

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

**Seventy-Sixth Session  
April 21, 2011**

The Committee on Judiciary was called to order by Chairman William C. Horne at 8:24 a.m. on Thursday, April 21, 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/](http://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](mailto: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 Mark Sherwood

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Tick Segerblom (excused)

**GUEST LEGISLATORS PRESENT:**

Senator Mark A. Manendo, Clark County Senatorial District No. 7  
Senator Michael Roberson, Clark County Senatorial District No. 5

**STAFF MEMBERS PRESENT:**

Dave Ziegler, Committee Policy Analyst  
Nick Anthony, Committee Counsel  
Lenore Carfora-Nye, Committee Secretary  
Michael Smith, Committee Assistant

**OTHERS PRESENT:**

George Flint, representing Chapel of the Bells, Reno; and Reno Wedding Chapel Alliance  
Margaret G. Flint, representing Reno Wedding Chapel Alliance  
Nancy Parent, Chief Deputy Clerk, Washoe County Clerk's Office  
Jim Pierce, Assistant County Clerk, Clark County Clerk's Office  
John P. Sande, IV, representing Nevada Bankers Association  
Adam Kilbourn, representing National Association of Insurance and Financial Advisors  
Gregory Gianakis, Private Citizen, Las Vegas, Nevada  
Joe Pantozzi, Private Citizen, Las Vegas, Nevada

**Chairman Horne:**

[The roll was called.] The meeting will come to order. We will open the hearing with Senate Bill 101 (1st Reprint).

**Senate Bill 101 (1st Reprint):** Revises certain provisions relating to certificates of marriage and the solemnization of marriage. (BDR 11-635)

**Senator Mark A. Manendo, Clark County Senatorial District No. 7:**

I appreciate the committee hearing this bill today. If you compare the first reprint with the original bill, it is a watered-down version. There are a couple of components left from the original bill. There are some witnesses who will be discussing it further. The witnesses are all in the industry. Sometimes when government does not work for businesses and people, they come to the Legislators for help, and that is what we have here today. I want to mention, for the record, that in the original Senate Bill 101, there was a portion that dealt with picture identification. Apparently, there are some business entities requiring photo identification. There is a Legislative Counsel Bureau (LCB) opinion that is probably in your packet ([Exhibit C](#)) addressing that issue. Vice Chairman Ohrenschall asked for a legal opinion in 2009. The opinion is from Brenda J. Erdoes and is signed by Nick Anthony. It is sad to say that some people are ignoring this LCB opinion. I believe that some of the witnesses may want to address that issue. I just wanted to bring it to your attention. It is

somewhat offensive when people ignore our LCB opinions. I will yield for now, Mr. Chairman. I appreciate the time and attention of this Committee.

**Chairman Horne:**

Are there any questions for Senator Manendo before we move on? I see none. Who is going first?

**George Flint, representing Chapel of the Bells, Reno; and Reno Wedding Chapel Alliance:**

Good morning. I am here today representing our family business, the Chapel of the Bells in Reno, which is Reno's oldest remaining wedding chapel. I am also representing the Reno Wedding Chapel Alliance, consisting of our chapel, along with the remaining four chapels that continue to survive in these challenging times, which is part of the reason we came here today. Businesses are suffering and looking for ways to survive. It is all about jobs. The 12 or 15 wedding chapels that have folded their doors in Reno, during the last seven or eight years, have probably cost Reno approximately 140 jobs. Thank you again, Mr. Chairman, for hearing Senate Bill 101 (1st Reprint). There are two things left in this bill from the original bill. Additionally, Senator Manendo asked to have the fee increase deleted for fairly obvious reasons, which leaves two items.

Regarding section 2, subsection 2, we ask you to help us by setting a standard of what can be printed on the back of the license. We have provided you with an example of printing on the back of a license ([Exhibit D](#)). If you look at page two of the exhibit, you will see that several months ago Washoe County began printing on the back with a rubber stamp the term "SOUVENIR ONLY — NOT VALID FOR PROOF OF MARRIAGE." Anyone can obtain a certificate at Fisherman's Wharf in San Francisco that costs \$2.95, which looks more official than that does. The nice couples who support our marriage industry, which is a fairly good sized facet of our tourist industry, are going home and wondering whether they are really married. I think that the intention was good and that originally it was meant to send a message. The message is that for name changes, and other legal matters, couples need to purchase certified copies of the certificates. At one time, many governmental agencies accepted the original license that went home with the couple, but 9/11 has changed many procedures nationally. We are now receiving calls daily from people asking whether they are really married. We go through the whole exercise of explaining it to them. We are asking for language that simply says in black and white, "This is your certificate. This is not a certified copy. For name changes and other legal matters, you will need to obtain a certified copy." Subsection 3 further states, "Nothing may be printed, stamped or written on the reverse of

the form other than the instructions and language described in subsection 2 and a time stamp used by the county clerk to signify that the form has been filed."

With all due respect, the copies that are being provided by Clark County are not as strong as the red-stamped language being used in Washoe County. You will see on page three of the exhibit, the Las Vegas County Clerk has used different language. The language says that the certificate is for keepsake purposes and is not an official record. I do not believe that is necessarily true, but this is not the place to debate that issue. The County Clerk goes on to say, "To order a copy of your official marriage certificate, please see information below under 'CERTIFICATE.'" It would be a lot better for the state, for the industry, for marriage in general, and certainly for the wedding chapel industry, if the Committee gave its blessing to the language which I have read, rather than the blunt language on page 2 ([Exhibit D](#)). There are many agencies that do accept this certificate for proof of marriage. Many churches accept it, and many local government agencies do. The ones that do not are mainly the Social Security Administration (SSA), the Department of Motor Vehicles (DMV), and some agencies that have been much more careful since 9/11. The certified copy is a good idea for that reason.

The only other remaining facet of the bill which has survived is on the last page of the bill. For more than 50 years, the statute has stated that if a minister, rabbi, or other party authorized to marry persons for at least three years, retires from active ministry, he may continue to perform weddings. Many times, retired ministers depend on performing weddings to supplement their limited incomes. The only problem that has ever occurred from this ruling is the fact that, every now and then, a minister who retires moves from one county to another. There have been times where there have been questions about the legitimacy of his retirement permit, or other questions associated with his relocation. I think the county agreed with us in the Senate Committee hearing. The Senate Committee had no problem with that particular section, which was one reason it had no problem moving the bill. The bill, in section 3, subsection 8, simply adds language that states, "If any minister or other person authorized to solemnize a marriage, who is retired and to whom a certificate of permission has been issued, moves from the county in which his or her certificate was issued to another county in this State, the certificate remains valid until such time as the certificate otherwise expires or is revoked as prescribed by law." It will not interfere with the fact that if his retirement permit is good in Lincoln County, it will be good in Washoe County.

