

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

**Eighty-First Session
March 31, 2021**

The Committee on Government Affairs was called to order by Chair Edgar Flores at 9:01 a.m. on Wednesday, March 31, 2021, Online. 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/App/NELIS/REL/81st2021.

COMMITTEE MEMBERS PRESENT:

Assemblyman Edgar Flores, Chair
Assemblywoman Selena Torres, Vice Chair
Assemblywoman Natha C. Anderson
Assemblywoman Annie Black
Assemblywoman Tracy Brown-May
Assemblywoman Venicia Considine
Assemblywoman Jill Dickman
Assemblywoman Bea Duran
Assemblyman John Ellison
Assemblywoman Susie Martinez
Assemblyman Andy Matthews
Assemblyman Richard McArthur
Assemblywoman Clara Thomas

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman Jason Frierson, Assembly District No. 8
Assemblywoman Daniele Monroe-Moreno, Assembly District No. 1
Assemblyman Tom Roberts, Assembly District No. 13
Assemblywoman Alexis Hansen, Assembly District No. 32

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Erin Sturdivant, Committee Counsel
Judith Bishop, Committee Manager



Geigy Stringer, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Aaron Ford, Attorney General
Jessica Adair, Chief of Staff, Office of the Attorney General
Barbara Buckley, Executive Director, Legal Aid Center of Southern Nevada
Deonne Contine, Executive Director, Washoe Legal Services
Ernest Figueroa, Consumer's Advocate, Bureau of Consumer Protection, Office of the Attorney General
Doreen Spears Hartwell, Member, Supreme Court Access to Justice Commission
Jim Hoffman, representing Nevada Attorneys for Criminal Justice
Michele Freeman, Private Citizen, Henderson, Nevada
Joe Collins, Public Safety Liaison-Strategic Account Manager, Acadia Healthcare
Taryn Hiatt, Area Director for Utah and Nevada, American Foundation for Suicide Prevention
Antonio Rodriguez, Nevada State Vice President, National Latino Peace Officers Association
Eric James, Private Citizen, Reno, Nevada
Nick Shepack, Policy and Program Associate, American Civil Liberties Union of Nevada
Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association
Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office
Jared Luke, Director of Government Affairs, City of North Las Vegas
Jamie Rodriguez, Government Affairs Manager, Office of the County Manager, Washoe County
Joanna Jacob, Government Affairs Manager, Clark County
Dagny Stapleton, Executive Director, Nevada Association of Counties
Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department
David Green, Ph.D., Mental Health Director, Nevada Department of Corrections
Scott Edwards, President, Las Vegas Peace Officers Association; and Member, Public Safety Alliance of Nevada
Lorrie Olson, Private Citizen, Reno, Nevada
Garrett Gordon, representing Community Associations Institute; and Southern Highlands Homeowners Association
Adam Clarkson, Vice Chair, Legislative Action Committee, Community Associations Institute
Lara Knipmeyer-Garrell, Member, Legislative Action Committee, Community Associations Institute
Mike Kosor, Private Citizen, Las Vegas, Nevada
Bailey Bortolin, representing Nevada Coalition of Legal Service Providers

Charvez Foger, Ombudsman, Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, Real Estate Division,
Department of Business and Industry
Annemarie Grant, Private Citizen, Quincy, Massachusetts

Chair Flores:

[The meeting was called to order. Roll was called and committee protocol was explained.] Good morning, members. As always, I look forward to today's dialogue. We will be taking the agenda in reverse. We will be hearing Assembly Bill 357 first, followed by Assembly Bill 336, and lastly Assembly Bill 313. For those of you wishing to speak in public comment, we will be doing that at the conclusion of today's hearings. At this time, I would like to open up the hearing on Assembly Bill 357.

Assembly Bill 357: Revises provisions relating to consumer protection. (BDR 18-887)

Assemblyman Jason Frierson, Assembly District No. 8:

Good morning, Chair and members of the Committee on Government Affairs. I am here with representatives from Legal Aid Center of Southern Nevada and the Office of the Attorney General. We are here to present Assembly Bill 357. The Attorney General's Office and our legal aid organizations have worked closely over the years to protect Nevada consumers from scams, fraud, predatory business practices, and unfair housing practices. This work has been primarily funded by the National Mortgage Settlement and, unfortunately, at a time when Nevadans need help the most from this funding, it is nearly exhausted. Assembly Bill 357 will create a permanent funding mechanism, and it will do so without impacting our state's General Fund to continue this important work. The interested parties have worked very hard together to ensure the success of A.B. 357, and they will walk you through the provisions of that bill.

I have worked very closely regarding settlements over the years. I have worked alongside our Attorney General Aaron Ford, certainly when he was the Senate Majority Leader, as well as our former Speaker of the Assembly Barbara Buckley, who was my predecessor in Assembly District No. 8, and those parties came together to work out how to continue this incredibly important work. With that, I would like to turn the presentation over first to Attorney General Aaron Ford and his office to provide further remarks.

Aaron Ford, Attorney General:

I am joined here today by several of my staff members, including Consumer Advocate Ernest Figueroa, Chief Consumer Counsel Mark Krueger, Chief Financial Officer Jessica Hoban, and Chief of Staff Jessica Adair. We are here to explain A.B. 357, which creates the Consumer Protection Legal Fund.

On day two on the job here at the Office of Attorney General, I announced my priorities as Attorney General. I selected these priorities from many, and we talk about them frequently. One of these priorities is consumer protection. Every person in this state is a consumer. Every business in this state is a consumer. Our economy, in the biggest sense and in the

smallest sense, depends on consumers being able to make their purchases based on accurate information. From big purchases like buying a house or a car, to small purchases like the computer in front of you, you are all consumers. There are purchases you may not even consider to be consumer purchases, such as prescriptions or education. Nonetheless, you are a consumer. We trust that the good or the service that we purchase will be what it purports to be. But there are people who take advantage of that trust, people who prey on vulnerable consumers for their own greed. My office has devoted special attention to those who defraud Nevadans and violate that trust. We investigate and prosecute those who scam and defraud Nevadans, and we take on some of the world's largest companies that deceive or fail to protect our consumers—and we win.

Our ask of you is a simple one: help us to continue doing our work. We, along with legal aid organizations for partners, have created a robust consumer protection effort in the state. But in order to be able to continue it, we need the resources to do our jobs. I will now ask Jessica Adair to explain the bill that will allow us to do just that. Mr. Chair, if you would indulge me, I may have to jump off before the end of the hearing. Do I have your permission to do so?

Chair Flores:

Thank you, Attorney General. Absolutely.

Jessica Adair, Chief of Staff, Office of the Attorney General:

Good morning, Chair Flores and members of the Committee. Nearly ten years ago, the Attorney General's Office entered into a multi-state settlement and a separate state settlement with Bank of America as a result of the 2008 mortgage crisis. The National Mortgage Settlement was reached with five of the nation's largest banks and resulted in changes to the mortgage industry and \$1.2 billion in borrower relief to Nevadans. The separate state settlement with Bank of America resulted in \$87.3 million to the state of Nevada for consumer protection efforts.

A majority of that funding was directed to the Department of Business and Industry to ameliorate the effects of the mortgage crisis. But a portion of that funding was designated to be used by the Attorney General's Office. Then-Attorney General Catherine Cortez Masto directed this funding to be used, among other things, in two distinct ways. First, the creation of positions in the Attorney General's Office to help Nevadans by thorough investigation and prosecution of consumer fraud, and second, a grant program to legal aid organizations that provide consumer protection legal assistance to low-income Nevadans. In later years, guardianship and elder exploitation were added to the purpose of this program. The state saw an uptick in people abusing the guardianship process to defraud elderly Nevadans. While it is a fraud crime, this often coincides with physical abuse and neglect.

