buckley:

Yes. What I said to the courts that have been receiving that money for two years is, "It was not part of the original plan; we always intended to come

back for it. You had a gift for two years, but since this was part of the original bill, we will be requesting it this session."

The second part of the notice of default fee was that \$50 would go to the Nevada Supreme Court to run the foreclosure mediation program. The Court believes \$15 of that may not be necessary to run the program, so these funds could be used to help homeowners navigate that program. The homeowners are on an uneven playing field with the lender, who has often done thousands of foreclosures and the homeowner does not have the same information.

Assemblyman Hansen:

Mr. Brooks, Mr. Frierson, and I have been working on that with the people from the Supreme Court.

Assemblywoman Dondero Loop:

I remember well A.B. No. 65 of the 75th Session and what happened to it. Can we go back to the 1,500 children that go to court without an attorney? How is the decision made of who goes to court and what happens to those kids? Do they just go and get lost in the system somewhere?

Barbara Buckley:

We have two young adults here today who will tell you firsthand what it was like for them to go to court and not have an attorney, and then to get one, and the difference it makes. It is awful. It is a disgrace. What happens is kids with attorneys get better placements than kids without attorneys. The attorneys yell a lot. The kids without attorneys make out far worse. The ones that break my heart, actually they all break my heart, but imagine you are a teenage girl and you have been brought into the system for sexual abuse. You have no one on your side. There is a defense attorney ready to rip you apart. He is just doing his job, but you do not know where you are going to go next. Can you stay in the same high school so you do not lose all of your friends? Can you see your brothers and sisters and not lose everything? Unless this bill passes, that is what is going to happen.

Assemblyman Ohrenschall:

You mentioned the demand for legal services in Clark County far exceeding what we are able to provide. How many people do you figure you have to turn away? If this bill passes, roughly how many more people do you think you will be able to help who could not afford an attorney on their own?

Barbara Buckley:

With the recession, there are so many people now who are income-eligible all over the state, people who never thought they would be in that position.

The number is over 200,000 who are income-eligible who are not able to be helped. Through this bill, we believe we will be able to help thousands more. There are 1,500 children right off the bat, and probably 1,000 more victims of domestic violence. The best part of the bill is that it applies statewide. We have incredible organizations like Washoe Legal Services in Washoe County and Nevada Legal Services (NLS) in the rurals who partner with volunteer attorneys in rural Nevada. All of these organizations will be helped, especially as they face budget cuts. At the least, the organizations will not have to cut back as much on what they are doing. The good news is that it would help all areas across the state.

Assemblyman Hammond:

You mentioned something that got me thinking. In the foster care system, and perhaps in other situations where children are involved, are you seeing a lot of cases being played out before they get to the courts and get in front of a judge?

Barbara Buckley:

Yes. Under our system, as set forth in NRS 432B, because the parents have a constitutional right to raise their child, there is an initial hearing that occurs within 72 hours of a child being taken out of a home. It is then set for an adjudicatory hearing shortly after that. The hearing is supposed to be within 30 days, but in Clark County right now it can take three to four months. Our goal is to represent every child from day one and not wait until things progress. Often, the longer kids are in foster care, the more they are treated as the problem and not the victim. If they do not behave like perfect angels and act out, they may be taken to a psychiatrist. Sometimes foster parents call the police for what we would ground our kids for and the child ends up in juvenile detention. Sometimes they are diagnosed as having anger problems. Well, surprise! They are sometimes taken to a residential treatment center, too. They are then prescribed their first psychotropic drugs. We have clients that are on eight different psychotropic medications when we first get them. We say, "You are kidding me. They are drooling." We file a motion to obtain a second opinion to have another psychiatrist examine them, and they are taken off the drugs.

Assemblyman Hammond:

I am trying to understand the system better. It seems that you are saying a lot of times the cases are heard outside the court jurisdiction. You said, without a lawyer, many of these young adults and children end up in different schools than they should be in, and possibly away from their siblings. I want to know if there is a problem with getting in front of a judge. The way I understand it, when the child gets in front of a judge, he is supposed to look at both sides and make an impartial decision. Are we having problems with judges understanding

that these young people need to be with their siblings, or is it because a lot of cases never make it in front of the judge?

Barbara Buckley:

Our judges are wonderful and they get it. They can only rule on what is before them. If a caseworker decides he is going to move a kid to the other side of the valley, making it difficult to go to his home school and to have visitation with his family, that decision will be done before going to court. If the child does not have an advocate to bring that issue up, the judge may never know.

Assemblywoman Diaz:

I want to know how the children arrive at Legal Aid Center of Southern Nevada for representation. How do you end up hearing about their cases or knowing about children needing legal representation?

Barbara Buckley:

At the present time, because we cannot serve everyone, we try to take the worst cases, like cases involving sexual abuse. We also take the case whenever a child is locked up in a psychiatric facility. When a child is a teenager and he needs to prepare to get out of the system, or he desperately wants to see his brothers and sisters, we prioritize that case. The problem is that most of the cases are priority. It is very hard to pick, and the courts have decided that the best thing for the child welfare system is for the child to have representation. In a five-week period recently, we received 188 referrals of new cases. We are drowning in these cases and the courts say we have an obligation to do what is best for the kid. What is best for the kid is to have someone there with him. The courts keep sending children, but we do not have enough help.

Assemblyman Sherwood:

I am looking at the revised fee schedule and it is great that it is revenue neutral. It references NRS 19.031. Are these fees exclusive to the Legal Aid Center and, if not, if I provide legal services, how do I get that money? How accessible is it to other pro bono folks?

Chairman Horne:

This is a good time to mention your amendment.

Barbara Buckley:

That is what I was thinking. This language needs to be clarified, so I submitted an amendment ([Exhibit D](#)). It references specifically the organization for the indigent established under NRS 19.031. That is the entity that would receive the fees throughout the state. Right now, there are three organizations that are

entitled to receive that money under statute: Legal Aid Center of Southern Nevada, Nevada Legal Services for the rurals, and Washoe Legal Services in Washoe County. The Office of the State Treasurer would send money to the organization, and the organization would supply it to the county. That is how it works. It has been in place for many decades—even before I went to law school. It gives the organization stability, knowing that it will be operating the following year by receiving steady revenue to enable it to plan and augment its services.

If it is all right, I would like to ask Ollie Hernandez and Dashun Jackson to come up to testify.

Ollie Hernandez, Private Citizen, Las Vegas:

My name is Ollie Hernandez, and I was recently emancipated.

Dashun Jackson, Private Citizen, Las Vegas:

My name is Dashun Jackson, and I am here on behalf of the bill.

Ollie Hernandez:

I am testifying today as a former foster kid who strongly supports this bill. My experience in foster care was not the typical one.

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

After a couple of months of being at Child Haven of Southern Nevada, I went to my first foster home. It felt weird because I had no idea who these people were. All I wanted to do was go to school and live with the people I had lived with for the majority of my young life. I quickly adapted to the role of being an older sister, taking care of my younger sister and helping around the house. However, I could see that my little sister was not adapting, so we went to another foster home.

Because I had been in a foster home before, it was easier for me to make the transition. A couple of months later, my current foster mother asked me whether I wanted to be adopted. I was over the moon about it. If I could not live with my aunt and uncle, and these people wanted me to become part of their family, I was up for it. But that was a problem for my little sister. My aunt and uncle went through all of the classes and were approved by the judge, so that we were able to move in with them again.

Over that short period of time, my older sister had gone from a preteen to a full-fledged teenager. When we moved back in, it seemed as if we just made everything worse. On top of that, my sister began to rebel. It was crazy.

When my sister began her junior year of high school, it got even worse. My uncle called her all kinds of derogatory terms that I cannot use. I remember one day in September when my sister and I were sitting in the kitchen doing our homework. We were talking when my uncle came in and asked her about the "F" on her report card. She explained that she had been missing assignments. He got angrier by the minute because he wanted her to do well in school. When she tried to explain that she had handed in the assignments the day before, he wanted her to stop talking, so he hit her in the mouth. It caused her to stop talking all right, but after that she left. She was not going to tolerate it any longer. She went to foster care.

The next few months were awkward. My little sister and I talked about how much we wanted to live with our older sister. A week before Christmas, my grandmother's ring disappeared. Since there was no one to blame, they automatically assumed that my little sister took it. She was unable to celebrate Christmas because of that. For the next two weeks, she was physically, emotionally, and verbally abused.

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

My CAP attorney made sure that my other caseworkers got their act together. An example of this is when my name was changed and I did not get my Social Security card for six months. I told my attorney about it, and shortly thereafter my legal guardian delivered my card.

[Continued to read from written testimony.]

Assemblyman Hammond:

Forgetting that there are a lot of people sitting here and speaking from me to you, I hear what you are saying about your CAP attorney. But in this life, you have to make the choice to change your life and to want to succeed, and you have done that. It may have been through the help of all these other people, but you are the one who decided to do it. Do not forget that. Your success story is your success story.

I want to ask you about the foster care process so that I can understand it. I understand you were in at least three foster homes.