The rest of the bill has been deleted. There were a couple of things that we hoped might come to fruition that have not. I am not here to debate those

issues. I just wanted to explain to the Committee the two important matters that are left. I thank you for your listening and understanding.

**Assemblyman Frierson:**

What is the difference between the form with the stamp on the back and the certified copy?

**George Flint:**

The certified copy does not have anything on the back. The certified copies cost \$15 each and are beautifully done. They contain the recorder's stamp and the location of where the original marriage license has been recorded in the county records. There is nothing on the certified copy that will indicate that it is not an official record.

**Assemblyman Frierson:**

For practical purposes, are they the same document?

**George Flint:**

Yes, they are.

**Assemblyman Carrillo:**

Regarding the certified copy versus the souvenir copy, when a couple gets officially married, are they given a copy at that time? Also, does it not take approximately 60 to 70 days to receive a certified copy through the county?

**George Flint:**

We often obtain certified copies the same day that we record. We record our weddings every Monday morning. Sometimes couples require them quicker than that for immigration purposes, or other reasons. We can file immediately, with the exception of holidays or weekends. There is no time lag for obtaining the certified copies.

**Assemblyman Frierson:**

You referred to a legal opinion; I am not sure we have that copy in Nevada Electronic Legislation Information System (NELIS). I would like to see it at some point. Is the concern that random people, who file paperwork to conduct these ceremonies, are handing out these certificates that otherwise have to be recognized? I am curious as to why anyone would have an issue with this. You say there are people ignoring the legal opinion. Maybe you can elaborate on that.

**Chairman Horne:**

I believe the legal opinion deals with the requirement of identification, rather than who is performing the ceremony.

**Margaret G. Flint, representing Reno Wedding Chapel Alliance:**

I will see whether I can clarify this for you. The legal opinion that we are talking about has to do with an identification issue. This issue goes back to 2007, when it was negotiated with the County Clerks in Clark and Washoe County, wedding chapels, and the Department of Motor Vehicles, regarding what would be considered a valid form of identification. We negotiated much of this language because a certified copy of a birth certificate, which had been an acceptable form of identification for many years, was no longer enough. It seemed that the county clerk's office was requiring another form of identification to go with it. What was agreed upon in 2007 was a certified copy of the birth certificate, along with a second document, that contained the name. At one point, the County Clerk had been asking for that document, along with photographic identification. At a Government Affairs work session, the photograph requirement was stricken in 2007. I do have a copy of the Government Affairs document. I do not have it with me, but I can provide it to the Committee. Although it was passed with that language, the County Clerk continued to insist on photo identification, along with the certified copy of the birth certificate.

In 2009, we came back with the same dilemma. The language was revised to request a certified copy of the birth certificate, along with a photographic identification, or another piece of documentation, which would verify receipt of that document. The language is pretty ambiguous, and we were still having issues. Photographic identification was still being demanded by the clerk's office. Assemblyman Ohrenschall requested a legal opinion through LCB. When the LCB opinion came back, which is signed by Nick Anthony, it clearly says, "Based upon the plain language of section 2 of Nevada Revised Statutes (NRS) 122.040, as amended by Assembly Bill No. 262 of the 2009 Legislative Session, it is the opinion of this office that an applicant for a marriage license is not required to furnish photographic identification to a county clerk to provide proof of the applicant's name and age." It is very, very clear. That opinion has still been disregarded. We have received arguments that it may be a potential form of identity theft. Even though someone can go to the DMV and use a certified copy of a marriage certificate as an avenue of identification, the document by itself is completely meaningless. Someone cannot take a certified copy of a marriage certificate by itself and use it as a means of identification to obtain a driver's license or state issued identification card. A person will have to have other identification to substantiate that

certificate. For a name change, a person would have to show an old driver's license or identification card. The single document is meaningless by itself.

Regarding Mr. Frierson's other question about the certified copy of the marriage certificate, after 9/11, the Department of Homeland Security became very strict, requiring certified copies for name changes. Traditionally, for many years, a party could just take his certificate, go to the DMV, and process the name change. Currently, DMV and SSA want a certified copy. It has become a mandatory document. When we address the language on the back of this certificate, we are asking for plain, generic language. It would not say, "This is a souvenir." We would like generic language that all people can understand such as, "This is a certificate. This is not your certified copy. For name changes and legal purposes, you will need to obtain a certified copy." It would then be followed with the information regarding the appropriate recorder's office where the parties would obtain that certified copy.

The only other issue addressed in this bill refers to the retirement permits. This is not necessarily about a retired minister, but refers to a minister who has a certificate of permission to perform a marriage and is in retirement status. After having a permit and serving for three years, a person can apply for the permit to be under retirement status. I can meet my cowboy tomorrow and decide to move to Elko to live the rest of my life. Since my permit is in Washoe County, I would like to transfer the permit, rather than have to reapply in another county. It is a simple issue that should not be a big deal.

**George Flint:**

This photo identification issue is not a huge issue. About 95 percent of people have photo identification. There are some older people that do not. My mother never learned to drive. Until the day she died, she did not have photo identification. She had a birth certificate. She had a Medicare card. She had an insurance card. Yet, she had nothing with her picture on it. Routinely, older couples are arriving in both northern and southern Nevada and do not have photo identification, but they do have other evidence. It is nice to be able to accommodate those people. Recently a lady came in with a checkbook, with numbers in the 9000 range. She had this checking account with that name on it for many years. We are disappointing some couples who are coming to Nevada to have a good time, and a honeymoon, who have never had picture identification. It would be nice to be able to accommodate them. In conclusion, it is a very small percentage, but it can make a difference. There are members of the Washoe County Clerk's Office here. At times, they do a lovely job of trying to work with people. We have turned a couple away recently because they did not have picture identification. The couple went to the Washoe County Clerk's Office on their own. The clerk looked at the man's

identification card, which was plastic, with a paper-label over it. The only other thing he had with him was a citation from the California Highway Patrol, with his driver's license number on it. He had been stopped and it turned out his driver's license had been suspended. However, the clerk's office gave the license to the couple based on nothing but the paper-label over a plastic card that said "California insurance," plus a State of California citation from the Highway Patrol, which was issued because he was driving with a suspended license. With due respect for my friends at the Washoe County Clerk's Office, they do sometimes bend their own rules. They do try to work with people, but I am not here to find fault with them at this time. What we are trying to do is to get a universal agreement to survive through these times, because one, two, or three weddings in these tough economic times can make a difference in one of our businesses surviving. Thank you for allowing me that explanation.