This funding has been absolutely critical to our state, and it has helped so many Nevadans. In the past decade, the Attorney General's Office has answered call after call from constituents who did not know where to turn after being scammed. We have investigated and prosecuted countless fraudsters who steal from the vulnerable. In the past year, this team has

been an integral part of the state's COVID-19 response, enforcing the Governor's directive in mediating agreements between landlords and tenants to prevent evictions, prior to the Centers for Disease Control and Prevention's order; directing hundreds of Nevadans in need of guidance after becoming victims of unemployment fraud; and looking into complaints of price-gouging to prevent people from taking advantage of a crisis to charge \$25 for a roll of toilet paper, for example. But we all knew the time would come when this funding would be depleted.

That day is here, and it could not come at a worse time for the state. If a new mechanism is not created to fund these efforts, our office could lose 26 full-time positions dedicated to consumer protection efforts. This includes attorneys in our Bureau of Consumer Protection who investigate violations of Nevada's consumer protection laws such as Equifax, who is responsible for the largest consumer data breach in our country's history, and for-profit colleges that scammed young Nevada military veterans trying to complete their degrees, for example. It also includes sworn peace officers who investigate fraud and elder abuse, prosecutors who bring justice to fraudsters, and administrative professionals who support these divisions and also serve in our constituent services unit, fielding thousands of complaints from Nevadans victimized by scams and fraud. In addition, legal aid organizations will lose millions in annual grant funding.

We were faced with three choices: One, end the program entirely, which is not acceptable; two, ask this Legislature for millions of dollars in General Funds to replace this funding, which is not reasonable; or three, think outside of the box. So with the input of stakeholders and legislative leadership, we crafted an alternate solution.

Assembly Bill 357 is simple in its design and efficient in structure. The goal is to direct the sporadic settlement funding to consumer protection needs. This is accomplished as follows: in sections 4, 5, and 6 of the bill, settlement funds are placed into a Consumer Protection Administrative Account; there are some exceptions such as restitution to victims and certain other recoveries. The Consumer Protection Administrative Account replaces the fund already in existence for administrative purposes. This fund covers many of the administrative costs of consumer protection investigations and litigation, and it is designed to not fall below \$500,000. For example, we use this fund to pay our share of costs in a multi-state investigation.

In sections 2 and 3, funds not used for administrative purposes, which will be the bulk of the funding, are transferred from the Consumer Protection Administrative Account into Consumer Protection Legal Account. The Consumer Protection Legal Account is then divided into two equal amounts twice a year; 50 percent of that fund goes to fund the Attorney General's staff that work on consumer protection efforts and other consumer protection activities led by our office, such as public education; the other 50 percent would fund consumer protection efforts throughout the state by three legal aid nonprofit organizations: Legal Aid Center of Southern Nevada, Nevada Legal Services, and Washoe Legal Services. The distribution between these three organizations in the bill reflects the current distribution of the Home Again Nevada Homeowner Relief Program (Home Again

Program) funding to these organizations. Speaker Barbara Buckley will give additional details on the consumer protection efforts legal aid organizations provide to Nevadans in just a moment. For transparency and accountability, the legal aid organizations are also required to submit an audited statement regarding the use of the funding, and the Attorney General's Office has the right to audit the legal aid organizations.

This solution, while some may argue is not perfect because we have no way of anticipating incoming settlement funds to the state, is one that has the potential to be self-funding in its success. Some years, we might fall short of funding to pay for all staff. So just in case, this bill allows the Attorney General's Office to request contingency funding from the Interim Finance Committee (IFC) during a shortfall. However, some years we may have surplus funding. So the bill allows our office to carry forward revenue, to manage our funding and avoid future shortfalls.

Most importantly, this bill allows us to continue doing our jobs to help Nevadans. No one else in the state investigates and prosecutes fraud like the Attorney General's Office. No one else in the state investigates and prosecutes individuals and companies who violate our consumer protection laws like the Attorney General's Office. These lawsuits are what bring settlement funding into the state in the first place, and this bill preserves our ability to do our jobs and pays for those jobs. And no one else in this state provides legal assistance to low-income Nevadans on consumer protection issues like the legal aid organizations specified in this bill. On that note I would like to tender the mic, with the Chair's permission, to Speaker Barbara Buckley, the executive director of Legal Aid Center of Southern Nevada.

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

Good morning, Mr. Chair and members of the Committee. One of our most important programs at Legal Aid Center of Southern Nevada is our Consumer Rights Project. In our system of law, the Attorney General's Office can prosecute criminals and engage in lawsuits, actions against predatory and illegal behavior, through its consumer protection division. But it cannot represent individuals in their own actions, and that is where legal aid organizations come in. If you can afford your own attorney in a legal matter, that is fine. That is what we all need once in a while. But if you are poor or middle-class, you cannot afford an attorney, and that is where legal aid comes in.

A good example of this dual role played by the Attorney General's Office and legal aid organizations is in the area of guardianship fraud, one where we have collaborated. The Attorney General's Office can prosecute predatory guardians. I am sure you are all aware of the scandal that we had in Nevada four or five years ago in this area. What legal aid is able to do now is represent every individual over whom a guardian is sought. We meet individually with the individual—usually it is a senior. We find out what he wants. Through those actions we are able to file motions to remove guardians whose only reason for being there is to strip the senior of every one of his assets. That is what was happening before we jointly got involved: Individuals would be taken from their lovely homes that they had worked for their whole life, put in a group home, their home was sold by a guardian, who then paid themselves outrageous fees. This is the kind of fraud that can not only strip

someone of their liberty and their life's savings but from which a senior can never really recover. That is just one type of representation we utilize with this funding.

The others are so incredibly varied. It can be someone coming in because there is a lien on his house, and he would like to sell his house—but the lien is from a hospital for a medical debt that is not his. Scams galore. One of my favorites was Ubre. Not U-B-E-R but U-B-R-E, which convinced individuals—one individual bought five vehicles in one day for a partnership interest in Ubre. Ultimately, the Attorney General's Office stepped in; our office represented the individual and got all that rescinded because it was a fraudulent scam.

As mentioned by the Attorney General's Office, legal aid offices have been funded by the National Mortgage Settlement Act, which is running out of money at a time when their office and our office need this funding more than ever. We hope this innovative approach to funding can prevent these catastrophic cuts. I am happy to answer any questions.

Chair Flores:

Speaker Frierson, were we hoping to go to someone else or would we want to open to questions? We may be having technical problems with Speaker Frierson. We will open up to questions at this time.

Assemblyman Ellison:

Ms. Buckley, I am glad that you are following up with some of these complaints. I have seen this firsthand, where people have lost their life's savings due to family members who were greedy. I am really happy to see that this program is going to go forward. One thing I did not understand from the presentation, is this going to be an expanded program or is this going to be a new program?

Jessica Adair:

This is an existing program. This program is currently funded with the Bank of America state settlement that was reached in 2012, and we are at the end of that funding. What this bill does is it allows us to use future settlement funding, split it in half; one half goes to the AG's Office to continue our existing consumer protection efforts, and one half goes to legal aid organizations so that they can continue the good work that they have been doing. Without our ability to utilize future settlement funds in this way, the funding will be depleted, and we will have to end these programs.

Assemblywoman Anderson:

This is such a great bill. My question has to do with the division as explained in section 3, subsection 1, paragraph (b), subparagraphs (1-3). How are those percentages being divided out? Is that due to the population, or is that due to the usage in the past time frame?