Ollie Hernandez:

I was in a foster home, then moved back with my aunt and uncle, and then went back to a foster home. I was in eight foster homes over the last ten years.

Assemblyman Hammond:

Eight foster homes, and for those foster home placements, how many times before an assignment and a placement were made were you in front of a judge? Was it each time you were placed?

Ollie Hernandez:

My research has shown that the age you can go to court to see a judge is ten. You have to see a judge twice a year, so I would say 18 times.

Assemblyman Hammond:

In those 18 times, at what point did you get a CAP attorney?

Ollie Hernandez:

When I went to high school.

Assemblyman Hammond:

Were there other hearings or things that occurred outside of the courtroom as was indicated earlier? Do you recall many of those meetings? What about appointments with attorneys?

Ollie Hernandez:

An early memory of mine is when I entered my first foster home. I really did not have too many meetings. I had a really great first foster home. My foster parents made sure I saw my caseworker every couple of weeks. I did not meet my first caseworker very much. If I did, I do not remember; it was a long time ago. I got my major caseworkers after I went back into foster care. I met my CAP attorney between the eighth and ninth grades when I started high school.

Assemblyman Hansen:

Thank you, Ms. Hernandez, for telling us your story.

Assemblyman Ohrenschall:

I really admire your eloquence, and that you have overcome so much adversity and accomplished so much.

Did you have the same CAP attorney represent you throughout the process, or was there more than one?

Ollie Hernandez:

I have had the same CAP attorney for five years. I have never had another one.

Assemblyman Ohrenschall:

It sounds like you had an excellent CAP attorney. Thank you for coming today.

Dashun Jackson:

My name is Dashun Jackson, and I am a former foster youth. I am the president of Nevada's Youth Advisory Council, as well as Foster and Adopted Youth Together (FAAYT). I would like to thank all of you for allowing us to speak on behalf of this bill.

[Read from written testimony ([Exhibit F](#)).]

Imagine going to a relative's house and being treated like a slave, or being treated like you are the criminal. Imagine being kicked out of the house three or four times and having to sleep behind the house, in a car, or on a park bench. You wake up the next cold December morning and walk into the home with feet so numb you feel like you are walking on stilts. Imagine having your food thrown on the floor and being told to eat it. Imagine being locked in a room that you cannot get out of. These are the voices of foster youth; this is my voice.

[Continued to read written testimony.]

This brings back a memory about something that recently happened. A seven-month-old baby in Cincinnati recently passed away because of abuse in a foster home. She was there for only a few months, but without an attorney representing her, it happened. Her siblings are being placed in the same foster home where the foster parent has overdosed several times on drugs. Yet they are still being placed in the same foster home when they are taken out of their biological home.

[Continued to read written testimony.]

During my 4 1/2 years in foster care, I have had two great attorneys who truly helped. Had they not been there, there were things that would not have been done. You heard the beginning of my story when I did not have an attorney. With an attorney, I have been able to graduate and to sustain myself financially. I still keep in contact with my last attorney.

[Continued to read written testimony.]

[Mr. Horne left the room and Mr. Ohrenschall assumed the Chair.]

Vice Chairman Ohrenschall:

Thank you, Mr. Jackson. As I said to Ms. Hernandez, we appreciate your time and your eloquent presentation, and we are proud that you have overcome so much adversity.

Assemblywoman Dondero Loop:

This is a reflection on both of you. I think you both spoke eloquently about your lives and your future. You have overcome a lot of adversity; you have strong wills. I saw a smile on Ollie's face when you said you graduated, and you deserve a smile.

I think we also need to recognize the need for this funding and how important it is. Those CAP attorneys were your friends and mentors, your support, and most importantly, your attorneys. Your strong wills and those attorneys were your ticket. I hope that everyone on this Committee realizes the importance of this funding because last session we lost it. We cannot lose it again because we cannot afford to lose any more kids.

Ollie Hernandez:

From my point of view, if all foster children do not have a CAP attorney, some will succeed, but a lot will not. If you think about it, foster children who do not have a CAP attorney, and do not have an advocate, usually end up being reckless and becoming a statistic for homelessness or teen pregnancy. That is just a repeating cycle. The more this happens and the more children who do not get a CAP attorney, the more they will fall into that cycle, and it will continue to get worse.

Assemblywoman Dondero Loop:

You are absolutely right. We all need mentors in life, and Speaker Buckley was one of mine.

Assemblyman Hammond:

I am trying to grasp this situation because it sounds worse than what you are painting it to be. If I understand this correctly, when you enter the foster care system, you are given a caseworker that you see at least twice a year.

Dashun Jackson:

You are supposed to.

Assemblyman Hammond:

You are supposed to get a caseworker, a legal guardian, and you see a judge as well. That is three levels of people that you see or have contact with.

Barbara Buckley:

When a child is taken into the abuse and neglect system he is put into "wardship," the care and custody of the county. He is then assigned a caseworker, who is supposed to visit with the child every month. That is happening more and more, but not that much when Ollie and Dashun were little. That is getting better. Clark and Washoe Counties have been doing a pretty good job for the last several years since there were some high-profile deaths. They turned their operations around.

Assemblyman Hammond:

Of course, Court Appointed Special Advocates (CASA) also get involved from time to time. Is that correct?

Barbara Buckley:

In Clark County, 1 in 4 children may have a CASA. We do not have enough CASAs for all the children. It is a smaller percentage than even the Children's Attorneys Project.

Assemblyman Hammond:

The reason I am asking is that you are painting the attorneys as the knights on horses coming in to save you, and I am glad that you had that experience. But I am wondering whether the system is doing what it is supposed to do before that. The way I understand it, all these people who are put in place before the CAP attorney is assigned are supposed to be your advocates and are to speak in your behalf. I cannot believe that we get to the point that you have to wait until this one last person finally comes in, takes care of all of your needs, and is there for you. I am concerned about the process before that.

Ollie Hernandez:

Caseworkers are technically your legal guardians. They sign all of your forms, put you in school, and do everything for you. There are 3,000 foster children, and there are only so many caseworkers. Caseworkers have so many cases and have 50 to 75 kids to visit in just 30 days. They are constantly busy trying to keep everything on track. Sometimes you have another caseworker, and there are also your foster parents. Your legal guardian tries to do whatever he can to help you, but sometimes he does not have all the time in the world to deal with just one youth. When that does not happen, either CASA steps in or a CAP attorney does.

[Mr. Horne returned to the room and reassumed the Chair.]

A CASA is a Court Appointed Special Advocate, and when your foster parents do not advocate for you, a CASA steps in. A CASA is like a CAP attorney.

She talks to you and asks about your issues and then goes to court to try to get them resolved. When your legal guardian or your other caseworker is not doing what is supposed to be done for you, a CAP attorney or CASA steps in. As Ms. Buckley said, there are not enough CASAs. When something has gone wrong in your home, and no one is advocating for you, a CAP attorney will take over.

Dashun Jackson:

The CAP attorneys really set fire under the caseworkers. Just like there are good and bad attorneys, there are good and bad caseworkers. For me, the CAP attorney set my caseworker on fire and ensured deadlines were in place and accomplished on time. That is what has been done; he took charge and tackled everything.

Assemblyman Hammond:

I am concerned because the state spends a lot of money on the system and I am seeing some breakdowns that we should be addressing. I appreciate your testimony. It helps us to dive into that system. You are firsthand witnesses to what can happen. Thank you.

Assemblyman Frierson:

I have heard your story several times and it is inspiring every time. Each of us has been a starfish. Whether we recognize it or not, someone threw us back in. I appreciate every time you tell that story.

It is my understanding that the court system, caseworkers, social workers, and even CASA, to some extent, are designed to look out for the best interests of the child. The CAP attorney is the only one who actually asks, "What do you want?" Can someone clarify that for me, so we know what we are truly talking about?

Barbara Buckley:

That is right. Children's attorneys ask the children what they want. Every other person in the court system looks at the best interest of the child. The other major difference with CASA is that, because CASAs are not attorneys, they cannot get something on the court calendar. Let us say that a child in foster care says he wants to see his brothers and sisters. An attorney can file a motion to request that, and have the case be put on the calendar. He can say that this is what the child wants and needs. The CASA reports to the court every six months on the child's best interest, but cannot bring that legal motion. What the child wants, and the ability to actually get things done in a courtroom, are the two major differences.

Chairman Horne:

I see no other questions. Thank you for the excellent presentations.

Is there anyone else who wants to testify on A.B. 259?

James Hardesty, Associate Justice, Supreme Court of Nevada:

Chief Justice Douglas asked me to comment on this. I was Chief Justice in 2009 and was the author and proponent of the business plan that was presented to the Legislature then. I would like to express my congratulations to the district courts, and my appreciation to the Legislature for implementing that plan. It has been enormously successful and every objective that the plan sought to obtain was achieved. Included within the plan was the very fee that Ms. Buckley requested, as you stated Mr. Hansen, but it was excluded in an amendment in the Senate in 2009 and then removed.