**Assemblyman Sherwood:**

As you describe the interaction between the clerk's office and the consumer, would your next logical progression be to have the chapels become licensed to handle what the clerk is doing now? Alternatively, can we agree that the County Clerk has a function, and we need to clarify the rules?

**George Flint:**

In 2001, Senator Manendo sponsored a bill that would allow wedding chapels to issue a license under the authority of the County Clerk. This Committee passed the bill. It went on to the Senate Judiciary Committee, who passed it. With respect to my good friend, former Senator Bill Raggio, he put it on the table, and it never came to a vote. Last session, this Committee passed the same bill or a similar version of it. It was passed unanimously on the floor. It went to the Senate, who passed it unanimously. There were some skirmishes over the entire matter on the floor. We wanted to save the rest of the bill because that bill had so many different facets to it. On the last day to come out of the Senate, we encouraged Senator Washington, and the caucus that was supporting the bill, to remove that portion which would allow us to issue licenses. Additionally, it is common knowledge that there is a bill that has already passed, in the Senate, which would allow wedding chapels to issue licenses. The bill has not come to you yet. That bill would only allow us to issue licenses when the County Clerk's Office is closed. That is a separate issue that we hope to address with this Committee at a later date.

**Chairman Horne:**

Are there any more questions for either of the Flints? I see none. Is there anyone to testify in favor, in opposition, or neutral for S.B. 101 (R1)?



**Nancy Parent, Chief Deputy Clerk, Washoe County Clerk's Office:**

We are neutral on S.B. 101 (R1), insofar as the first reprint is concerned. The provisions that the Flints have requested, regarding the wording on the back of the certificate is acceptable. I would like to explain our side of the story on why we are using the red stamp. When couples leave our counter, they have three pieces of paper that are official. One of them is a white marriage license that they must provide to the person that performs their marriage. The second is a white piece of paper, in a very specific format, which is called a "marriage certificate." That is what gets recorded with the Washoe County Recorder's Office and becomes their official certified proof of marriage, which is recognized by all government and state agencies. Finally, we give them a blue, very pretty, keepsake souvenir certificate, with a gold seal. Because it does look so nice, the chapels fill it out after performing the marriage, and it is given to the couple, so they have something to walk away with. We explain to them at the counter that it is not their official proof of marriage, and it will not be accepted to change their names or insurance. You cannot imagine the hundreds of calls we receive from people trying to use the certificate for such purposes, only to be denied. It was out of our attempt to resolve that issue, that we added the red stamp because nothing else was working. The people really thought it was the official document. We will do whatever the bill tells us to do regarding the back of the certificate. I just wanted you to understand why we did what we did. It certainly has nothing to do with wanting to interfere with the chapels or confuse their customers. It was done in response to what we felt was a customer's need.

Regarding the minister transfer language, we do not have any trouble with that. I think there was some confusion with some ministers that have moved, and perhaps a clerk in Clark County did not understand the law. I do think that all the clerks in Nevada are willing to work with that. We will work with each other when ministers transfer between our counties, and it should be no problem at all.

Regarding the other provisions that the Flints spoke about, such as the LCB opinion about photo identification, there are other legal opinions out there about photo identification. I think the important thing to remember is that the statute says the County Clerk shall require from the person who is applying for a marriage license to provide proof of name and age. In this day and age, you really need a photo identification to do that. We make all kinds of accommodations. I cannot explain the situation that Mr. Flint just told you about, because I do not know what the other person may have provided us. We go out of our way to accommodate, although we prefer a passport, driver's license, or government-issued identification. If they do not have any of those documents, such as kids in high school, we have accepted their certified birth

certificates and their school identifications. We have gone so far as to look at their school yearbook, as long as it has their name underneath their picture, and the picture looks like them. I do not think that if someone comes in with a power bill or a check cashing card that it proves who he or she is. A person could have someone else's power bill or a sibling's certified birth certificate. Unless I can connect it with a picture, it does not prove that it belongs to the person presenting it. Representatives at the DMV, the Department of Homeland Security, and the Department of Immigration all rely on our documents. If they cannot rely on us to make sure the people there in front of us are who they say they are, our documents will be worthless. We feel that we are fulfilling our statutory duty, and we are going above and beyond. We have looked at prison identification and then called the prison to verify that the person is who he says he is. Older couples can usually come up with something. I want to assure you that we are not flying in the face of any law. We are doing what we think the law says. In 2010, we have only turned away less than one-third of 1 percent, which was 36 people in the whole year out of almost 9,800 licenses, because they had no identification. They could not prove to us who they said they were. To give you an example of how important these documents are, the county clerks must keep these documents forever. We have marriage records dating back to 1861. People do come in and look at them for ancestry. They are vital records. I thank you for your time.

**Chairman Horne:**

Regarding the photograph issue, I just read the statute and have seen the opinion. You said there are other opinions out there. Can you provide us with those opinions and who those opinions are from?

**Nancy Parent:**

I do not have one from my District Attorney. I believe Carson City has one, and I think some other county clerks in the state may have verbal opinions. I am not aware of anyone other than Carson City, who has asked for one in writing.

**Chairman Horne:**

Right now we will work with the LCB opinion. The statute was crafted here and our legal representative's name is on it. I am reading this, but it sounds like from your testimony, you are of the belief that some form of photo identification is required. The legal opinion says an acceptable form of identification is a birth certificate and a secondary document, which contains the name and a photograph of the applicant, or a birth certificate and any document for which identification must be verified as a condition to receipt of the document. As I read the opinion, it says that a photograph is not required. Is it your position because the clerk's office disagrees with it, you do not have to comply with it?

**Nancy Parent:**

I believe that language was put there to be permissive, which would give us the opportunity to accept other things, and to use our judgment to assure the person is who he says he is. As an example, someone could ask me to show identification to obtain a copy of a birth certificate. But, what if I gave the identification to my friend? How will I know the person in front of me is the person he says he is, unless there is some kind of verified photo with it?

**Chairman Horne:**

I do not see how this is permissible. This is listing the things that are acceptable. It sounds to me that you are taking it upon yourself to say what is acceptable and what is not. You are telling me now that the third requirement listed here is not acceptable to you. You are not the only agency that has come before us saying, "We do not do it that way because it does not work for us, and we would like you to change the law." It just does not work that way. We have a provision right here by the Legislature, which was signed into law by the Governor that says it is acceptable to receive these documents without having a photo. Yet, your agency takes it upon themselves to say, "Our agency is going to require a photo." I do not understand that.