Jessica Adair:

I want to allow Speaker Buckley to speak on this as well, but the distribution that is in the bill is the current distribution of funding. We did not change or alter that funding. Right now, under the existing Home Again Program, it is a reimbursement basis. We set a certain

authority for legal aid organizations to spend. They send us essentially an invoice of what they have spent, and it is mostly staff's hours—the staff who are working on this program—and we reimburse them. It is on a reimbursement basis. The bill would change this slightly in that it would no longer be a reimbursement basis; 50 percent of the proceeds would go to legal aid organizations, but of course they would still have to provide an accounting to the state to ensure that the funding is being spent in the appropriate manner. To your first point, Assemblywoman, the distribution is what is currently being utilized in the Home Again Program.

Barbara Buckley:

When the legal aid organizations requested this funding from the Attorney General's Office, each organization presented a budget and we were able to try to utilize other funding to blend it, to make it work. So, partly the amounts in the original budgets were based on that. Chief of Staff Adair's explanation as to the distribution is exactly correct; it represents current funding levels.

Assemblywoman Black:

It looks like right now any funds over \$450,000 that are not used of the Attorney General's special fund essentially would go to this Consumer Protection Administrative Account. Right now, they would revert back to the General Fund. Do we know how much, over the last couple of biennia, has been contributed into the General Fund from this?

Jessica Adair:

Currently, the settlement funding usually goes into that special fund, and then a portion of that goes to the consumer protection administrative purposes; that is why we are setting up that Consumer Protection Administrative Account. Oftentimes, before that settlement funding is reverted to the General Fund at the end of the fiscal year, the Attorney General's Office uses a work program process through the Interim Finance Committee to distribute that settlement funding in a different way. In the past few years, we have, for example, used about \$2 million for emergency rental assistance since the eviction crisis. We spent about \$450,000 to \$500,000 on ballistic protective equipment for local law enforcement agencies and fire departments; we set up a grant program for that. Oftentimes, we use that funding before it reverts to the General Fund. I do not have an exact figure for what has been reverted to the General Fund, but usually the attorney generals from Attorney General Ford and his predecessors have used the settlement funding to fund a variety of other projects throughout the state.

Assemblywoman Black:

Is there any way to get that figure at some point?

I have a follow-up: Do we have any indication or idea of how much money we might receive from that opioid lawsuit?

Jessica Adair:

Thank you for asking that question, because that is an important point for us to make on the record. In the bill, there is a specific provision that prevents certain recoveries from being diverted to the Consumer Protection Administrative and Legal Accounts and that includes contingency fee counsel recoveries. Because we have contingency fee counsel for the opioid litigation, the opioid litigation would not be subject to the Consumer Protection Legal Account. Whereas in the existing McKinsey & Company settlement and, I imagine, future opioid litigation, it will be by court order that funding be used for opioid remediation and abatement, specifically. That is the appropriate use of that funding from the opioid litigation. It would not be used for the Attorney General's Office consumer protection efforts or for legal aid unless there was a court order to do so.

Barbara Buckley:

Mr. Chair, that is in section 4, line 8.

Assemblyman Matthews:

I certainly find the intent here [unintelligible] and laudable. My only concern would be the issue of legislative oversight. Conceivably, we could end up with very significant amounts of money going into this fund as opposed to the General Fund. My instinct is to say that lawmakers ought to be empowered, to a degree, to appropriate this fund as needed to this new effort and potentially use other funds for other purposes, as needed, at the discretion of the Legislature. Why not have some of these funds go to the General Fund where legislators can have some say and some input as opposed to by default going into this?

Jessica Adair:

For a few reasons. In the vast majority of the settlements that we agree to in these multi-state investigations and lawsuits or in our interstate consumer protection lawsuits, the settlement agreement states that the funding awarded to the state of Nevada shall be disbursed at the discretion of the Attorney General. This piece of legislation would actually be the Legislature taking that discretion away from the Attorney General. It would be the Legislature stating in statute that their intent would be that all future settlement funding be used to further consumer protection efforts in the state. While I agree with you that the General Fund supports many, many important programs, the purpose ultimately of settlement funding has been and always should be to further consumer protection efforts. We get that funding because a consumer protection law was broken, and as punishment, the offender shall pay the state of Nevada to compensate it for that violation of consumer protection laws.

In the past two years, every time I have gone before the Interim Finance Committee with a work program to spend this settlement funding, the first question I always get is, How does this relate to consumer protection? Sometimes the nexus between consumer protection and how we spend the settlement funding is not clear. This will make it abundantly clear that all future settlement funding is being used for the purpose of consumer protection and to the betterment of Nevadans in that regard.

Assemblywoman Dickman:

We have just about run out of the Bank of America settlement money. Is there litigation right now that you expect to receive funding from, or expect any kind of funding coming, because I also see that if we do not have the money, we go to IFC to ask for funds from them. Do we have any idea how much we will be able to start this fund with or where we go from there?

Jessica Adair:

These funds are very sporadic. We really have no way of anticipating the amount of recovery that we might receive. Our office is constantly engaged in multi-state investigations. Sometimes, those investigations do not come to fruition with a lawsuit. Sometimes the settlement between the states, the distribution between the states, is very fact-specific about the harm that occurred in each state. Historically, though, on average we received about \$3 million, give or take, per year. Some years we have more, some years we have less.

But to your specific point about our being able to go to IFC, an important feature of the bill is that these funds do not revert to the General Fund at the end of the year. The purpose of that is so that we can carry forward that funding and better anticipate those shortfalls. So, if we know that we have received a large settlement, being able to carry forward that settlement for several years and continue sustainably funding our staff allows us to prevent those shortfalls in the future. If we were forced to spend that money to zero every fiscal year or even every biennium, we would be coming to IFC much more frequently because we would not be able to put something in reserve.

If Speaker Buckley wants to speak to how this feature would allow her to better manage the funding for legal aid organizations, I want to give her the opportunity, but I will note that the ability to go to IFC only applies to the Attorney General's Office; it does not apply to legal aid.

I also got a note from our staff during this testimony to answer Assemblywoman Black's question: We have not reverted any settlement funding in the past several years to the General Fund. We can get you more historical data on that, but I wanted to put that on the record before the hearing ended.

Assemblywoman Dickman:

I agree, I do not think it makes much sense to put it back in the General Fund and then go to IFC to get it back; I was just wondering if you knew of anything on the horizon that might bring in some funding.

Aaron Ford:

As Jessica Adair indicated, we have many pieces of litigation percolating right now. It is just very difficult to anticipate when those may settle, when those may resolve, when litigation is going to ultimately ensue after our conversations. Yes, there are things in the hopper, so to

speak, but there is really no way of being able to determine when I can expect money to come in from those.

Assemblywoman Dickman:

That is exactly what I was wondering. Thank you so much.

Chair Flores:

I am checking to see if we have any additional questions. I do not believe we do, but members, if I have accidentally skipped you, please feel free to unmute yourself at this time. I do not believe we have any additional questions, so at this time I would like to open it up for testimony in support of Assembly Bill 357.

Deonne Contine, Executive Director, Washoe Legal Services:

I want to thank Attorney General Ford and Speaker Frierson and Speaker Buckley for all the work that they have done on this. I have only been in this job for about one year. When I came in, there was the knowledge that this funding source was going away, and we had to account for that in our budgeting. I want to note my support and am thankful for maintaining this program.

Chair Flores:

Thank you for joining us. We will continue with those wishing to testify in support of Assembly Bill 357. I see Ernest Figueroa. Are you here to testify in support of Assembly Bill 357?

Ernest Figueroa, Consumer's Advocate, Bureau of Consumer Protection, Office of the Attorney General:

Chair, I am here to answer questions in support of Jessica Adair and Attorney General Ford.