I would like to comment on the foreclosure fee. We conferred with our staff and confirmed that we can continue to operate the program with \$35 instead of \$50, but there is a critical component to the foreclosure program that you have probably already heard testimony about. That is, we need more public awareness and to find people seeking to take advantage of this program that has been provided through legal aid organizations throughout the state. We did initiate some grant funds, but that was not nearly enough to promote the program to the degree it should be. This is a program that is in substantial demand.

We have two cautionary points. The first is not to ask the program to do more than we have the fiscal capability to do. Do not impose additional requirements that the program cannot manage or fiscally accomplish because we will not have the funding to do it. The second point is, the good Lord willing, at some point foreclosures will decline. When that happens, revenue will decline for operating the program as well. We will have mediations that will stretch well beyond the time when the funding source stops. We have conferred with the Speaker about this, and we believe this diversion will help the program and can be accomplished fiscally with the admonition that, if you add more fiscal and administration requirements, it will become difficult to accomplish those objectives.

One final point is that the CAP attorneys are only one aspect, an important aspect, but only one aspect of access to justice issues. The demand for legal aid services is enormous in a variety of issues well beyond just children's needs, and legal aid can help accomplish that.

Chairman Horne:

I see no questions.

Michael L. Douglas, Chief Justice, Supreme Court of Nevada:

After the presentation that was provided this morning by the two outstanding young people, I feel like the Grinch who stole Christmas. For the fees out of A.B. No. 65 of the 75th Session, we applaud what was done by the Legislature last session. But as with most things, there were unintended consequences because, as was stated, the legal services programs were taken out of the mix. We have courts that have gone forward and put a business plan together, in some cases employing that money. It appears our two biggest districts, Clark and Washoe, have business plans that are working. They have some concerns, but not enough to say they have objections to what is being proffered this morning. Our smaller counties though are in a precarious position. Here in Carson City, money has already been pledged from that \$20 for the local CASA program; that is in place. Elko is doing things for jury improvement programs. The devil is in the details. I am not here to speak against it. I am here to speak for the program, but we need to look at some possible adjustments for the rural areas. I agree with Justice Hardesty about the foreclosure mediation program. Again, the devil is in the details, depending what else is required from that program, and how it will impact that \$50 award.

Chairman Horne:

Mr. Chief Justice, the original business plan from last session was intended for legal aid services. I recall that the court signed off on it last session.

Chief Justice Michael Douglas:

I understand that, but as I said, there were unintended consequences. Once the fees were pulled back from legal services and were all awarded to the court with no ending in place, the courts took the money and went forward with it. The unintended consequence is that we now have people in the rural areas who assumed that money was going to be there and put a business plan in place to use it. The other two districts say their business plan is working and they do not have issues with the fees. I hope we can look at this bill and put some flex in it that will accommodate the rural counties that seem to be in the greatest financial difficulty. The programs that we are talking about, like CASA here in Carson City, as was mentioned, directly affect these young people who spoke this morning. We are not very far apart on this. We are neutral, and we speak for it, but we would like to see some minor adjustments if possible.

Chris Bayer, Director, CASA of Carson City:

I emailed my testimony ([Exhibit G](#)), but I will keep it brief. I want to make a couple of points and come back to the story these young people told us, which

I know we are all concerned about. In Carson City, CASA has provided volunteer guardians *ad litem*, under NRS Chapter 432B, since 1987 for every child that has needed one. There has never been an organized group of attorneys, such as Nevada Legal Services, coming to the court system to represent these children. Yes, we have attorneys in Carson City, but they are not coming from Nevada Legal Services, and they are not coming from an organized attorneys' group. This is not like Clark County. The funding that was created under A.B. No. 65 of the 75th Session is currently allowing us to advocate for about 45 to 50 children in the child welfare system. We will serve over 75 children in the child welfare system this year. What these children and these young people tell you, and what Ms. Buckley tells you about their situation, just scratches the surface, as you may suspect. I do not know what the situation is in Clark County, and that is not my primary concern. My concern is that we have a successful program that our courts support here. We have CASA volunteers, and we are serving every child in this jurisdiction with a CASA volunteer, and have for 23 years. I beg you to remember the kids. It is not about me or the CASA volunteers; it is about the kids.

We come up here and talk about this because Ms. Buckley and I both feel extremely passionate about this issue. When the Justice talks about taking into consideration what is going on in the rurals, keep in mind that the child welfare system in Nevada is really a tri-part system. It is Washoe, Clark, and the rurals. These are very different places culturally and geographically, and the systems work differently. Giving the rural counties the discretion to do what they need to do is what allows us and the less wealthy counties to survive and create quality of life.

Assemblyman Brooks:

If you have been successful in providing advocates through CASA for over 20 years, what did the rurals do before this money was allocated? What did you do before this money was inappropriately given to you? With all due respect, it was not initially supposed to go to this program.

Chris Bayer:

There are two answers to that. Our program has grown. When I started as director in 1997, we had 12 kids in care. We have a lot more than that now. At one point, we cashed in our employees' workers' compensation insurance policy. We put that money in the bank, were spending it down to the point of oblivion, and were going out of business. With the help of Justice Hardesty and some others, A.B. No. 65 of the 75th Session, including the provision that CASA would receive money in the rural counties, allowed us to break even for the first time last year. I know that sounds like patching it together, but that is what we have had to do.

Justice James Hardesty:

This was part of the overall plan, although you might believe that this was diverted in some other way. There was a provision inserted in the plan to accommodate counties with populations under 100,000. That was part of the original plan because it was expected that those counties would deal differently with their situations than the two larger counties. It was always a part of the original plan and his point is well taken, as the Chief Justice has echoed.

Assemblyman Brooks:

If that was part of the original plan, and if this particular bill goes through, is that provision still in the plan, and will you still be able to get some type of compensation to assist?

Justice James Hardesty:

No, sir. The diversion of \$20 from the complaint and answer fees filed in a rural county to Nevada Legal Services (NLS), for example, would reduce the amount of funds available for the judges in those rural counties to continue to allocate to CASA and other programs identified as important to help serve the civil legal needs of those communities. In the case of Carson City, the judges allocated \$30,000 from these filing fees to help support CASA. That was a revenue source that was not previously available. If there is a diversion of those funds to NLS, for example, the services that CASA is providing through the use of those funds will not be available.

Chairman Horne:

Is there anyone else in favor of A.B. 259? Is there anyone neutral? What about opposition to A.B. 259?

We will close the hearing on Assembly Bill 259. We will bring it back to Committee, and we will have an amendment ready for a work session soon. We will let you know when it goes to a work session.

We will open the hearing on Assembly Bill 219.

Assembly Bill 219: Provides that certain unredeemed wagering instruments escheat to the State. (BDR 10-811)

[Mr. Horne presented Assembly Bill 219. Vice Chairman Ohrenschall assumed the Chair.]

Assemblyman William Horne, Clark County Assembly District No. 34:

Thank you for the opportunity to present Assembly Bill 219, which addresses unclaimed property, and in particular, ticket-in, ticket-out (TITO) gaming

vouchers. To my right is my intern, Kelsey Stegall. She is currently a student at the University of Nevada, Reno. She will present a PowerPoint presentation on A.B. 219; however, before she proceeds, I would like to brief you on how I came to the decision to introduce this bill.

Last summer, a constituent called my office to complain about a gaming establishment not honoring a slot ticket that had expired. She was mostly upset that the casino gets to keep the money, and asked why that was the case. Why did the gaming establishment get to set an expiration date, and then keep that money when she had a ticket that said it was hers? I thought it was a good question, and I looked into it. I learned that about ten years ago, gaming establishments went to these TITO machines. I do not know the last time you were in a casino or gaming establishment, but I grew up in Las Vegas and one of the things that is noticeable is that the sound of coins dropping in the metal bucket at the bottom of the slot machines is gone. There are other noises that the novelty machines make, but that noise is gone. Instead, a ticket comes out, and that ticket has a value. You are supposed to go to the cashier's cage or to a cashier machine that will redeem the ticket for you. What happens is that some people do not redeem the tickets in a timely fashion, so the money reverts back to the gaming establishment that issued the voucher. The question that I pose to you is a relatively simple question: is this money the casino's money or does it belong to someone who failed to claim it? If it is the latter, why does the gaming establishment get to keep it?

At this time, I will have Kelsey give the PowerPoint presentation.

Kelsey Stegall, Committee Intern, Reno, Nevada:

I am presenting A.B. 219 this morning. I have a brief presentation ([Exhibit H](#)) on unclaimed gaming property. Page 2 includes some background information on TITO machines, which stands for ticket-in, ticket-out machines. As Mr. Horne stated, the clinking of coins is not around as much any more. There are mostly tickets now. When you insert money in a machine, your winnings come out in ticket form. You can reinsert the ticket into other machines. It is like a money transfer transaction. These machines are generally newer technology and have only been around for the last decade or so. As I stated, slot machines no longer deal with coins, just tickets. Tickets can be reused and replayed, and when the patrons are done, they are cashed in.

[Read the slides of the PowerPoint presentation.]

If a ticket is over \$25, Pennsylvania will first try to find the person and let him know he has a ticket that can be redeemed. If he cannot be found, the ticket escheats to the state. Per slide 8, New Jersey does something very similar.