**Nancy Parent:**

It basically comes down to the "shall" versus "may" issue. The beginning of the statute says we "shall" require proof of name and age. The bottom says you "may" require the following and shows a list of things we can accept. To me, it does not say we "shall" accept. I do not pretend to try and argue the point with you, Mr. Chairman.

**Chairman Horne:**

Are there any questions for Ms. Parent? I see none. Thank you. I would be interested to hear what Clark County is doing. If it is going to be your policy that you always require some form of photo identification, that is not what our law says. I see that Jim Pierce has signed in from Las Vegas. Can you provide me with some clarification on how Clark County reads that statute? Does Clark County read that statute as you are required to have photo identification?

**Jim Pierce, Assistant County Clerk, Clark County Clerk's Office:**

We read it as you read it. [Mr. Pierce read the relevant portion of NRS 122.040.] Sometimes it is a challenge because people will come into the office with all kinds of things. We really have to work through it and do the best that we can to determine whether those documents work. I cannot think of any examples off the top of my head. Let us look at the example that Nancy used, regarding a power bill. In some instances, to obtain a power bill for a specific address, someone would have to have some form of identification. Is it

enough to validate that the person is who he says he is? It leaves us in a quagmire, the way it is written. We do the best we can to help those people prove who they are. Sometimes they have to leave and come back with additional information. Sometimes they have enough to utilize. You are correct in stating that picture identification is not required.

**Chairman Horne:**

Thank you, Mr. Pierce. Did you have any additional comments that you wanted to put on the record?

**Jim Pierce:**

Yes, actually Nancy Parent said it well in regard to how we deal with the licenses. It is important to note that what we call a keepsake certificate is exactly that. It is a document that we send home with the couple. It is not legal in the sense that most entities would recognize. It is designed to be something that looks nice, that they can put on their wall, or keep in their picture book, or whatever else they would like to do with it. Along with that, the minister received the license and the actual certificate. The minister keeps the license for himself, fills out the certificate, and has 10-days to fill out the certificate and record it. When the recorder's office receives a request for a certified copy, the office prints it on a special form that is designed to be difficult to forge. I am not saying that anything is impossible to forge today, but the certified copy is the official record that government agencies want to see for proof that those people were married. The language we are talking about here is to be placed on the keepsake certificate. Last year, almost 92,000 licenses were issued in Clark County. It is very important to us that the language be clear, and people understand how to obtain their certified copy. They will be asked for it, with all the changes going on right now. We have people going on all the time asking for copies of their certificate. This is difficult, but it is important that we have clear language on there. Looking at Mr. Flint's example, you will see that we call it a keepsake. To us, that is the simplest language to use to help the people understand that it is not a legal document.

With regard to the minister, we have no issues with that at all. From our standpoint, there is no problem with a minister moving to a new county. As the recommendation states, he will have to register his new address with the new county, which works fine for us.

**Chairman Horne:**

Thank you. The language in section 2, regarding the stamp on the back, you have no objections and are neutral to, correct?

**Jim Pierce:**

Yes, I am going to say we are neutral. It reads well enough that we can work with it. From our viewpoint, what we do not want to do is to include something that will increase the number of phone calls we receive. Obviously, confusion is not good for anyone. We are good with it.

**Assemblyman Sherwood:**

I have a constituent who has actually had the problem of going to the DMV with a souvenir marriage license, wasting the day and weeks after that by not having insurance, et cetera. Everyone who gets married will need an official certificate. What can be done on the front-end is to advise people that what they have is a souvenir certificate and in 10 days an official certificate will be mailed, then subsequently mail the certified certificate to them. Maybe a nice letter can be included that says something similar to, "Thanks for coming to Nevada to get married. You may use this certificate for all official name changes, et cetera." Perhaps, they could pay an extra \$2 for their license to cover costs. Would a little bit of front-end regulation save us from having to rewrite the law in the next session? Is there something you can do right now to make many of these problems go away?

**Jim Pierce:**

They are all very interesting ideas. I think there are many things that can be done to streamline the process with regard to insuring that people actually receive their certified certificates. Understanding how the process works, there is a very clear separation between what a clerk's office does from what the recorder's office does. The recorder is the official record-keeper of the recorded certificate, which is actually the department the couple would go to receive the certified copy of the certificate. The directions we refer to on the back of the keepsake explain that and provide the telephone number and the web address. The customer can now go online and order the certificate through the recorder's office. It is also important to note that when the couple comes into our office for their license, not only do we verbally walk them through the process to understand how it works, we also provide them with a pink document, printed in multiple languages, which further explains the process. Some couples coming in are a little bit rattled and might not follow through with it. Additionally, out of all the couples that come in to obtain a license, we do not know how many of them proceed to actually get married. There is no guarantee that they will follow through, get married, and record the document.

**Assemblyman Frierson:**

I am curious as to whether we have a significant number of people who have obtained a marriage certificate, which turned out to be a fraudulent situation where the people were not really who they said they were. Should we be afraid

of something that is not actually occurring? I also want to make sure that when someone requests a certified copy, is there some extra investigation occurring, or is the certificate just stamped and handed out? In other words, is there more to it, or are we just charging them and stamping a copy of the document they already have?

**Jim Pierce:**

I am going to speak somewhat on behalf of the recorder's office, because I understand a little bit about the process. Basically, when the recorder's office receives the document from the minister, it has the minister's signature on it, the witness's signature on it, and some information about the marriage. The recorder's office is accepting that as an official original record. When they record that record, it is usually saved in an electronic form. The actual paper version is not saved. That electronic form is then available for recall to print on special paper. The recorder's office uses an embosser to stamp the document, which becomes an official certified copy. The recorder's office is certifying that it is the official record as received. Hopefully, that clarifies the questions.

With regard to your first question, honestly I do not know what the numbers would be for fraudulent marriages. There is really no way for us to tell. We require some form of identification to prove age and identity, but beyond that, I do not know. I do recall this past year receiving a call from a person in Arizona that had applied for a job and listed himself as single. The company came back and asked why he lied about not being married. He challenged them on it, and the company showed him research done. The research showed he was married in Las Vegas and was actually able to prove that it was his social security number. He called us, and we verified that a person with his name and social security number was married in Las Vegas. We could not provide him with any legal advice beyond that. It was clear to him that someone fraudulently married under his name. The person is probably using his name for other things, but that is the only example I have. It was someone who came in with identification that satisfied us.

**Assemblyman Frierson:**

I am still concerned that we are talking about something that never happens.