Chair Flores:

Thank you. At this time, we will go to the phone lines and invite those wishing to testify in support of Assembly Bill 357.

Doreen Spears Hartwell, Member, Supreme Court Access to Justice Commission:

I am one of two individuals speaking on behalf of the Access to Justice Commission in support of A.B. 357. As a member of the Access to Justice Commission, chair of the Pro Bono Advisory Council for the Legal Aid Center of Southern Nevada, and an attorney who handles pro bono consumer fraud matters, I would like to thank the Attorney General's Office and Speaker Frierson for A.B. 357.

Recent legal needs studies show that more than 76 percent of legal needs of low-income Nevadans go unmet, and as you have heard, consumer protection is a critical function provided by our legal aid providers. Substantial funding is being lost as a result of various factors, including a reduction in interest on IOLTA [interest on lawyers' trust accounts], among other factors. Fortunately, A.B. 357 will help to address future funding issues. Again, on behalf of the Access to Justice Commission and as an attorney who does pro bono

work with regard to consumer protection, thank you. We appreciate your consideration and support of this bill.

Jim Hoffman, representing Nevada Attorneys for Criminal Justice:

Nevada Attorneys for Criminal Justice (NACJ) supports A.B. 357. Consumer protection is an important goal, especially for low-income populations. But these same populations are disproportionately impacted by mass incarceration. In many cases, criminalizing consumer fraud is hurting the people we are trying to protect. To avoid this harm, NACJ believes that consumer protection should be primarily addressed through civil enforcement rather than criminalization. In making this argument, we found that a common response is that the Attorney General and others would like to be doing more civil enforcement action but that there is a recurrent funding problem. Assembly Bill 357 helps to solve this problem and makes it easier for consumer protection to be conclusively dealt with in a civil context, providing the maximum level of protection to vulnerable people. Therefore, NACJ strongly supports A.B. 357.

Chair Flores:

We will continue with support of A.B. 357. [There was none.] At this time, I would like to invite those wishing to testify in opposition to Assembly Bill 357. [There was no one.] Lastly, I would like to invite those wishing to testify in the neutral position for Assembly Bill 357. [There was no one.] We will come back to closing remarks from either one of our Speakers joining us or the Attorney General's Office.

Assemblyman Frierson:

I want to thank the Committee for their attention and questions on such an important issue and an existing program that I do not believe Nevadans can run the risk of losing, moving forward. It is all about being prepared, having all of the structure in place to best serve the needs of our state. I thank you all for your consideration, and I urge your support.

Chair Flores:

Thank you, Speaker Frierson. Do we have any closing remarks from your copresenters?

Assemblyman Frierson:

I believe the Attorney General had to leave.

Barbara Buckley:

My only closing remark is to thank you all so much for hearing this bill today. I would appreciate your support.

Jessica Adair:

Thank you so much for hearing this bill. I want to thank Speaker Frierson for bringing this bill. If anybody on the Committee has any further questions, our office is always available. Please do not hesitate to reach out. We will try to get you answers as soon as we can because we know the deadline is coming up. Thank you so much for your support.

Chair Flores:

Thank you all for joining us this morning. We look forward to continuing our work alongside you. With that, we will close out the hearing on Assembly Bill 357. I see Assemblywoman Daniele Monroe-Moreno has joined us; I will now open up the hearing on Assembly Bill 336. Good morning and welcome.

Assembly Bill 336: Requires an annual behavioral healthcare assessment for peace officers. (BDR 23-226)

Assemblywoman Daniele Monroe-Moreno, Assembly District No. 1:

I am here today to present for your consideration Assembly Bill 336, a measure that would provide peace officers with an opportunity to have an annual behavioral health care wellness visit. Joining me today is my cosponsor, Assemblyman Tom Roberts; Ms. Michele Freeman, who is a retired chief from the City of Las Vegas; Mr. Joe Collins, who is a retired police chief from Two Rivers [Wisconsin] Police Department; Ms. Taryn Hiatt, who is the area director for American Foundation for Suicide Prevention; along with Officer Antonio Rodriguez and other therapists and counselors working in the behavioral health care arena.

Chair Flores and Committee, for me, A.B. 336 is very personal. Prior to having the opportunity to serve the families of Nevada here in this legislative body, I served for almost 30 years as a corrections officer, beginning my career with the Maricopa County Sheriff's Office before joining the North Las Vegas Police Department Detention Center. The position afforded me the opportunity to interact with my community and serve it in so many ways outside of the jail facility. It may sound crazy, but I truly enjoyed my career. I oftentimes fought for the working conditions for myself, my colleagues, the civilian employees whom I worked with, while at all times ensuring the safety and well-being of both the staff and the inmates in our care. I guess once an officer and part of the law enforcement family, you are always an officer. It does not leave you. Many of the widely publicized events of 2020 caused me pain, deep pain. I hurt as a Black woman in America. I hurt as a mother and as a grandmother. But I also hurt as a retired law enforcement officer.

Peace officers are our modern-day superheroes. They are the ones who run towards danger when others are running away. While some truly are heroes, all of us, all our peace officers, are first and foremost, people. We are humans with the same stressors that life has to offer: family, health, financial, marital issues. And they balance all of that—the everyday rigor—with the battles of the additional workplace stressors, often seeing and experiencing the worst of the worst that society has to offer, encountering situations that are simply unimaginable. For most, the stress is easy to adjust to and handle. But for others, the stress can become overwhelming. It can become an internal battle that can erupt into violence on the job, in their home, or against themselves. Officers are the ones to give help and they do not often ask for help. I have personally witnessed when that help is not received, as have some of the others who will be joining me to present this bill today.

During the hiring process, I had to fill out an application, had a personal interview, a physical test, a psych evaluation. And annually, I had to have that physical exam again to ensure that

I could continue to be medically and physically fit to continue to do my job. But never was my emotional or mental health and wellness discussed, unless, of course, there was a negative incident on the job, which I think we can all agree is sometimes too late. Assembly Bill 336 is my attempt to continue helping the men and women whom I worked with—my law enforcement family—with an opportunity to have that conversation that just might save the life of an officer or member of the community whom that officer should be protecting.

Today you will hear testimony from current and retired law enforcement professionals as well as behavioral health care professionals as to why this legislation is not just timely but extremely necessary. This is not meant to be a tool for police administrations to use against their staff members, but it is a step in the right direction to help an officer, to save a life, and to change the culture of our law enforcement agencies. The overwhelming benefits of A.B. 336 in police departments, correctional centers, and all areas serviced by peace officers will not be seen overnight; it will take time.

With your permission, Mr. Chair, I would like to turn the presentation over to my copresenters, starting with Assemblyman Roberts, who I am sure may have to jump back into another committee meeting, and then go on to Ms. Michele Freeman, and then Joe Collins.

Chair Flores:

Assemblyman Roberts, good morning.

Assemblyman Tom Roberts, Assembly District No. 13:

Mr. Chair and distinguished members of the Committee, I will be brief because my cosponsor did a phenomenal job of explaining the need for this bill. I will just talk a little bit about my 34 years in law enforcement. I spent 9 years in the Air Force and almost 25 at Las Vegas Metropolitan Police Department (Metro). During my tenure at Metro, we had 31 employees commit suicide. Ten of those, I knew closely. I worked with them closely. Two were trainees of mine—I actually trained these two gentlemen. And one who killed himself in the last year actually worked with me up here in this body—testifying and doing government affairs work—here at the Legislature. It is personal and it is up close. These are the folks who did not get noticed, who did not get the help that they needed.