[Continued to read presentation.]

We are arguing that when the TITO is printed, it no longer belongs to the casino. It is the same as a money transaction and now belongs to the player. If not claimed, it should escheat to the state and not back to the casino. It is no longer the casino's property.

[Continued to read presentation.]

Vice Chairman Ohrenschall:

Thank you for your excellent presentation, and all the research you have put into it. The Chairman feels that this Committee has been blessed with its two interns, and all the work you have been doing.

Assemblyman Horne:

There is a conceptual amendment ([Exhibit I](#)) to A.B. 219 on Nevada Electronic Legislative Information System (NELIS). To clarify, this only applies to ticket-in, ticket-out wagers, not casino chips or sport books. The proposed amendment would also delete sections 4 and 5, and would add a new section to Chapter 120A of the *Nevada Revised Statutes* (NRS) as follows:

1. Any wagering instrument which is issued in this State, upon the expiration date printed thereon or 30 days after the wager is placed, whichever period is less, unless the Nevada Gaming Commission specifies by regulation a shorter period in which the wagering instrument must be redeemed, is presumed abandoned and subject to the provisions of this chapter.
2. If a wagering instrument is issued in this state and the issuer does not obtain and maintain in his or her records the name and address of the owner of the wagering instrument, the address of the owner of the wagering instrument shall be deemed to be the address of the Office of the State Treasurer in Carson City.

The proposed amendment:

- Provides that all ticket-in, ticket-out wagers must be reported to and escheat to the state on a quarterly basis.
- Provides that the Nevada Gaming Commission shall, on or before October 1, 2011, adopt regulations to carry out the amendatory provisions of this act.

- Provides that this act becomes effective upon passage and approval.

This basically mirrors what we did with gift cards when we had the gift card bill in 2007. Just to give the Committee an idea of what we are talking about, I asked the Gaming Control Board auditors what type of revenue we are talking about, and what kind of funds are involved in these unclaimed tickets. The Gaming Control Board auditors were already in the field in the course of business, so the 76 properties they were already visiting were identified and the revenue information was requested from them. Summarizing, there are approximately 300 unrestricted licensees in the State of Nevada, and 2,000 restricted. The 76 identified properties are a mix of both restricted and unrestricted licensees, although the property names were withheld. From the figures they provided to the auditors, it came to \$11.7 million since March of last year through February of this year. The auditors rightfully cautioned us on extrapolating this figure throughout the entire universe of licensees in the state. However, I think it gives a good snapshot of the revenue that gaming establishments are claiming from these unclaimed property receipts since the inception of TITO approximately ten years ago. If just those 76 properties realized \$43.7 million in unclaimed revenue, you can extrapolate what gaming has been enjoying for the last decade from monies that have gone unclaimed.

I could have put in a bill that says that this has always been unclaimed property since they have been receiving it from the beginning, but that would have been unrealistic. That is why this bill only looks to go forward from here. There is obviously going to be significant opposition from gaming. The gaming industry has enjoyed this windfall for some time. I do not think the casinos have a good answer as to why this unclaimed property is still theirs if they have issued a ticket that says someone else is entitled to this money. There was a fair, legal game in the State of Nevada that was played by someone, and the ticket was generated because of that play. That becomes the property of that person. In the State of Nevada, any property that is unredeemed, and the property owner cannot be identified, escheats to the state.

There is also a fiscal note attached that the Office of the State Treasurer issued primarily because it may have to hire an additional Administrative Assistant IV, and that would be \$104,000. I think that is a small amount compared to the sums of money the state can receive from the unclaimed properties.

Vice Chairman Ohrenschall:

Typically, how long does someone have before his winnings revert back to the casino for one of these tickets?

Assemblyman Horne:

My research shows it varies from property to property and is anywhere from 30 days, 60 days, or 90 days.

Vice Chairman Ohrenschall:

In your research, have you found any other relationships in which one party who is holding money for another party gets to keep that money after a certain period of time and it does not go to unclaimed property?

Assemblyman Horne:

I do not know of any other situations where there is unclaimed property that is "finders-keepers."

Vice Chairman Ohrenschall:

I could not think of any either. By statute, we have 17 different categories of unclaimed property for which the state tries to find the owner. If unsuccessful, it escheats to the state.

Assemblyman Horne:

These tickets are property owned by persons who cannot be identified. There is no player identifying information on the ticket. It states only the amount of the funds, the gaming property, and the date on which it was played. That is basically all the information that is on there. Nothing in this bill would require the Treasurer's Office to attempt to find this person. That would be impossible. The amendment would also require all properties to have the same expiration time for these tickets, which would be 30 days from the date of issuance.

Vice Chairman Ohrenschall:

Let us say you have tourists that come in for Super Bowl weekend and they play casino machines. They leave town, but they still have tickets from their winnings. Do you think most tourists realize they have an expiration date? Do you think they go home and figure they will be coming back to Las Vegas next year and will just cash them out then?

Assemblyman Horne:

Although the ticket does have an expiration date, I question how many people actually read the entire paragraph on the back and the "redeem by" date. Most of these tickets are probably within the \$1 to \$3 range. This is a guess, but it is not a whole lot of money. I think this is about volume. I believe tourists put the tickets in their wallet or purse, go to another property, and then Sunday morning while packing to fly home, they see they still have a ticket. They may be at a property at the south end of the Strip, but the ticket is from a property at the north end. They are not going to hop in a cab or take a bus to redeem

\$3 before heading out of town. The ticket will probably be put back in their wallet and will eventually expire. Or they forget about it, fly home, and it expires. From what I understand, some properties may honor the expired ticket for customer relation purposes. Obviously, sometimes the casino does not or I would not have received a phone call. I think you will rarely find a \$100 voucher that went unredeemed unless it was lost. Usually, people who have won that much money would cash it in. It is the little amounts that usually go unredeemed.

Assemblyman Segerblom:

The opponents of this bill mentioned that they would not be paying taxes on the unclaimed tickets if they escheat to the state, and tax revenue would be lost. Do you have a comparison of how much tax revenue was paid on these tickets compared to what the state gets at the whole face value?

Assemblyman Horne:

They are paying 6.75 percent on this money. If this bill passes, we would give them their 6.75 percent back and we would take 93.25 percent.

Assemblyman Segerblom:

That sounds like a good deal to me.

Assemblyman Horne:

I am certain that from the first month that these machines went in, the casinos realized the windfall. They keep an accounting every month, and it appeared to someone that a lot of these tickets were going unclaimed. For the attorneys on the Committee, I am sure if you had a gaming client and he came to you to ask what the casino should do with this money, you would tell him to pay his taxes on it. That is probably what happened; the casinos have been paying their taxes. That is not the issue here. The issue is that, if you come to the conclusion that these tickets are unclaimed property, where does unclaimed property go? I do not see a loss in tax revenue as a sound argument to oppose this bill.

Assemblyman Hansen:

I researched NRS Chapter 120A, the unclaimed property statute, and I found where people are given the opportunity to keep unclaimed property, and that applies to gaming. This statute, NRS 120A.135, says, "The provisions of this chapter do not apply to gaming chips or tokens which are not redeemed at an establishment." Then the statute says, "'Gaming chip or token' means any object which may be redeemed at an establishment for cash or any other representative of value." It seems that we have that, so my question would be, would we need to amend this statute if we pass the bill? It seems to me TITO

would qualify as a token the way it is defined in that statute. If you go forward with this, do you plan to amend that part of the law because it does allow the casinos to keep tokens and chips?

Assemblyman Horne:

I believe the bill and the amendment address that, but I will allow Mr. Anthony to address your question.

Nick Anthony, Committee Counsel:

Yes. That is correct. Section 3 of the bill actually amends the gaming chip or token definition to exclude "other than a wagering instrument." We have looked at that issue and it is taken care of in section 3 of the bill.

Assemblywoman Dondero Loop:

Will there be a cap or limit on the amount that will be chased? Will a \$1 ticket be chased as well as a \$100 ticket?

Assemblyman Horne:

This does not propose that every month the casino will have to send a check for \$1, if it is a \$1 unredeemed ticket. The amendment says that every quarter the money the properties have accumulated in unclaimed property over that period of time would be forwarded to the State Treasurer's Office. They know that, even if it is a one-penny voucher. If it is in the casino's records that the ticket has not been claimed, the lump sum amount of money accumulated at the end of the quarter from all expired unclaimed property per the vouchers would be sent to the State Treasurer's Office.

Assemblyman Kite:

How is the money currently reported? Is it reported as a gaming win or is it excess money? How is it accounted for?

Assemblyman Horne:

I understand that until the ticket expires, it is a casino liability. They know the casino will have to redeem it if someone claims it. Once it expires, they move the money to revenue and pay taxes on it.

Assemblywoman Diaz:

Ms. Dondero Loop asked the question I was going to ask. I wondered how often the monies would be reverted back to the state, if this bill were to be passed. My interpretation is that the casinos would keep track of all the unclaimed tickets and, after the expiration time, they would surrender the money to the state. I wanted to make sure I understood how this was going to work.