**George Flint:**

I have personally performed 107,000 weddings. For all of the wedding chapels I am involved with, the number is over 250,000. I know of one case where a lady came back saying that she was married at my chapel but there is no record of it. None of us could find any record that she had been married, but there was a license sold. As I talked to the lady, she realized that they may never have actually followed through with getting married, although they did buy the

license. Apparently, that is what happened. Prior to 25 years ago, the licenses were good forever. About 25 years ago, Washoe County's former clerk and I came before the Committee regarding that issue. Now, licenses expire after one year. As for the number of people who do not actually use their license, I am guessing it is about 4 percent. Nancy may have better information than I do, but in my 49 years in the business, I know of one case that would fall into the category of Mr. Frierson's question. I do not believe it is really an issue.

**Nancy Parent:**

I would like to address Mr. Frierson's question regarding fraud. We have met several times with people from the Department of Homeland Security and the Department of Immigration. Those agencies advised us that marriage fraud is a multi-billion dollar business. Much of it is happening here in Nevada. I do not profess to be aware of all of the situations, but I know in the last few years, there were at least two fraudulent cases that occurred in Washoe County. There were three others where the persons were not who they said they were. I do not know whether the marriage was for fraudulent purposes. In one case, a gentleman came in with a phony-looking identification from the Department of Homeland Security. It was piece of paper, without a photo. It had a number and his attorney's name on it. He was marrying a lady from Susanville, but he was from a Middle Eastern country. In trying to find a better piece of documentation to utilize, I called his lawyer and asked him to fax me some more documentation. Then the gentleman pulled out a passport, but it was in a different name. I asked him about it, and he said that he worked for a government agency and was undercover. We placed a call to immigration and discovered that he paid the lady \$10,000 to come down and marry him. The whole thing was a setup, and he was arrested. There was another situation where a lady came in to get married and said it was her first marriage. When we were scrolling through the records, her name popped up as being married previously. She stated that she had never been married. We found out that her sister was married using her name. I do not know why for sure. I think the sister was a minor, and so there is another example of fraud. I hope that helps.

**Assemblyman Brooks:**

I think you said you asked for photo identification. If in fact, there is no photo identification, what are two forms of identification which can be accepted instead of photo identification?

**Nancy Parent:**

Mr. Pierce from Clark County provided a better example of describing what we go through to determine validity. Photo identification is the best form. If someone who does not have a passport can show us a picture of when she was a young girl, and can provide a list of the kid's names that arrived with their

parents — if we can be shown such a trail of documentation — it may be acceptable. We have made exceptions without the photo identification, but in rare cases. It is just so hard to prove that someone else did not grab a power bill from someone else. It does not prove that he is the person whose name is on the power bill.

**Assemblyman Brooks:**

Is there any way you can get together with the clerks from the other counties to synchronize other types of identification that may be acceptable and would satisfy the law?

**Nancy Parent:**

I think we all do the same thing. If you compare Washoe County's website with Clark County's website, you will see the same list of criteria.

**Chairman Horne:**

There are no further questions, and I will close the hearing on S.B. 101 (R1). We will now open the hearing on Senate Bill 348.

**Senate Bill 348:** Eliminates limits on the amounts of certain property that is exempt from execution. (BDR 2-779)

**Senator Michael Roberson, Clark County Senatorial District No. 5:**

Thank you for hearing my bill today. I do not have to tell any of you the financial struggles that Nevadans are facing. We lead the country in bankruptcies and foreclosures. Nevadans are losing their life savings. No longer can many of our constituents rely on the equity in their homes, or the value of their 401(k) plans to protect them from the vagaries of life. As a result of the bursting of the housing bubble and record unemployment, scores of honest, hardworking Nevadans are unable to pay their bills and are under the constant threat of losing their life savings to lawsuits and other actions by creditors.

Senate Bill 348 seeks to provide the citizens of our great State with more security as they save for the future and attempt to rebuild their financial solvency. Senate Bill 348 eliminates the limits on the amounts of certain property that is exempt from execution by creditors. Existing law exempts from execution by creditors any benefits arising out of a life insurance policy, to the extent that the annual premium paid for the policy does not exceed \$15,000. Existing law also currently exempts from execution by creditors, any annuity benefits payable to an annuitant up to \$350 per month. Senate Bill 348 would eliminate the caps currently in place under existing law. The bill will provide Nevadans with a means of protecting their assets and securing their retirement



income. In recent years, 13 other states have eliminated such caps. It is good policy for Nevada to do the same. Finally, S.B. 348 would put Nevadans, in the life insurance business on a level playing field, along with the growing number of states which have already enacted legislation similar to S.B. 348. It will increase the insurance premium tax revenue generated in this state, thus improving the state's bottom line. Senate Bill 348 was passed unanimously in the Senate Judiciary Committee, and by the Senate body as a whole. I hope you will also approve S.B. 348. I am happy to answer questions. Also, Adam Kilbourn from the Nevada Association of Insurance and Financial Advisors is present in Las Vegas to testify as well.

**Chairman Horne:**

We recently heard a similar bill, Assembly Bill 223. There is a section which refers to executing on money in a person's bank account, for monies owed. We were discussing a \$1000 exemption, but could not come to an agreement. Now, this bill is asking that all monies be exempt from execution. I am curious to find out if the bills are close to discussing the same thing. I see that Mr. Sande is here. Maybe he can address how this is different. I do not know your position on this, Mr. Sande.

**John P. Sande, IV, representing Nevada Bankers Association:**

I am here monitoring this bill today on behalf of the Nevada Bankers Association, and not the Nevada Collectors Association. You are correct in the fact that they do involve similar issues in the law. I do not want to discuss A.B. 223, as I am sure you all have heard plenty already. My client has not taken a position on this bill because it is dealing more with property rather than bank accounts. As we stated in A.B. 223, the collectors do not really look at life insurance premiums because there are so many exemptions that it is not worth it to them. They rarely even look to see whether the debtor has a life insurance policy. Most people are funding their life insurance with less than \$15,000 per year, which is currently the exempt limit. My client's only true concerns are wage garnishments and bank levies. That is the exclusive nature of the practice. My client does not have a position on this bill.

**Chairman Horne:**

If the monies for annual premiums for policies that are not in excess of \$15,000 were deposited in an account, your client would want to be able to garnish those. This bill says they cannot.

**John P. Sande:**

This bill would say that if money were sitting in an account, it would be subject to attachment. But, if the funds were paid to a life insurance company for a

premium for life insurance, which is protecting his life or a beneficiary's life, the funds would not be subject to execution.

**Assemblyman Ohrenschall:**

My question is for the sponsor. In the states that have passed legislation like this, has there been relocation of people to the state? Has there been an increased investment in the state because of this policy?