I will not say that there are countless people who are not getting any help; there are great employee assistance programs in all these police departments. The visits and contacts have tripled over the years and they are even higher now, more than ever, based on the issues that occurred last year and on the heels of 1 October in our community. I will just tell you that a lot of folks do not come forward on their own; they believe they can handle some of these things themselves, and that is why I believe it is so important that we put this little status check, this annual status check, in every officer's life so that one conversation may be the tipping point that would reduce these numbers that I just told you today. I look forward to the rest of the testimony, and for any questions, I will remain here with my copresenters.

Michele Freeman, Private Citizen, Henderson, Nevada:

Ron Sosa, Gene Oliver, Emmanuel Waiters, Ronald Payne, and Ruben Hood worked for the City of Las Vegas Department of Public Safety, and all died by suicide. They were not only officers; they were fathers, sons, brothers, and friends. I recently retired after serving the City of Las Vegas Department of Public Safety for over 28 1/2 years. I was in a formal leadership position for over two decades, and the last almost ten years I had the privilege to serve as the chief. I have been a board member for the American Foundation for Suicide Prevention, otherwise known as AFSP, since 2013, and I am currently completing my doctoral degree in public policy, focusing on suicide awareness and prevention for law enforcement officers. I stand here today with Assemblywoman Monroe-Moreno and the others you will hear from in support of A.B. 336. My testimony represents myself.

According to AFSP, suicide is the tenth-leading cause of death in the United States and the eighth-leading cause of death in Nevada. This is not something we want to be leading in. We know the information is underreported when it comes to suicide, primarily because of the stigma surrounding it. In the United States from 2016 to 2019, according to the Officer Down Memorial Page, there were 704 officers who died in the line of duty, and according to Blue Health, officer suicides in the same time frame were 740—that is 36 more officers who died by their own hands. Although these are nationwide stats, it is important to recognize for various reasons including that officers move from one agency to another, from state to state, and when they do, they carry their trauma with them.

Over my tenure I have personally witnessed firsthand trauma and tragedy. I have received calls and visits from employees asking me to help them, not because of anything other than the officer was now "in trouble." In one instance, I responded on the weekend to a bar not as his supervisor—but as a caring individual—to ensure that officer could get the assistance that he needed. Officers are humans like everyone else. The difference is that their personal lives have an extra layer on top of that. They are exposed to all that comes with them during their career as they serve their community. When I first started I was told, Leave your baggage at the door. The baggage that was being referred to was my personal baggage; and then I should pick it up on the way home after work. Compartmentalizing for your entire career is not only unrealistic—it is unhealthy. Why should you care? Officers' well-being and suicide affect everyone. It is a public health and safety concern. Whether it is a call for service or a routine patrol, do we not want all our officers to be of healthy mind and body?

Through my doctoral work, I conducted a short survey. My goal, as stated in the survey, is to prevent suicide and assist law enforcement officers who are struggling with their mental health and to assist with changing the law enforcement culture by normalizing conversations around mental health and suicide prevention. It was important for all current and retired law enforcement officers in our state to have an opportunity to have their voices heard, as well as learn from their perspective. Additionally, the goal is to create a baseline for further research. The survey was shared with the executive director of the Nevada Sheriffs' and Chiefs' Association. He distributed that survey to all our Nevada sheriffs and chiefs, and it was up to them and their discretion to further disseminate. I am excited to report that the survey was conducted within a short, two-week time frame, and there were

844 respondents—here, our officers. Two relevant questions and responses from the survey in regard to this bill are: Do you know any law enforcement officers who have either thought about, attempted, or died by suicide? Out of 839 respondents for this particular question, 579 said either "yes" or "maybe." Another relevant question I would like to bring to your attention, however not verbatim, is: Do you believe it is beneficial to have a confidential mental health component on an annual basis? Out of the respondents—there were 840 respondents—95 percent of the respondents said "yes" or "maybe." Those are local law enforcement officers here in our state.

In 2019, two amendments to two of our statutes occurred: first, the allowance for compensation for officers if an injury or disease is caused by a stress-related injury; and second, an addition to mandatory education for peace officers, including mental health and officer well-being. We are obviously recognizing that suicide awareness and prevention and officer well-being are important. Assembly Bill 336 allows for preventive annual wellness visits to help normalize speaking to a mental health professional about mental health and suicide prevention, in general, and having those conversations. Why would we want to wait until we are compensating an officer if we could help prevent compensation and save lives? I am here to tell you that a smile on a face does not mean an officer is not suffering in silence. Typically, in our profession, we learn our motto in the academy: No one gets left behind. Officer Hood sat next to me during my entire academy; Officer Hood died by suicide. Officer Hood was left behind. In my image, in my mind, I see an empty chair. Empty chairs matter. From the bottom of my heart, thank you, Chair and Committee members, for considering this bill. I know together we can make a difference, saving lives and ensuring our communities are as safe as possible. The time to do it is right now. Thank you again.

Chair Flores:

Thank you for joining us. I believe we have one more presenter.

Joe Collins, Public Safety Liaison-Strategic Account Manager, Acadia Healthcare:

Currently, I work for Acadia Healthcare, which is the largest behavioral health provider in the world. I retired in February of 2020 as a police chief in Two Rivers, Wisconsin, after 35 years in law enforcement: 21 years as a police chief in two different communities. During my tenure I was the lead chairperson for the law enforcement death response team for Wisconsin. During those ten years, we had 13 line-of-duty deaths and 27 suicides that we knew about. So more than double the number of officers were taking their lives than were losing their lives in the line of duty.

It is imperative that we do what we can to help officers around the world. Some of the other things that we do now is—currently I work as a public safety liaison. I help first responders, their organizations, their agencies, and their family members navigate the behavioral health world, in trying to find them appropriate care and different levels of care. When I was a police chief, for the last nine years we did officer wellness visits with a therapist at our agency. It went from building trust to the point where that person was going to be retiring after the nine years that I was there, and having the head of the unions come to us and say,

Who is going to be replacing our mental health provider, because we scheduled visits for every one of our employees, including our administrative staff.

I have gone through the same types of situations you heard about—the officers who died in the city—31; you heard the list of names that Michele Freeman talked about; I have also had close personal friends who have taken their lives during the 35 years in my career in law enforcement. This just seems like the most natural progression for what you are doing in the state of Nevada. You have already accepted the idea that it is important to have medical and mental screenings when someone comes in to be hired for the job. You have added training during their career to be able to make them aware of officer wellness issues and how important that is. You have accepted the fact that stress injuries occur as a result of working as a first responder. So now what we have to do is get upstream. We have to get upstream and make sure that we figure out why people are falling into this trauma.

Chief Freeman talked about the traumas and the different situations that people face. A normal person faces trauma throughout his life, a handful of traumas. Statistically, first responders across the country are encountering 3 1/2 large significant trauma situations every six months of their career. If you do the math, during a 20-year career, that is more than 140—and you can go out to a 30-year career, potentially. They are seeing 200 significant trauma situations during their career, and we must give them the ability to release that trauma from their body. That is cumulative trauma, and unless there are active resources involved and people actually manage that trauma out of their bodies, it will destroy them. That is what we see when people are taking their lives—as they did not have the resources, they did not have the ability to communicate with someone, or they did not feel safe.

The University of Phoenix also did a study back in 2019. What it shows is that 85 percent of first responders have suffered some type of significant trauma that has impacted their lives negatively in some way. In that same survey, 55 percent said that they would be viewed differently by their supervisors if they asked for help. An additional 70 percent said that mental health services are seldom or never used because of the culture. They believe that they will be looked at differently by their supervisors, by the people whom they work with, because this is not a normal conversation, and it is not normal to see a therapist within the first responder community. This is a way of changing that. Our officers and our staff, when they went to see the first responder therapist that we had—everybody did it, so it was a normal activity, and it has saved people's lives, and it has saved marriages as a result. And we need to be able to do that. So I am here to support it.