Assemblyman Horne:

That is correct. The tickets would expire after 30 days. At the end of the quarter, the values of the tickets would then be added together and the property would send that sum of money to the Office of the State Treasurer as unclaimed property. In my amendment, it would be quarterly. If the Committee wants to visit how often these monies are sent to the State Treasurer's Office, we will have that discussion.

Assemblywoman Diaz:

As clarification, there is no way there is any identifying information on these tickets that are given out on these TITO machines. So, there is no way that if I lost the ticket in the casino anyone could chase me down and give me the ticket. Is that correct?

Assemblyman Horne:

That is correct. In fact, if you left the ticket at the machine, someone else could grab the ticket and redeem it. It is just like the old days when you could walk by a machine with credits on it and you could play them, or the quarters that were left in the bucket were taken. There is no identifying information on any of that.

Vice Chairman Ohrenschall:

We have had the gift card comparison. We passed the gift card statute in 2007. In that situation, you have a store that is holding a certain amount of money for a customer, and here you have a casino that is holding a certain amount of money for a patron. These situations seem similar to me. Are there any major differences that you see in these situations?

Assemblyman Horne:

I think the difference is the accounting nightmare. With gaming, the properties have to keep a monthly accounting per regulation. It would be the same nightmare if the gift card did not expire. If these tickets did not expire, and we required gaming to keep them in perpetuity until someone came to cash them, the liability column would continue to grow. You have seen the numbers in just one year on just 76 properties. Imagine if the tickets sat there indefinitely waiting to be claimed, particularly the lost tickets. It would be an accounting nightmare. I am not proposing to make the tickets nonexpiring, but when they do expire, they should escheat to the state since the owner cannot be identified.

Vice Chairman Ohrenschall:

Do you think this ticket is a contract? Some say this is a contract between patrons and casinos, and the patrons agree if they do not claim their money, it forfeits to the casinos.

Assemblyman Horne:

I do not see it as a contract. One person has not agreed to perform a duty if the other party performs a duty. A gaming establishment says this is a fair and legal game in the State of Nevada, and if you play the game and put your money in, it assures you that, if you are lucky enough to win, it is going to give you your winnings. That is the contract. If you put your money in and lose, you have no recourse to recover your money, except to keep gambling. That is the contract. That contract is completed when the ticket is spit out and given to the patron. You won, and here is your money. The back of the ticket has an expiration date that says you only have so much time to claim that money, but that does not obligate the patron to perform, or the casino gets the property. The contract was completed at the time the contract was spit out.

Vice Chairman Ohrenschall:

I want to ensure we have one thing clear. This bill is about unclaimed, abandoned, untraceable monies escheating to the state. It is not about the unclaimed property division trying to locate people all over the country or world to return the money. There would not be any additional burden on the administration, since this is abandoned money.

Assemblyman Sherwood:

One of the ways you could deal with this is to lift the expiration date, but you have shown us why this would not work. I realize your amendment proposes to delete sections 4 and 5, but currently section 4 delineates the expiration periods of traveler's checks, money orders, and equity interest, in years, not months. Pennsylvania's statute on gift certificate expiration defaults at two years. Although the 30-day expiration was the option of the business establishment, to pass this legislation forward at 30 days seems almost unprecedented. Would you be open to changing the 30 days?

Assemblyman Horne:

Are you suggesting the ticket not expire for two years, or am I misunderstanding you?

Assemblyman Sherwood:

The way I read the bill is that it has to be a uniform expiration of 30 days at which point it becomes unclaimed property, and the state sweeps the money. How long does the casino have to determine whether it gives back the money, a year or 30 days?

Assemblyman Horne:

The voucher would expire in 30 days. The money would sweep to the state every quarter. The casino would do an accounting of the money resulting from the expired vouchers, and the money that had accumulated. For argument's sake, let us say three months had passed and there was an accumulation of \$100,000 for one property. At that time, that \$100,000 would be sent to the State Treasurer. It would be swept from their account only quarterly, but the ticket itself would expire in 30 days. I picked 30 days to make it uniform throughout the state. No matter what property you go to, if you get a gaming voucher from one of these TITO machines, the ticket is going to expire in 30 days.

Assemblyman Sherwood:

It is ironic how this came about. Maybe it would be more consumer-friendly if it did not expire for one year. Consumers would win and the casinos could budget for this. Would you be open to lengthening the expiration date to one year, if it is going to be mandated, and the sweep time to two years?

Assemblyman Horne:

We could certainly look at that and the parameters of the statute, and the time limits would be the prerogative of the Committee.

Vice Chairman Ohrenschall:

Are there any more questions? I do not see any. Are there any other witnesses to come forward to testify in favor of this bill?

Assemblyman Horne:

There are some witnesses in Las Vegas who have been waiting. Please call on them first.

Erin Neff, Executive Director, ProgressNow Nevada:

We are a nonprofit organization with 23,000 members in the state. I am here in support of A.B. 219. The reason we support this is that we have learned that the "house" usually comes out on top. I would like the house to be Nevada for once. Dealing with the budget that we are dealing with, this is an outside-of-the-box approach to finding revenue. In answer to the question, "Is this

a gaming win?", the casinos think so if they are just paying the 6.75 percent tax on it. As I said, the house always comes out on top.

In New Jersey, they consider casino chips to escheat to the state. There is similar legislation with respect to TITO machines in Pennsylvania. The gaming tax there is 55 percent. In New Jersey, I believe it is 20 percent. I am not arguing for an increase in gaming tax, but this could be tens-of-millions of dollars for the state budget when we really need the revenue. ProgressNow Nevada is in support of this legislation.

Vice Chairman Ohrenschall:

Thank you. You mentioned those other jurisdictions. Do you have any idea how much revenue they have raised from this?

Erin Neff:

No, I do not. I only found it because *State of New Jersey v. Elsinore Shore Associates*, 249 N.J. Super. 403, 592 A.2d 604 (1991) was referenced and I quickly Googled it, but I can research it. I suspect that the folks from the gaming industry who will be testifying will know that, so I will defer to their experts.

Mark Lipparelli, Chair, State Gaming Control Board:

If you would like me to assist the Committee, there are a couple of technical issues that I can detail now, or I can wait until the favorable testimonies are over. We do not have a position, but there are technical pieces that the Committee should know about.

Vice Chairman Ohrenschall:

Thank you for being here, and please go forward.

Mark Lipparelli:

First, 60 days after a ticket is issued to a patron, the property is obligated to pay the tax on it regardless of the status of the ticket. I will try not to confuse the Committee, but even if house policy is a 120-day expiration date, and a ticket is unredeemed past 60 days, the property does not have a choice other than to pay the gaming tax following that 60-day period. That is in our Regulation 6 already. Second, as Chairman Horne mentioned, the standard timing among most properties is probably longer than 30 days. I think 30 days would be on the short-side of an expiration date for most properties since most of them have adopted a 60- to 90-day time frame. If the Committee advances the bill, there would be a need to address whether a property could claim a tax credit in a future period for the taxes it is obligated to pay under Regulation 6.

Vice Chairman Ohrenschall:

Thank you. Is there another witness in Las Vegas? I do not see any, nor do I have any questions from the Committee.

Jan Gilbert, Northern Nevada Coordinator, Progressive Leadership Alliance of Nevada:

We are also in support of this bill. The amount of money that it might generate was brought to my attention. As you know, I spend most of my time next door listening to budgets. I have heard about the devastation that is coming to our state through cuts to mental health, public education, seniors, children, and parents with subsidized childcare trying to make a living. All of these things are being cut. To me, this bill is an opportunity to take that which should be reverted back to the state. It is unclaimed property. If you look at the items mentioned by Chairman Horne that are reverted back to the state—traveler's checks, money orders, and gift cards—it seems like common sense that this money should also revert back to the state and help fill a very small, but necessary, gap in our funding streams.

Vice Chairman Ohrenschall:

Are there any questions? I see none. Is there anyone else wishing to testify in favor of A.B. 219? Does anyone wish to speak in opposition to A.B. 219?

Pete Ernaut, representing the Nevada Resort Association:

We take respectful opposition to A.B. 219 for a number of reasons, some of which have been discussed in prior testimony. We have a difference of opinion on a number of things. First, we do not believe that these unredeemed TITOs are the property of the state. We believe that a contract is created between a patron and the house with a ticket. I have issued each one of you a sample ticket from a local casino ([Exhibit J](#)). They are substantially similar across the state, other than the issues talked about regarding the uniformity of redemption time limits.

[He was interrupted and asked to give out the tickets.]

We would like these back, in case the bill passes.

Assemblyman Horne:

I think there is a ticket scanned on your computer, so you will still have a copy after the tickets are taken back.