**Senator Roberson:**

Although I do not have the answer to that, Adam Kilbourn who is a professional in that field, will probably have a better sense of that. Many of the people in the Nevada Association of Insurance and Financial Advisors are interested in this legislation because they do believe that this will bring more business into Nevada. Our current law puts us at a disadvantage with other states. Many people are choosing to purchase life insurance policies and annuities out of state.

**Chairman Horne:**

Are there any questions for Senator Roberson or Mr. Sande?

**Assemblyman Frierson:**

I am trying to avoid the same risk that the Chairman is with regard to Assembly Bill 223. I realize that it is not your bill, and that you had nothing to do with that bill at all. As a policy statement, it seems to me that this Committee is considering protecting those proceeds from an insurance policy and simultaneously allowing someone's last thousand dollars to be accessible. You probably know nothing about A.B. 223, but some of us are struggling because we heard a measure that will allow creditors to go after someone's final thousand dollars if he owes a creditor money and here we have a policy statement saying that we should protect the proceeds from someone's life insurance policy. As a practical matter, while many of us will agree in principle that this is somebody's life insurance policy, meaning that someone has passed away and this would be hurting the family members who are the beneficiaries of the policy, it is somewhat contradictory as far as a policy statement goes. I just want you to understand why some of us are struggling with it.

**Senator Roberson:**

I can appreciate that. Am I correct in thinking that A.B. 223 relates to money in bank accounts? I would think there is a real distinction between money placed in a bank account and money invested for retirement purposes or for beneficiary purposes. Many of us do not have the equity in our homes that we used to. Our 401(k) plans and IRA accounts are protected from creditors. We are only

asking that life insurance policies and life annuities are given the same protection. That is the distinction that I would make. Thank you.

**Assemblyman Brooks:**

Under current law, the monies are not protected, so if the debtor wants to go after the last \$15,000 from a life insurance policy, he has the right to do so, currently. Is that correct?

**Senator Roberson:**

There is protection with certain limits, which are \$15,000 of premiums paid annually and \$350 per month for annuities. There are caps on what is protected. This bill will put Nevada on a level playing field with other states, which have eliminated those caps.

**Assemblyman Brooks:**

Someone who may be deceased might have a life insurance policy of \$1 million and have debt of \$50,000; the debtor would not be able to collect on that particular life insurance policy. Is this correct?

**Senator Roberson:**

I would rather let the other witnesses explain the nuances of the bill. I believe they can still collect on that. It really pertains more to the annual premium amounts paid on the life insurance policies, and not necessarily the total proceeds from a life insurance policy received at the end of someone's life.

**Assemblyman Brooks:**

That is an important distinction because when we talked about the other bill, it dealt with that issue, rather than the annuity per month.

**Chairman Horne:**

How much does a \$15,000 premium limit life insurance policy buy?

**Senator Roberson:**

I do not have the answer to that. The experts in Las Vegas can answer those questions.

**Adam Kilbourn, representing National Association of Insurance and Financial Advisors:**

We are a national organization with 50,000 members nationwide. There are about 500 members in Nevada. I am a certified financial planner, a chartered life underwriter, and I work in Las Vegas. I am here with some colleagues from my organization to try to provide a better understanding of the bill. As Senator Roberson has already mentioned, 13 other states . . .

**Chairman Horne:**

Mr. Kilbourn, let me stop you there for a moment. I had a question on the table that I would like for you to answer first. How much insurance does a \$15,000 premium get someone?

**Adam Kilbourn:**

That is a great question, but unfortunately there is not a specific answer because it depends on someone's health and age. A young person in good health may be able to purchase a significant amount of insurance, whereas an older person may be limited. It may buy anywhere from \$250,000 to \$500,000. Most of the public defers to term insurance rates, which are relatively inexpensive. If a family really wants to protect themselves for the long term, those premium amounts are fairly normal for a permanent life insurance policy. It is not unheard of to exceed those limits for a reasonable amount of insurance for a family.

**Chairman Horne:**

As an example, for someone nearly 50 years old and in good health, paying \$15,000 per year on a premium, how much coverage would he receive?

**Adam Kilbourn:**

It would probably buy a permanent life insurance policy in the range of \$500,000 to \$600,000. It would depend on the carrier. If you look at the grand scheme of things, it is not a whole lot of money for a family to spend on life insurance. If a family is making \$50,000 per year, they will run through that death benefit in 5 or 6 years, once paid out. This is mostly due to the cost of the end of life issues that families deal with, along with the loss of income. There is quite a bit of study to show a family would run through it fairly quickly.

**Chairman Horne:**

You had some comments that you wanted to place on the record, Mr. Kilbourn.

**Adam Kilbourn:**

Other states have done this and we have seen that it has brought value to them. We feel that putting Nevada on par, making it business and citizen friendly, is a good thing for our state. Protecting citizens and their ability to protect their families is a positive for everyone. I think that is one of the reasons why it was passed unanimously in the Senate. They looked at this bill as making Nevada more attractive and bringing benefits for people to live here. Making sure people do not become wards of the state, and lose all of their savings, is a positive thing for Nevada. I will let my other colleagues talk about some other benefits.

**Gregory Gianakis, Private Citizen, Las Vegas, Nevada:**

I am a member of National Association for Fixed Annuities (NAFA) and Association of Advanced Underwriters (AALU). To follow up on what Senator Roberson said, the issue that should be noted is not just the death benefit of a life insurance policy, but it concerns the internal cash of the life insurance policy. They are linked together. For instance, many retiree seniors, with fixed incomes, rely on that money to get through family events. I will give you a personal example. My father had to pay for extremely expensive medication for my mom, just in the last three months, which would have taken three quarters of his social security money. Essentially, he needed to dip into his life insurance to obtain loans to pay for my mom's medication. Had that cash not been there, not only would his life insurance have been gone, but I do not know what we would have done about the medical needs of my family. It should also be noted that the internal cash of a policy directly affects the death benefit. If the cash is removed, the policy goes away. This is for somebody who has the foresight to plan for security of a spouse, the security of college education for the kids, or the continuity of a small business. By protecting this money, we are also protecting the death benefit, which is a much bigger picture. It is in the public's best interest to protect that which will protect people who are trying to do the right thing by saving for the family, especially senior citizens who may be forced into public programs. This is a good way to keep their economic life going, and it should not be taken away due to what may be a mistake, accident, or lapse in judgment. It is part of people's pension and retirement plans. It should be on a level playing field with other plans that are out there.