I work with first responders every single day. I talk to them, I talk to their agencies across the country, and trauma is one of the most significant things that we are dealing with for people who are actually asking for help and needing help. I thank you for your time, and I will yield back to the group as we have a couple more presenters. Thank you.

Taryn Hiatt, Area Director for Utah and Nevada, American Foundation for Suicide Prevention:

Good morning, Chair Flores, Vice Chair Torres, and Committee members. Thank you so much for your service and doing the people's work amongst a time that has been really critical for all of us. I want to also extend my gratitude to Assemblywoman Monroe-Moreno and Assemblyman Roberts for bringing forth this bill. I serve as the area director for the Nevada and Utah chapters of the American Foundation for Suicide Prevention, and law enforcement and first responder suicide prevention is a public policy priority for our organization. We are so thrilled with the progress that we have seen in the state of Nevada, as mentioned, already recognizing this is an issue. We know that we lose more of our first responders to suicide than we do in the line of duty, as has already been discussed. That is a tragedy that we can prevent. We know that our officers, as has been mentioned, experience occupational trauma; but, in addition, law enforcement officers and other first responders tend to work in these cultures that discourage help-seeking. They look at it as more of a sign of weakness, which contributes to that reluctance to seek help or to self-disclose mental health or struggles that they are experiencing, especially suicidal thoughts. We owe it to them to support a change in that culture, where we identify help-seeking as a sign of strength.

Suicide is prevented through early detection, as we know, so when we can recognize that an officer is in crisis or struggling with a mental health condition, we connect that officer and his family to support and resources—we save lives. I am here to urge you to support A.B. 336. We want to ensure that all law enforcement officers and departments have the knowledge and tools to effectively prevent officer suicide. I love this idea of providing an opportunity for a mental health assessment. We are establishing equity between mental health and physical health. We are saying this is just as important, if not more so. We know that there is no single cause for suicide, but by preventing mental health conditions, addiction, again, addressing access to lethal means, and empowering our law enforcement officers to live and thrive in their communities, we save lives. Our Nevada chapter members have been working hard on some public policy priorities this year. I am so grateful for Michele Freeman and her leadership. Again, we would love to see this bill move forward.

I want to end quickly with a personal experience. In 2002 I lost my dad to suicide. I was the one who found him, and I will never forget the first officer who arrived on scene. As he approached me, he said, "It's Tary, isn't it?" and held me in his arms until the EMTs arrived, and then he passed me off to the paramedic who I ugly-cried all over. I am sure he had snot down his shirt, but he held me and supported me. I could share hundreds of stories about my experiences with law enforcement in traumatic situations, and yet I was just one of the many events and calls that they responded to that day. I am full of compassion for the trauma that our officers witness, that they incur, and that they survive—and it is incumbent upon us to create a culture that supports them. We all have a role to play in preventing suicide. With your support, passage of this legislation will affirm the state's commitment to saving lives of Nevada's peace officers and prevent the tragedy of loss of life to suicide. Thank you so much for your consideration, and if you have comments or questions, you are welcome to connect with me.

Chair Flores:

Thank you, Ms. Hiatt. We appreciate your willingness to use your story as a source of empowerment for other Nevadans.

Antonio Rodriguez, Nevada State Vice President, National Latino Peace Officers Association:

I work for the City of Las Vegas, Department of Public Safety. I am going on my twentieth year working at a department that I love and care for. I am not here talking to you today as a correction officer for my department, but I am talking today as vice president for the state of Nevada for the National Latino Peace Officers Association. Our association is an association that cares for all its members; it is not closed to one race or one ethnicity, but it is more open to members for us to support and help them during their law enforcement career. Hopefully, their career is a good one, a successful one with many good things to offer. My passion for community is what brought me to this association.

I was always the type of officer to be there for others. As I was there for other people, at one point in my career, I had a moment where I was in—for lack of a better word—I was hurt by an accusation that was made. This accusation led me to go into an investigation that ended up with me deciding that I did not want to lose my job and I did not want to dishonor my department at the same time. I know what I did and what I did not do. During this time, I really truly thought that I was helpless, hopeless, and had negative thoughts. I even thought of killing myself. During the time that I was thinking these thoughts, Michele Freeman, who was our chief at the time, reached out to me. Her love and her compassion for her fellow officers, as a chief to an officer, was amazing. It was people like her who helped me through. Just to let you know, our department now has people such as Jeff McClish, who is our department's mental and emotional wellness administrator. Jeff's role saves lives just as many other agencies that have spoken previously save lives. It is people who are in place at detention centers, at law enforcement, at first responder places, that help save lives.

A lot of officers, when they feel helpless, hopeless, and emotional, do not reach out to other people. I can tell you firsthand from my experience. As people do not reach out, what they do is they find comfort in certain places such as bars, casinos, or whatever the case may be. The sad thing is, officers, when they hold their emotions in, hold it in for a long time, and it takes that right emotional breakdown or situation to happen for the point where the decision of suicide comes to play. Now, I have responded to several officers and talked them through situations, but at the same time, I have to believe that there is a better way. Assembly Bill 336 being in play could absolutely help officers because a lot of the public does not see what we see; a lot of the public does not know what we know. The thing is, these past couple of years, officers have been seen as being abusive of their power, when that is not the case at all. But the public sees things in a certain light, where they do not understand, or they may not know the situation or the totality of the circumstances. With that being said, something that puts A.B. 336 into effect will not only help the officer, will not only give an avenue for preventing suicide, but also an avenue to help them become emotionally stronger to better serve the community.

Nowhere in our oath does it say that officers will run from danger, not risk their lives, and not sacrifice everything to ensure the safety and protection of their own. Having a bill that proposes support and help for officers and first responders is essential. And the lack of support of this bill's passage just says that our heroes' mental struggles are not important; they are only important when they are needed. The truth is, officers are humans, too. Officers have feelings. If we do pass something like this, all it is doing is saying that a hero's life matters. Ladies and gentlemen, heroes need help, too.

Chair Flores:

Thank you, Mr. Rodriguez. We will go back to Assemblywoman Monroe-Moreno, who will walk us through the bill at this time. [Loss of audio occurred.]

Assemblywoman Monroe-Moreno:

Thank you, Committee, for your patience with the technical issue. As you look at Assembly Bill 336 as it was originally printed, it stated, "Standards for a behavioral healthcare assessment for peace officers, which must be completed in conjunction with the annual medical examination, to aid in preserving the emotional and mental health of the peace officer and assessing conditions that may affect the performance of duties by the peace officer." In my research after the drafting of the bill, I was surprised to learn that not every police agency in the state of Nevada actually has an annual medical assessment—that is a conversation for a different day, not today. But because of that, we wanted the language to truly match the intent. So the amendment that you see before you today [[Exhibit C](#)] removes "in conjunction with the medical examination" because not all agencies have that. Also, in working with the professionals you heard today and some you will hear on the telephone as they testify in support, having the health care assessment was not truly the intent; it was more of a wellness visit, a visit where a peace officer can have a protected conversation to discuss the issues that he is dealing with. That conversation should remain confidential unless the officer displays a risk of harm to himself or to others. The goal is to have emotional and mental health issues treated in the same manner that a department would treat a physical and medical health issue.

In further discussion with other local municipalities about this piece of legislation, we know that there is going to be an expense associated with it, and it may take time to find that funding. It was agreed that the effective date should be moved from January 1, 2022, to January 1, 2023. I have been actively looking at grants that would help departments secure the funding needed. One is an organization called COPS Office [Community Oriented Policing Services] through the U.S. Department of Justice. There is a Law Enforcement Mental Health and Wellness Act of 2017, and that grant is not available yet for 2021. This gives our agencies an opportunity to get the funding that they need to put this program in place. We are hoping that in the new American Rescue Plan Act, there may be some funding to assist as well.