Pete Ernaut:

I do not want to belabor this point, but I want you to see that there is quite a bit of language on the back. What we believe is that the contract is very simple. Once you take possession of this card, there are certain responsibilities besides the expiration date. You will notice the player is immediately responsible for things like accuracy, the date, and the amount shown. We would also contend that it does not become the property of the player until it is redeemed. To give you an example, many promotions on casino floors are run by charities, like raffling a car. What often happens is the person who wins realizes the tax burden he will incur for accepting the car and chooses not to. In those cases, the car or its monetary value does not revert to the state as unclaimed property. There are other issues and examples that we could go into, such as a dry cleaning ticket, or leaving a bag of food at McDonald's. In some respect, all of these types of issues would be the same logic as this, except that our business is not dry cleaning, it is not cars, and it is not a bag of hamburgers. It is cash. It seems that a different system is being proposed because of the ease of collection.

There was a question brought up that this may be no different than a token. Assemblyman Hansen brought up the issue that it is specifically exempted from unclaimed property, which I will come back to in a minute. If you think about it from a common sense standpoint, this should be no different than a token. A token has no monetary value outside of that establishment, and it cannot be redeemed elsewhere. The only reason the ticket-in, ticket-out exists is because of the innovation of the industry. Our customers wanted TITO for the ease of playing. This bill penalizes the industry for innovation and is a disincentive for being creative.

Chairman Lipparelli spoke to Regulation 6. Again, I think establishing the ownership of this money in Regulation 6 specifically contemplates that the industry has to account for it after 60 days. There has been some confusion about that, but I want to draw your attention to Regulation 6. It provides that the gaming industry must account for that money after 60 days and pay taxes quarterly in accordance with the gross gaming tax statutes and regulations. We believe that this is not the state's money. We also believe this is a matter strictly between the establishment and the patron, and not the state.

I understand the question that is brought forward to this Committee by this bill, but if it were to revert to unclaimed property, I would contend that a number of other issues are created. Earlier in testimony, it was contended that there is a lesser burden on the state to take this into unclaimed property because there is no way to trace the claimant. The absolute statutory mission of unclaimed property is to match the claimant with the claim, and I know there are folks

here from the Office of the State Treasurer. That is the entire point. My colleague, Mr. Alonso, will talk about the legalities of that, why it is uniform federally, and why there is case law from the United States Supreme Court and the Ninth Circuit Court of Appeals that deals with these types of issues. On its face, this is not a consumer bill. This money going into unclaimed property by default is untraceable and, therefore, unmatchable. Theoretically, if someone attempted to claim this money, months or years down the road, he could produce a lost ticket. Now we put the Treasurer's Office in the position of determining whether that instrument was forged or is legitimate. Once this is in place, you can imagine the Treasurer's Office attempting to match the claim with the claimant, as is its statutory duty. If a notice was published in the newspaper that if you gambled at a certain casino in the last year, you may be eligible for a claim, that would create quite a run on the Treasurer's Office. There would be a run on these tickets, and I do not think the Treasurer's Office is set up to determine which TITO instrument is forged or legitimate.

We need to understand how unclaimed property works. It is a perpetual liability of the state, and it never goes away. According to the statutes that govern unclaimed property, the state can never actually take total control of the money. It also creates the issue of third-party claimants. Nevada enters into compacts with surrounding states so that, when one state audits a financial institution, insurance company, or in this case a casino, the other states do not have to and the entity is not subject to five or six audits. What then happens is a state like California conducts an audit under one of these reciprocity agreements. If the auditor finds that a Nevada resident is due unclaimed property, it reverts back to Nevada. The problem is that it works in reverse. There are numerous examples of mega jackpots that have been hit in this state in which the person took an annuity, went back to California or Arizona or wherever he lives, and then for some reason disappeared. The state cannot track him down. The state of residency can then make a claim for that jackpot to be paid in perpetuity, not to Nevada, but to that state. I think a much more detailed discussion of how unclaimed property actually works is necessary so that you are able to shape the entire public policy if the purpose of this is for money to go into the General Fund.

We did talk about the tax rate, and I again respectfully disagree with the Chairman, but totally understand his point. We do pay 6.75 percent on this money and it is hardly a comparison to taking 100 percent of the money. I do agree with that, but I would also say that there is a loss in the timing of the money. Understand that we hold the money for quite some period, and then once it goes to the State Treasurer's Office, given its statutory charge, the money is held again. I know the proponents talk in the context of this biennium, but you would realize no money from this bill in this biennium.

Perhaps you will in future bienniums, if you are able to get through some of the challenges that we have discussed on unclaimed property.

Aside from all of that, and all of the respectful disagreements that we have on possession, I think it is important that we take a step back and think about this transaction. We are a service-based economy. Our biggest industry is hospitality and gaming. The vast majority of the patrons of gaming entities are from out-of-state. A person comes to Las Vegas or Reno on vacation or for the weekend, gets one of these tickets, but then he goes home. When he returns to our state, instead of having a discussion with the casino about redeeming the ticket, which in most cases our members do, the ticket has now been forfeited to the state. We will have to tell our customer that after 30 days, if he has a question about redeeming the ticket that he may have forgotten about, he has to take the issue to the state. He has to understand that it will be impossible to identify the ticket since tickets are reported in mass with no identifiable marks, as we have discussed.

The last thing I will say is that it creates, in some respects, a bifurcated system. Think of this scenario: You are sitting in a bank of slots on a casino floor. Some are ticket-in, ticket-out, and some still have coins. As you know, the coins that come out are not real coins, but tokens. Mr. Alonso and I are sitting next to each other playing the same type of slot machine, except mine is TITO and his is coin operated, and we both win \$15 jackpots at the end of the evening when we are going home. Maybe we get an angry call from our spouse, or there is an emergency, but whatever happens, it is the same circumstance. My ticket is lost and his bucket with 15 coins is left behind. My ticket is now subject to unclaimed property laws of the state, and his coins are not. I would contend that this creates a whole bunch of other questions that have not been contemplated. I say to the Committee that there are a number of complicating issues regarding getting the money from point A to point B, which is the purpose of this bill.

Vice Chairman Ohrenschall:

I will repeat what I said to Speaker Buckley. You are a former member of this House, and we are honored to have you here.

I grew up in Las Vegas, along with Chairman Horne, and I was used to the "clickity clank" sounds of the old fashioned slot machines when people actually received coins. How long has TITO been going on in casinos here in Nevada?

Pete Ernaut:

It has been about ten years, but it has accelerated in the last few years. When you see the accounting of how much money has been accumulated in this type of account, the vast majority of that has been in the last few years, as the hotels have converted over. I know there are some folks from the taverns here, and I do not want to exclude them, as they have converted over to the TITO method.

Vice Chairman Ohrenschall:

During Chairman Horne's testimony, he mentioned a figure, that may have come from the Gaming Control Board, of \$11.7 million reverting to the casinos, and that represented 20 percent of the properties in the last year. Does the Nevada Resort Association have any figures as to how much money has reverted back to the properties since TITO was implemented?

Pete Ernaut:

We do not have a cumulative figure, but in talking with the Chairman of the Gaming Control Board yesterday, he estimated, on an annual basis, a low of about \$20 million and a high of about \$35 million. It is impossible to quantify, but that seems to be a reasonable range. That is statewide throughout the industry, so that is the difference between the number of entities that you pointed out and the full breadth of the industry.

Assemblyman Daly:

My question goes back to testimony from the Chairman that the money is reverted to what you call "income." I want you to explain to me how and why you believe that is the case. Unlike a gaming token, you issue this voucher as winnings of a legal game in the State of Nevada. But you did not win it back, so I do not know how you get it back in revenue. Unlike a gaming chip—where someone comes in, gives you \$5 for a \$5 chip, goes to the table, wins his bet, and you pay out of the tray—the only way he wins that \$5 back is if he either redeems it for money, or he loses another bet, and the \$5 goes back into the tray. How did you win this money back in order to say it is revenue, and it belongs to you?

Pete Ernaut:

I do not think the concept is that we win it back. The concept is that a contract is created, and in all contracts there are terms, and the terms are that we agree to pay that ticket. The player agrees to a number of things, not just the expiration date. I will direct you to the other responsibilities that are established on the back of the ticket. What we are saying is that those terms expire. We are still able to, in most cases—and this is a point that needs to be made again—redeem those tickets as part of good customer service. It is not

winning it back; it is that it creates a contract. There are terms and those terms are violated. We believe that you do not take possession until you redeem it. It is exactly the same thing with a token. The ticket may not be round, and it may not have the Fandango logo imprinted in the middle of it, but it is the same as a token. It is a receipt, a receipt to redeem. If you choose not to redeem it for whatever reason, that contract has essentially been forfeited.

There are a number of other issues from a legal standpoint that I would like to have Mr. Alonso give his testimony on, if it is the pleasure of the Committee. I think there are a couple of important points that need to be made that have not yet been made.

Vice Chairman Ohrenschall:

I have three people with questions, but if they are willing to wait until Mr. Alonso finishes his testimony, we will let him go ahead.

Michael Alonso, representing Caesars Entertainment:

We are opposed to A.B. 219. I agree with what Mr. Ernaut said, and I will not go back over that ground. I do want to touch on one thing that is very important. It came out in this hearing in the questions from the Committee members, as well as the witnesses. We all seem to be focusing on this as money that goes to the state, and that it will help the budget. The whole purpose of unclaimed property is to unite the property with its owner. It is not for the state's budget purposes. That is the contention that runs through a lot of case law, and the discussions on unclaimed property that go from session to session. That liability is always there in perpetuity because in every statute based on court decisions, the money is the property of the owner. The problem you have is that you do not know who the owner is, which makes this even more complicated.