**Joe Pantozzi, Private Citizen, Las Vegas, Nevada:**

I am a charter financial consultant and have been in the insurance and investment business in Las Vegas for 35 years. I am representing myself, my colleagues at my association that represent approximately 30,000 insurance and investment agents who work in Nevada, as well as several thousand clients of mine. There are a few points that I would like to make. First, when people put money into life insurance and annuities, they are doing so for the long term. Therefore, they would not have the agenda to hide money from creditors on a short-term basis. Life insurance and annuities, by their nature, are long-term vehicles. We are looking at years, and in most cases, many decades before people will realize the benefits from these programs. They do so with the purpose of setting up long-term benefit strategies for themselves and their families. Most of the benefits are for their families and not for themselves. They are setting up programs for their wives, spouses, kids, and grandchildren. My colleague has already talked about the competitive aspect of the bill. Several of my associates and I have had to arrange policies of a significant size for clients that had multiple residences and wanted to take advantage of the

unlimited credit protection in other states. Therefore, if we were to have the opportunity to have this bill pass, we would have those clients more desirous of having these policies issued in Nevada, which would send premium tax dollars to Nevada instead of other states.

**Assemblywoman Diaz:**

Mr. Pantozzi said that usually the life insurance policies are obtained for family and not necessarily for themselves. I am wondering what happens in the instance that a decedent, who is married and has children, leaves behind debt. Who inherits that debt?

**Joe Pantozzi:**

That is a separate issue. Once death benefits are paid out, they may be paid to an individual and the creditors would have the opportunity to come after the beneficiary's assets, whether they are in bank accounts, checking accounts, mutual funds, et cetera. The bill is addressing the cash values that are in a life insurance or an annuity policy, where the person has not died. Once a person dies, the assets are passing to another entity with a different tax identification number, and possibly to another trust estate. If people want to address creditor protection for the next generation, they should do some significant planning. Before we get to that point, the first thing we need to do is protect the values so that those death benefits are created. I have been experiencing this exact scenario with a 25-year client of mine, who is in stage IV cancer with hospice care. This is not a creditor issue, but the Internal Revenue Service (IRS) temporarily placed a levy on one of her life insurance policies. This is basically the effect that someone would experience if a creditor goes to court and gets a judgment against the policy. Because the counsel corresponded with the IRS, and because of the client's dire medical situation, even the IRS agreed in writing to vacate the levy from this policy. This was a judgment call by the IRS. There are many more opportunities for local, commercial creditors to attach policies, where a person might not be in a position to defend himself because of illness, disabilities, or financial constraints. There should be a distinction here between protecting the living cash values of the insured and annuitants so that we can get these policies to mature down the road in death benefits. I hope that answers your question.

**Assemblyman McArthur:**

For clarification purposes, we are only talking about insurance policies here. The only change I see from current law is a change in the amount that is protected, based on the premiums. Is this correct?

**Joe Pantozzi:**

Yes, the current limit is \$15,000 per year. We are asking that the limit be changed to become unlimited.

**Assemblyman McArthur:**

Thank you. I think that answers my question. Some of the Committee was comparing this to another bill we heard, and this actually does not have anything to do with anyone being able to collect later on from this policy. It really does not have anything to do with the other bill that we heard, does it?

**Joe Pantozzi:**

That would be my understanding.

**Assemblyman McArthur:**

Additionally, this bill has nothing to do with collections either. People can still collect debts off of this, and this bill does not change that. This bill just protects. Is this correct?

**Joe Pantozzi:**

Yes, sir.

**Chairman Horne:**

Let us get some clarification because I see the words "exempt from execution." Therefore, it seems to me that in comparing A.B. 223 to this bill is treating one group of debtors differently than another group of debtors. I am not saying those problems cannot be flushed out, but make no mistake, "exempt from execution" means that you cannot go after that money.

**Assemblyman Brooks:**

That made my point. If you cannot put a lien on these proceeds, that means you cannot go after this policy. I am not an attorney, but I think I know that much. If we exempt this as the bill is indicating, you will not even be able to pursue the funds once they go to the beneficiary. Correct me if I am wrong, but I would like to know what is different here? I am a little bit confused.

**John Sande:**

I was looking at the law and was sharing this bill with my clients. They said that is a different avenue, in which they do not necessarily use to collect. I believe what the bill is saying that this is treated similar to an Individual Retirement Account (IRA). I think we are talking about policies of whole-life insurance, which actually accrue and grow benefits and the policyholder pays into them. If that is the case, it is similar to a 401(k) plan or an IRA, where there are retirement or death benefits that are growing. We are

saying that those pools of money are not subject to a levy as long as the premium they pay is not more than \$15,000. Therefore, if it were more than \$15,000, you could attach that account that is growing in a bank someplace. In current law, it is capped at \$15,000. This law would allow an unlimited amount to be paid into an insurance pool that is growing as you continue to make your policy payments. I do not think my clients ever try to collect off life insurance payments, just as they never try to collect from IRA accounts or 401(k) accounts. I believe that is where the distinction is.

**Assemblyman Brooks:**

Okay, we go after the guy who cannot afford a life annuity, but the guy that can afford a life annuity does not have to worry about paying the debt.

**John Sande:**

I do not want to get back into A.B. 223, but I think that was the point we were trying to make. We do not want to collect debts from people who are on their last \$1000. They do not try to target people who do not have the money to pay a debt, because they will be unable to collect it. In the same respect, I do not think my client would care about this bill because if someone has \$30,000 to be paying into a life insurance policy, if his bank account were attached, there would probably be enough money there to collect on the debt.

**Assemblyman Brooks:**

So this is probably not as big a problem as we might foresee it to be, and it should be law then. Is there something fundamentally wrong with us going after a guy who has \$1000 left in his account, but leaving the guy who has a couple of million dollars left in his account?

**John Sande:**

I see where you are going with this, but I do not think that someone who is trying to shield his money from a creditor would buy life insurance, because he will not have access to that money. If someone is trying to shield his money, he could open several accounts with less than \$1000. The creditor would never be able to touch that money. You could pay all of your money into a life insurance policy, and with this bill it would be unlimited. In doing so, you would not be able to touch that money for several years.

**Assemblyman Sherwood:**

The part of A.B. 223 that I liked was that a person's social security, disability, or retirement money was shielded. That money needed in retirement was protected. I am okay with the annuity money needed for retirement being protected. The good news would be that since A.B. 223 passed with a majority of votes, I think this bill is safe. I think the part I want to clarify refers to



retirement and death benefits. In the case of a 50-year-old in good health, with a \$500,000 policy, with four dependents as beneficiaries on the policy, can collections or liens take precedence over the assigned beneficiaries upon the death benefit? With annuities aside, because the annuities sound more like social security for seniors, are we saying that collectors could come in front of children or other beneficiaries?