With that, Mr. Chair and Committee, we will close the presentation, and we will open up for questions that the Committee may have for any of the presenters.

Chair Flores:

We will open it up for questions.

Assemblyman Ellison:

Thank you for bringing this bill. This was a long time coming; it needed to be done. I know this is very emotional for a lot of the officers who have to bring this forward. My one question with this bill, is this only for active duty or do some departments extend it on to after the officer has retired—that he does a yearly physical or something like this? Please answer that, and then I have a follow-up.

Assemblywoman Monroe-Moreno:

[Loss of audio occurred.] This bill would only address active duty peace officers, not those who are retired. However, I believe there is another piece of legislation that does address retirees that is going through the body now.

Assemblyman Ellison:

I was involved as a police commissioner for ten years. During that time, there was a shooting incident, and I kept requesting to the chief that these guys get some kind of counseling. Two took it; one refused, because it was an option. I think the third officer had a problem struggling after that. I am hoping that in the future they can do mandatory counseling after an incident like that. Maybe that is something you might be able to bring later on, at a different time.

Assemblywoman Monroe-Moreno:

I know a number of departments have that in their standard operation policies, but it may not be in every department. Yes, thank you for that.

Assemblyman Ellison:

I thank you for the bill. I think it is great. We might be able to stop some of the suicides.

Assemblywoman Anderson:

Thank you for bringing forward a timely and important bill. It totally makes sense to me. My question is based upon Mr. Collins' testimony as well as Assemblyman Roberts' statement. Are there options if a fellow police officer believes that somebody is suffering from a possible mental illness or mental breakdown? Are there ways to be able to recommend that they go see somebody between the times of these visits, or is that more of a local decision to be made?

Assemblyman Roberts:

Most police agencies have realized over the years that this is an issue. Most agencies have a police employee assistance program. Like in my department, at Metro, we have had this for probably 30 years. You can do referrals: if somebody believes—quite often, if you felt somebody, through your own personal knowledge, was having struggles at home or on the job or a variety of things, you notice some behavior, you could tell the police employee

assistance program. They have counselors who would reach out to those employees and actually do the contact.

To follow up on Assemblyman Ellison's question: Most police departments require a psychological visit any time you are involved in a critical use of force incident or any kind of other critical incident, so that you at least have that opportunity to talk to someone about it, and we know you are prepared to come back to work. There are a lot of avenues to do that. But the challenge quite often is, with a lot of people you do not notice some of the issues and you may not get that referral. This one time a year would really put you in front of somebody for sure.

Assemblywoman Anderson:

Thank you. I want to make a quick comment to Assemblywoman Monroe-Moreno: I hope that when we have technology issues like that, all of us can handle it with such dignity. You handled it very gracefully.

Assemblywoman Thomas:

My one and only question, I will be asking Assemblyman Roberts. This bill—have you presented it to leadership of law enforcement throughout the state of Nevada: Metro, Washoe County Sheriff's Office—whether or not they are excited about the wellness of their police officers and are behind this bill?

Assemblyman Roberts:

Assemblywoman Monroe-Moreno has done a lot of that work, and it is probably best for her to answer that.

Assemblywoman Monroe-Moreno:

Thank you, Assemblyman Roberts. I have been working on this piece of legislation for a number of months, and I had a number of conversations with various agencies within our state. Will I say they are excited about it? What I have heard time and time again—and you will hear in the testimony later, in support and opposition—is that almost everyone, every police chief, every sheriff, every officer whom I spoke with, felt that yes, this was something that was needed. One, how are they going to pay for it? There is going to be a fiscal note that every department is going to have, because it will impact their budgets. Two, from line staff, is, will this be used as a tool against them? So while everyone agrees that it is something that we need, there is still some hesitation.

Assemblyman Roberts:

Many police departments, like at Metro after 1 October—we contracted with local counselors because our police employee assistance program was actually overwhelmed by the number of contacts. We entered an additional insurance policy that allows for extra visits, which has been carried over. Many police departments have those same kinds of policies in the workers' compensation programs and things like that, where they actually have this counseling.

So, the changes for the amendment allow for the generic language that gives you flexibility in the types of visits, which would fall under something that is probably already covered by most agencies.

Assemblywoman Considine:

I want to echo all the sentiments that have already been stated about this incredibly needed bill, and I am so grateful for Assemblywoman Monroe-Moreno for bringing this forward. I am especially grateful for a lot of the folks who have testified, in making that connection between a system that values strength—especially if some of these police officers were prior military—and changing that system and removing that stigma, because mental health is still health. I appreciate this bill for that level as well.

Hearing that this might be moved to 2023 hurts me just a little bit because this is about valuing the mental health of the people who protect and serve us. Helping these folks and giving them more tools to help themselves internally, as well as all of the tools externally to do their job—I think it is very important if perhaps any of these departments would be able to find the money, move around budgets, or do anything. If you change this bill to not go into effect until 2023, would that still allow any of these police departments that can find that money to start this program earlier?

Assemblywoman Monroe-Moreno:

Yes. As mentioned by Assemblyman Roberts, there are a number of departments that are already putting things in place to help their officers—going as far as hiring social workers to work with their police employee benefits department to help their employees. There are departments moving in this direction already. Putting the date further out will not limit anyone from jumping on it right now. They can do it tomorrow if they find the funding. But knowing that we are coming out of the COVID-19 pandemic, and every city and every department within our state is hurting financially, it gives them the time that they may need if they cannot find the resources by the original date in the original drafting of the bill.

Chair Flores:

I do not believe we have any additional questions at this time. We will go to those wishing to testify in support of Assembly Bill 336. [There was no one on video.] We will go to the phone lines.

Eric James, Private Citizen, Reno, Nevada:

I am calling to give my support behind this bill. It is something that is absolutely needed within our policing community. I am currently the deputy chief of the University of Nevada, Reno Police Department, Northern Command. Part of what we do up there, as you all know—we have to have a physical exam to come back, and we have been saying for years that something that needs to be done is to also check the mental health of our officers. You have all heard the statistics behind how many officers die from felonious assault, and the scary thing is more die from suicide. Mental health is an absolute component—physically, mentally, emotionally, and spiritually—that we teach our officers and that is taught to the

officers throughout northern Nevada. Having this bill pass, people will find funding to have this done, because it is so very important.

Nick Shepack, Policy and Program Associate, American Civil Liberties Union of Nevada:

We are in strong support of this great bill presented by the Assemblywoman. As we continue to push for reforms in policing, we cannot lose sight of the fact that police are indeed people; people with extremely difficult jobs in which trauma could be a part of everyday life. We see mental health care as a necessary step to any sort of reform and to ensuring that our police are healthy and ready to do their jobs. This bill is a great step in that direction, ensuring that annual checkups for mental health will be given to all law officers throughout the state and ensuring that they will receive any help they need, keeping them safe, allowing them to return to their families, and helping them to better protect our communities. We hope you support this bill, even with the fiscal note that will be attached, as everyone in the state will benefit.

Chair Flores:

Thank you. We will continue with those wishing to testify in support of Assembly Bill 336.

Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association:

We are here in support of Assembly Bill 336. We wish to express our support for Assemblywoman Monroe-Moreno bringing this bill and the amendment that tries to make it work. I also want to personally thank her for her years of public service as a correctional officer, an often-overlooked job that is vital to the public safety mission.