One case to look at is a 2007 California case, *Taylor v. Westly*, 488 F.3d 1197, (9th Circuit 2007) in which the Ninth Circuit Court of Appeals issued an injunction on the California State Controller's Office that restrained them from collecting unclaimed property. There was contention running through that case that the property is supposed to be reunited with the owner. The court found that the Controller's Office was not doing a good enough job of reuniting the property with the owner, especially property that belonged to people the Controller's Office did not have a name or a last known address for. Assemblyman Sherwood touched on this earlier. One of the major issues in California was that the dormancy period kept being reduced in order to take the money into the general fund earlier. Again, the federal court placed a receivership on California's unclaimed property, and the state could not take it until the issues were resolved. The California Legislature passed amendments

to the unclaimed property act to increase those periods and to require additional notice and monies be spent by the state to try to reunite unclaimed property with the owner. Based on those changes to the law, the court removed the injunction and allowed collection of unclaimed property to continue. I think it is a very important issue that once you make TITO tickets unclaimed property, it becomes a complicated area of law.

The other issue that I think is important is that the United States Supreme Court has dealt with the issue of claims of other states. The minute you make this unclaimed property, it is subject to the unclaimed property act of every other state that has an unclaimed property act. Then the question becomes: Whose property is it? The U.S. Supreme Court decided that a long time ago. I believe it was in 1965, and that case has been reaffirmed several times. When you do not know who the owner is, and when you do not have a last known address, which you would not have with these wagering tickets, the U.S. Supreme Court has held that unclaimed property goes to the state where the entity or holder of the property is domiciled, or wherever that entity is incorporated.

Some states, like Delaware, are very aggressive. Delaware has the most incorporated companies, the most Fortune 500 companies, and it takes the position that anything held by a company that is incorporated in Delaware is the unclaimed property of the state of Delaware. There are entities in the State of Nevada that are domiciled in Delaware. Delaware is the favorite state of incorporation for a lot of entities, especially large corporations and a lot of lenders. I will give you an example. I have another gaming client, a large gaming company, which was audited by the State of Nevada on unclaimed property. The State of Nevada chose to use a third-party auditor to perform that audit. That third-party auditor was hired by at least 10 or 12 other states to come in and audit this company at the same exact time that Nevada was doing its audit. That is very typical on these large audits. During the course of that audit, a jackpot annuity was found, and the last known address of the person who won the annuity was in California. The company was holding onto the annuity because it had sent several of the payments to the address in California before the person disappeared, and the company could not find a trace of him. Ultimately, the State of Nevada had to agree that the money had to go to the State of California. In that case, the company knew the person's name and last known address. However, in this case, you are not going to have any of that.

That is the rule, which is based on a 1967 case called *Texas v. New Jersey*, 379 U.S. 674 (1965), and reaffirmed in *Pennsylvania v. New York*, 407 U.S. 206 (1972), and in a 1993 case, *Delaware v. New York*, 507 U.S. 490 (1993). Please notice that all three of those cases were states

suing other states over their right to unclaimed money. The unique thing is that you do not have the name of the person, so you will have a hard time reuniting the property with the owner, which is the specific purpose in perpetuity of the state unclaimed property program. You will have other states making claims to that money, specifically because you cannot identify who the owner is, or his last known address.

The other unique issue is that it is the only unclaimed property that I am aware of where taxes are automatically due and actually paid. What Chairman Lipparelli and others have touched on is that, by regulation, within 60 days of the issuance of a ticket, regardless of whether that ticket is expired, the casino has to account for that amount in gross gaming revenue, file a tax form, and pay the gross gaming taxes on that amount of revenue. This is not unclaimed property that the state is not receiving taxes on. The state does receive gaming taxes. You are opening the door to other complicated issues by classifying TITOs as unclaimed property.

Vice Chairman Ohrenschall:

In my first session, we passed the gift card statute, and I see a lot of similarities here with the money that gift card holders had. My uncle could buy a gift card in Arizona and mail it to me, and I could give it to Chairman Horne, and he could leave it on his desk, and someone could pick it up and use it, or forget it. It is hard to trace, just like these tickets. We have had that statute on the books for four years and I think, if you look at the gift cards, there is a lot of fine print on the back and a lot of terms and conditions and similarities. How come that has been working for the last four years here in Nevada?

Pete Ernaut:

The biggest issue is that we pay taxes on it. One thing we would agree on with the Chairman is that to make no expiration date on it would create a whole host of problems. First, no tax revenue would be paid on it. Second is the concern from the enforcement standpoint for the propensity of fraudulent activity with this type of ticket. That is why there is concern about creating a longer expiration period than the industry norm of 60 to 90 days. You would be creating more problems by taking the expiration date off than you would be solving, whichever side you are on.

Vice Chairman Ohrenschall:

My point with the gift cards is that we are not able to trace the holders of that money, and we passed a statute that has been on the books for four years where that money escheats back to the state. As far as I know, that has not been challenged. It is very similar, even if you cannot track down the patrons of the casinos who had the tickets.

Michael Alonso:

I would say it is because it has not been challenged. The question is always whether you have done enough to try to reunite the owner with the property. Many gift cards do not have expiration dates or charge a dormancy fee, but if it has an expiration date, you are warned that if you do not redeem it within six months, it loses 20 percent of its value, or whatever the percentage is. The gift card continues to lose value until eventually there is no value left on the card. I think gift cards are different from TITO vouchers. In going back to the original ticket, under the unclaimed property law, any holder of property that has an agreement with the owner can charge a dormancy fee. It is capped and limited, but it also depends on whether the voucher is a contract. A lot of these tickets are very small, but you could still end up making this more complicated by allowing the casinos to create a dormancy fee. Once you get into unclaimed property, it becomes much more complicated and difficult.

Assemblyman Segerblom:

I understand that you do not think this ticket really is unclaimed property, but assuming that it is, is there any reason why this would not be retroactive? It seems to me that if it does meet the definition of unclaimed property, then we can make this statute retroactive and obtain ten years of revenue that the casinos have been taking that should have gone to the state.

Michael Alonso:

First of all, the Legislature made a policy decision on unclaimed property to exclude these very things a long time ago. If you read the definition of what is excluded, it is anything of value, which would include chips, tokens, and these TITO cashless wagering instruments. The Legislature did this; it was not something the casinos came up with. Second, the Gaming Commission, in recognizing this technology, put in a provision on how it would be handled from a documentary and taxing perspective. I do not think that going retroactive would make a lot of sense.

Assemblyman Segerblom:

If the Legislature defined unclaimed property and historically did not define these tickets as unclaimed property, it appears we have the right to define it as unclaimed property going forward.

Pete Ernaut:

You are the Legislature; you can do anything you want. We just have a disagreement.

Assemblyman Brooks:

Mr. Ernaut, I am a little perplexed with your example of the coins in the bucket versus the tickets. You made a statement that Mike's coins in the bucket can always be redeemed, but your ticket eventually gets turned over to the state and you cannot redeem it. That is the way it is now, is it not? I did not know this ticket was a contract. If it is, it is a one-sided contract and I will no longer accept them. The only way to cash out of one of these TITO machines is to get a voucher, or contract as you call it, since you automatically get it. If accepting this is going to inhibit me from getting my money after 30 days, whether it is going to the state or to the casino, what does it matter?

Pete Ernaut:

Maybe I was not clear with the example that I gave. The example with Mr. Alonso using the coins, and me using a TITO, assumes that neither was ever redeemed. If this bill passes, if you walk away from the bucket with five coins still in it, and if I had my \$5 ticket, the coins revert back to the casino, but the ticket would not. Why would we differentiate between the efficiency of a TITO and the unclaimed coins when the exact same thing happens? It seems to me that we are penalizing industry innovation. The only reason we created TITO was because of customer demand.

Assemblyman Brooks:

The way I see it, the difference is the coin that I get, whether it is a \$5 or \$10 chip, is mine. You are telling me, with these tickets, it is yours after 30 days. The difference is that one stays with the patron for a lifetime, and the other reverts back to you.

You made a statement to Mr. Daly regarding the coin. What makes the casinos entitled to keep the patron's money when the casinos are putting the 30-day deadline on it so it reverts back to them? Why was a deadline ever put on them? Why was it not indefinite, or a year or two to allow someone to come back? If I am correct, this whole problem started with our Chairman getting a complaint from a patron that his money would not be issued back to him. Why did these expiration dates get established?