**John Sande:**

I think you are probably getting into the probate process, but typically life insurance is a nonprobate asset, which means that it is similar to joint tenancy and goes directly to the beneficiary and does not go into the probate estate. Most times, the executor of the estate will liquidate the assets of the estate, so creditors can be paid. Creditors file claims with the court to alert them of the claim against the estate. The assets of the decedent will be used to satisfy those claims, and anything remaining will be distributed to the beneficiaries. Typically, the assets of the life insurance policy will be paid outside of that process. Those funds will go to the beneficiaries, and the other assets of the estate will go to satisfy the creditors. That is usually the creditors' only remedy.

**Assemblyman Sherwood:**

This helps protect the innocent beneficiaries.

**John Sande:**

If the decedent did long-term planning to plan for his ultimate demise, yes, it will.

**Assemblyman Brooks:**

I am going to use an example to get some perspective. Please tell me whether I am wrong. Let us say that I am Bernie Madoff, and I have just cheated many people out of their money. Now, I have a civil injunction against me. If I decided to buy up several life insurance policies for my family with this money, I could technically buy enough life insurance and annuities for my family to benefit from later on. Is this accurate? With this law, do we civilly protect his annuity?

**Senator Roberson:**

I would like to address that question. I would also like for Adam Kilbourn to respond. We have a law against fraudulent transfers. Someone like Bernie Madoff could not simply avoid creditors by shoving a bunch of money into a life insurance policy. You just cannot do that; it is illegal. From my perspective, that issue is not a concern. This would not make it legal.

**Assemblyman Brooks:**

I am just trying to accept the fact that whether or not he did it purposely, he has a life insurance or an annuity and he has bought more. He is being civilly sued by people that he owes a lot of money to. Does this protect those monies and keep the creditors from going after the money?

**Senator Roberson:**

You may be correct in that situation. I cannot say for certain, but it is not good policy here in Nevada to focus all of our efforts on one bad character out there in New York, who did a lot of bad things to many people. This bill has been brought forth to help regular Nevadans plan for their future, to have a safe nest egg, and to provide for their beneficiaries. People in the state are hurting and do not have many vehicles anymore to save money. Just imagine your house is under water, and you have no savings invested, and are possibly out of work. All this bill does is to allow people, and to encourage Nevadans, to save for the future. They can put together a financial plan for their retirement and their beneficiaries down the road. That is the point of this bill.

**Adam Kilbourn:**

I appreciate Assemblyman Brooks' comments. The concerns are valid, but I would like to help clarify things a little for you. In 1974, Congress passed the Employee Retirement Income Security Act (ERISA), which fully protects retirement savings and qualified plans such as 401(k) and IRA accounts from creditors. By doing so, the Federal Government assured that its citizens cannot become a burden on society if an unplanned bankruptcy or lawsuit occurred. I heard comments today about how your Committee views that as a positive. I would agree with that. Protecting a person's core assets is not only important to the family, but it is also important to society as a whole. The problem with ERISA is that it only protected the plans that qualified. Traditional IRA savings, such as annuities and whole life insurance, which have been around for over 150 years, were not afforded the protection that the new 401(k) and IRA plans were. Today, we can see that folly, because we learned over the last decade that 401(k) and IRA accounts were not as safe as everyone once thought. Instead of guaranteeing retirement, these plans were subject to the ups and downs of the stock market, because that is where those plans are predominately invested. Parents and grandparents are seeing their hopes of a prosperous retirement melt away before their eyes. In the business, we say that the 401(k) plans are now 201(k) plans. Traditional saving vehicles never had that risk. Annuities and life insurance are guaranteed much like a government pension plan is, and are much like how they are protected. The family that buys these types of products does not have to worry about market risk because they are guaranteed by the insurance company. The products allow for the payment of college tuition, financing businesses, keeping

families in homes, and guaranteeing retirement income, regardless of how long someone lives. They do all of this without taking the market risk that the 401(k) and IRA accounts do. To place caps on the credit protection of these assets does not make sense. If someone is responsible enough to save for retirement to take care of his family in the event of a premature death, we should afford them the same credit protection that they get with the 401(k) and IRA accounts. Protecting ourselves from the claims of creditors is something that every citizen should have. That is why we require everyone who operates a vehicle to have insurance, and why we include liability protection on our homeowners insurance. Life happens, and many times we have no control over the outcomes. Passing this bill is a way to bring the benefits that ERISA left out to the annuities and life insurance industry.

The other thing that I wanted to mention was about the concern some may have about the Bernie Madoff types taking advantage of this outcome. I appreciate Senator Roberson's comment that fraud is against the law. If someone is doing something for fraudulent reasons, it will be stopped. People are not going to be utilizing these types of products for fraud, simply because the products are encumbered. These are not like cash in a bank account. Some had mentioned that A.B. 223 deals with checking accounts and banks, which are dealing with liquid assets. If I put money into a life insurance policy, it is encumbered. If I want that policy to stay intact, the cash must stay in there. In fact, when Mr. Gianakis told the story about his mother, he mentioned that she had to take out a loan against the policy in order to have access to cash. It is similar to getting equity from a house. In order get equity from my house, I would have to take a loan out in order to do so. It is not a piggy bank, and it is not one that is liquid. There are significant costs and expenses to these types of products which deter people from using these to defraud their creditors. We believe this bill will help everyday Nevadans, who should be utilizing these vehicles as an alternative to some of the riskier products. I hope that answers your questions. From what I can tell of A.B. 223, I do not think this is the same situation.

**Chairman Horne:**

Is there anyone wishing to speak in opposition to S.B. 348? Is there anyone neutral here or down South? I see none and will close the hearing on S.B. 348.

**Senator Roberson:**

I would like to thank you for your courtesy. I also would like to mention that there was no opposition on the Senate side. No one came to oppose this bill at all. Thank you.

**Chairman Horne:**

Is there any other business coming before the Committee today? There will be no floor session today and no Judiciary Committee meeting tomorrow morning. We are adjourned [at 10:10 a.m.].

[Written testimony from Dick Jacobs ([Exhibit E](#)) was not previously discussed in this Committee meeting.]

RESPECTFULLY SUBMITTED:

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Lenore Carfora-Nye  
Committee Secretary

APPROVED BY:

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Assemblyman William C. Horne, Chairman

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

**EXHIBITS**

**Committee Name:** Committee on Judiciary

**Date:** April 21, 2011

**Time of Meeting:** 8:24 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 101 (R1)	C	Senator Mark A. Manendo	Letter dated December 31, 2009, from the Legislative Counsel Bureau
S.B. 101 (R1)	D	George and Margaret Flint, representing Chapel of the Bells, Reno; and Reno Wedding Chapel Alliance	Examples of Marriage Certificates
S.B. 348	E	Dick Jacobs	Written Testimony