Pete Ernaut:

There is one specific reason that there is an expiration date, and that is because the entire gaming industry is under Gaming Commission Regulation 6. Regulation 6.110, section 11, establishes that payout receipts and wagering vouchers deducted previously from gross gaming revenue that are not redeemed within 60 days of issuance shall be added back to gross revenue. Also, an unredeemed payout receipt or wagering voucher previously included in gross revenue may be deducted from gross revenue in the month redeemed. So the

point is that it is an accounting issue. We are prescribed by state regulation to account for this differently on the 61st day than we are on the 60th. In some cases, some of the smaller casinos have more limited expiration dates because of the accounting lag between the time that it is a liability and when it becomes revenue. Some of the bigger operations are able to do that in a shorter period of time so they allow these to go 60 days. So, again, the expiration date is really the answer to that regulation and the accounting difference. If it were legal, we could extend the expiration date, but our hands are tied by Regulation 6.

Assemblyman Brooks:

Is it possible, even under Regulation 6, to tax that money at 6.75 percent and, if that individual comes after 60 days, give him his money back minus the 6.75 percent tax that you spent on it?

Pete Ernaut:

Yes. Actually, that is true. If we do redeem it, we are credited back the tax. It is a win-win for everyone. It focuses on what is trying to be accomplished. If it is a consumer advocacy bill, the issue would be reuniting the claim and the claimant, whether by the house or the state. If that is not it, then you have a different public policy question to answer.

Assemblywoman Diaz:

The previous slot machines all operated on coins before the TITO system. Who decided to change these machines to the TITO system? Did the state decide or the casinos? Who implemented these TITO machines in the casinos?

Pete Ernaut:

The decision was a business decision. The TITO machines are allowed by state statute and regulation, but whether a particular casino allows them on its floor is really a business decision driven by the patrons. There are many slot-driven entities that prefer to continue with the coin operated machines, and others that do not. It is a business decision across the board.

Assemblywoman Diaz:

The reason I bring up this change in machines is because I believe it is "out of sight, out of mind" with these new ticket systems. I think this ticket is money. The whole argument of it equating to a token or a chip does not hold in my mind because I put a \$20 bill into that slot machine, and you just spit out a ticket. That is what the machine gives me. I do not have the right as a consumer to get my \$15 back from the machine if I only played \$5. This is what I get [showed a ticket], and then I have to remember to go and insert it into another machine to give me the \$15, or maybe go to one of the few

cashier cages that still exist. To me, this does not equate. I put in my \$20 cash, so I should be getting my cash money back. I just do not see how it is equivalent to a token or a chip.

Pete Ernaut:

I do not disagree with you, but you also have the choice whether to play that machine. If you are uncomfortable with the transaction and having to remember to go to the redemption area to get your money, you have the choice not to play that machine. The issue is that once you make the choice to play that machine and accept that ticket, a contract is created, and you have an obligation to redeem it within a specific time. That is our contention. There are a couple of ways to look at this, but that is what we contend.

Assemblywoman Diaz:

I am looking at it from the perspective of my constituents. My constituents did not have a say whether the slot machines went from the "clickity clack" coins being dropped to the casino tickets. They just had to adapt. Also, when you took away those coin operated machines, I do not feel that it was necessarily done for innovation. I know a lot of folks who work in the casino industry and they feel that a lot of jobs were lost when these new TITO machines were placed in casinos. You eliminated many positions that the machines replaced.

I am also reading the fine print on the back of the ticket. There is not a lot of protection for the consumer. You are calling it a contract, but I see it as a one-sided contract because it says that the casino ultimately reserves the right to withhold validation and payment of this ticket. Even if I put in my \$20, you can still come and say I am not owed the \$15, that you have reason to believe I stole this ticket. I want to put it on the record that, from my constituents' point of view, it seems to be one-sided.

Assemblyman Hansen:

We are talking about unclaimed property, and who should get it. If someone gets a gaming ticket and does not redeem it, you cannot trace what state he is from, so I cannot see a state coming in to make a claim. If it were not for the big bucks it generates, it would not be much of an issue, but we are talking huge dollars. I guess it is up to the Committee to decide who should retain this unclaimed property. Should it go to the casinos or the state? That is where I stand. If it were not for the dollar volume, this would be a straightforward case.

Vice Chairman Ohrenschall:

I just want to remind you that in 2007 we had a similar question with the unclaimed gift cards. We made the decision that they went to the state, and it has been on the books for four years.

Assemblyman Hansen:

While trying to figure out who is right or wrong about this, I did some homework, and read NRS Chapter 120A. It was interesting to see how the Committee handled it previously.

Vice Chairman Ohrenschall:

Are there any other questions? I do not see any more questions. Is there anyone else who wishes to speak in opposition to A.B. 219? Is there anyone neutral wanting to speak? I see no one. Chairman Horne, would you like to come back up and make any last comments on the bill?

Assemblyman Horne:

You heard the various differences in our opinions. First of all, I do not believe the TITO machines were put in there at the request of customers. You heard Mr. Ernaut say that it was a business decision to do that. In fact, I do not think there were a lot of happy people. I think the casinos saved money with these machines in maintenance, in addition to reaping a windfall.

As for the issues on when we sweep, and the 60 days in which the casinos are required to pay their taxes, they were addressed in the amendment. We can change where we say it needs to be swept every quarter. If we need to do that in 60 days, it can be changed. The statutory mission of the State Treasurer's Office is to match claims with claimants; however, we are addressing that in the bill and changing the statute. I do not think we can force the Treasurer's Office to match a claim to an unknown claimant.

That takes me to the court decisions, and I think the cases cited were examples of lottery winners, et cetera, where the claimant is identifiable. They may not be able to be found, but they are identifiable. Here, the claimants are unidentifiable; we have absolutely no idea of their identification, or where in the world they came from. I do not believe any court, if this were challenged, is going to mandate a state or the State Treasurer's Office do the impossible, which is to find an unknown claimant, as in this particular scenario.

I think that the opposition would like this to be a very complicated issue. The muddier the water, the easier it is for them. But in the end, and Mr. Hansen mentioned this, it is a simple case of unclaimed property and who should get it.

All the other stuff just muddies the water and tries to make it more complicated than it actually is.

I will finish with this story. I have a daughter who is 24, just got married, and is in school in Arizona. She called me complaining that she had hired a plumber to fix a leak under her sink. She wrote him a check and, unfortunately, the plumber did not cash it for four or five months. My daughter was very upset because the plumber had finally negotiated the check and it overdrew her account. She was upset because she did not think the plumber was still entitled to the money since more than 90 days had passed. She thought the check was not good after 90 days because it said so on it. I had to explain to her that the plumber had provided a service and it did not mean she did not owe the money to the plumber for providing that service even if the check was no longer good. That is a contract. What we have heard today is not a contract. Regardless of whether the claimant of the ticket redeemed it in a timely manner, it does not mean the casino was not obligated to pay it. The casino played the game, it lost the money, and now the money belongs to someone else, even if we cannot identify who that person is. In all other cases of unclaimed property for which the owner cannot be identified, it escheats to the state. Just because someone did not claim it, gaming does not get it, in the same way my daughter still owed the plumber even though he did not cash his check.

Vice Chairman Ohrenschall:

There is another question.

Assemblyman Segerblom:

Mr. Ernaut indicated that if we pass this bill the money would not even be given to the state during the two-year biennium. I do not understand that. It seems like July 1 we would sweep that money into the State Treasurer's Office and start to spend it pretty quickly.

Assemblyman Horne:

I believe you are correct. I do not know where the idea came from that it will be two years before any monies can be swept. At the implementation of this bill, if it passes, the clock would start, the tickets would expire, and the quarter would run. When the quarter runs, the casinos would have to sweep that money and send it to the Treasurer's Office. Much of this accounting is done already. The casinos know what portion of money in their possession is unclaimed property funds. This is not an enormous task for them to overcome.

Vice Chairman Ohrenschall:

Thank you for your testimony. I guess my last question to wrap it up is, are there any other entities in Nevada, other than casinos, that are allowed to forfeit unclaimed property? I cannot think of any.

Assemblyman Horne:

Nor can I.

Vice Chairman Ohrenschall:

I will close the hearing on Assembly Bill 219. We will bring it back to the Committee. I will turn the chair back to the Chairman.

Chairman Horne:

Is there any other business to come before the Committee? As a reminder, all exhibits and amendments that are on NELIS become a part of the record. [An undated letter from Neil A. Rombardo, Carson City District Attorney, in support of the CASA program was made part of the record ([Exhibit K](#)).]

If there is no other business, we are adjourned [at 11:06 a.m.].

RESPECTFULLY SUBMITTED:

Karyn Werner
Committee Secretary

APPROVED BY:

Assemblyman William C. Horne, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: March 22, 2011

Time of Meeting: 8:11 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 259	C	Barbara Buckley	Presentation on Legal Aid Center of Southern Nevada
A.B. 259	D	Barbara Buckley	Proposed amendment to A.B. 259
A.B. 259	E	Ollie Hernandez	Written testimony
A.B. 259	F	Dashun Jackson	Written testimony
A.B. 259	G	Chris Bayer	Written testimony
A.B. 219	H	Kelsey Stegall	Presentation on unclaimed gaming property
A.B. 219	I	Assemblyman Horne	Proposed amendment to A.B. 219
A.B. 219	J	Pete Ernaut	Sample of a ticket-in ticket-out voucher
A.B. 219	K	Neil A. Rombaro	Undated letter in support of CASA