I have heard a few concerns the past couple of weeks for what this bill might do negatively going forward, but I know what the next officer suicide will do. So anything we can do to try to stop that next suicide is something I personally support, and our organization has expressed support for at many of our membership meetings recently. We need to get our cops talking about the monsters that haunt them and to do it in an environment that is safe to do so. I do not know what the perfect environment or timing of it is, and I have heard no one else providing solutions; at least this bill is trying to propose the environment and the timing so that we may try to help the people on the front lines serving us night and day.

Jim Hoffman, representing Nevada Attorneys for Criminal Justice:

Nevada Attorneys for Criminal Justice (NACJ) supports A.B. 336. Policing is a difficult job, and we want to make sure that police officers stay healthy so that they are able to keep doing that job. This is why we encourage police to get an annual physical. But mental health is also important, and we want to make sure that police officers stay mentally healthy so that they do not develop problems that could ultimately hurt the public. Having an annual wellness visit is a way to make sure that both the police officers and the general public remain safe and healthy, and so NACJ supports it.

Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office:

On behalf of my office as well as the Clark County Public Defender's Office, we want to thank Assemblywoman Monroe-Moreno and Assemblyman Roberts for bringing forward this important piece of reform for the criminal justice system. We support this bill as part of the reform measures that we are trying to implement and enact this legislative session. I agree with the statements that were made before me. Unfortunately, in northern Nevada we have lost several police officers due to suicide, and hope that this will ensure that community members trust the members of law enforcement when they have interactions with them, but more importantly, benefit everyone in our community. We appreciate this bill and hope that you will pass this legislation.

Jared Luke, Director of Government Affairs, City of North Las Vegas:

I would like to thank Assembly members Monroe-Moreno and Roberts for bringing this bill forward. And if I could just piggyback off of Assemblywoman Anderson—your "cool under pressure," Assemblywoman Monroe-Moreno, is admirable. I do not know if I could have handled it as well as you did with the tech issues.

It is programs like this, proposed under A.B. 336, that assist in decreasing the stigma that, unfortunately, is too often attached to those suffering from mental health issues. Should this bill pass, there will be a fiscal impact to the city as we adopt these programs. But we are grateful that the sponsors have identified various grant programs that can be used to absorb future fiscal impact for municipalities, and we look forward to working closely with them if this bill progresses.

The City of North Las Vegas understands that the intent of this bill is not to penalize peace officers. Rather, by combining with annual physical screenings, it aims to help repair any unseen injuries, if needed, to ensure peace officers can operate at a safe, optimal level, physically, mentally, and emotionally, both at work and at home.

Chair Flores:

We will continue with those wishing to testify in support of Assembly Bill 336. [There was no one.] Next, we will go to those wishing to testify in opposition to Assembly Bill 336.

Jamie Rodriguez, Government Affairs Manager, Office of the County Manager, Washoe County:

I want to start by thanking Assemblywoman Monroe-Moreno for meeting with us yesterday regarding our concerns about the bill. We are very appreciative of the sponsors agreeing to move the effective date out so that we can plan, budget, and find some other funding options to help us offset those costs. We are very much, though, appreciative of the intent of the bill and take mental health of our employees very seriously. We have created a multitude of programs, including several peer support programs in our region, which we are actually sharing with some of the counterparts in southern Nevada—for them to create similar programs that we have seen to be very effective.

The concerns about the bill fall under "peace officer" and the use of "peace officer," which is a little bit broad in terms of whom all that applies to, while we are very appreciative of the need for mental health services for employees in some of these positions that do have to deal with and see things that the rest of us would not be able to manage. However, I do want to put on the record that our fiscal note that was submitted is not correct. When we had originally read the bill, we made the mistake of thinking "peace officer" was just law enforcement, and therefore the Sheriff's Office, and did not include the multiple other departments that would be impacted, such as alternative sentencing, juvenile services, and some of our district attorney investigators.

We do also appreciate the bill sponsor taking out the provision that requires the medical exam. Because "peace officer" is a little bit broad, not all of those individuals are required to have an annual medical exam. So there were concerns about additional costs of now requiring all of them to have those annual physical exams. We are working with the sponsors. We are working also to help get a better idea of what that impact is, but what we are hearing is the cost is about \$200 annually for each peace officer, and we are trying to determine exactly how many peace officers we have in Washoe County. Again, I do want to thank Assemblywoman Monroe-Moreno for meeting with us, listening to us, and understanding our concerns.

Joanna Jacob, Government Affairs Manager, Clark County:

We also want to thank Assemblywoman Monroe-Moreno for meeting with us on this bill. We absolutely support the intent of this bill. This is something that we also take very seriously [unintelligible]. We want to continue to work with the Assemblywoman on this bill. We appreciate the amendment [unintelligible]. The definition of "peace officer" for counties is very broad. For Clark County, it will bring in our district attorney investigators, [unintelligible] investigators, park police, juvenile parole officers, and family services. So we are trying to plan and move toward this fundamental policy shift. We agree that is very important. We have filed a fiscal note. We may have to look at it to make sure that it actually will capture whom we need to capture. I want to also note the cost for the county; we can plan for those costs. Especially hearing about moving it outward, it will help us to plan for these costs.

We want to work through the details of this bill, but it came up in the history on who will perform the status check, how that is going to be shared with the patient or with the employer. We heard concerns from our own employees about this being punitive; we will need to work through that. I understand that could probably be suggested in the regulations that are going to be promoted under this bill.

We also have had some concerns, Chair Flores and Assemblywoman Monroe-Moreno, about trying to find behavioral health providers for our employees, particularly to do these kinds of wellness checks. In the past it was incredibly difficult, as I know it is for everybody from southern Nevada and even statewide, to find mental health providers, and so we need to work through that as well.

We are opposed under the rules of the Committee to the original bill language. We are working with the Assemblywoman on this and wanted to put those concerns on the record. Again, we will continue to work with the bill sponsors.

Dagny Stapleton, Executive Director, Nevada Association of Counties:

We are opposed to the bill but want to make it clear that we are not opposed to the policy or intent of the bill and absolutely understand what is driving the need for this legislation. We are concerned, as my colleagues from Clark and Washoe Counties noted, solely about the fiscal impact and wanted to put that on the record today. I want to echo the comments of Ms. Jacob and Ms. Rodriguez about the impacts to counties and some of the things that need to be worked out in order for counties to implement this, including funding for it, and that those impacts are similar for the rest of the counties throughout the state. I want to thank the sponsor as well, for discussing the bill with us, for the amendment, and for her commitment to continue to work with us to address the fiscal impacts and find some funding to ensure that we can pay for these wellness visits.

Chair Flores:

Thank you for joining us. The next caller in opposition to Assembly Bill 336. [There were no more callers in opposition.] At this time, we will go to the neutral position on Assembly Bill 336.

Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:

This is a very important bill and we are here neutral today. We certainly support the concept of the bill and we are very serious about the mental health of our employees and their wellness. I have been a police officer for 32 years myself, so I fully understand the stress that our officers are under on a day-to-day basis. The 31 people whom Assemblyman Roberts mentions—some of those folks were close friends of mine as well.

Our concern with some of the language on the bill is more logistical in how it will roll out once passed. What exactly would be involved in the evaluation? What are the criteria for the evaluation? I know that the language in the bill puts P.O.S.T. [Nevada Commission on Peace Officer Standards and Training] in a position to establish that criteria, but would the evaluation be a pass-fail type of thing, or is it merely an opportunity for officers to have a dialogue with a professional and voluntarily receive assistance or resources that are available to them, and then what is the follow-up required after the fact? If these questions can be adequately answered, we will be in full support of the bill. We look forward to working with Assemblywoman Monroe-Moreno moving forward.

David Green, Ph.D., Mental Health Director, Department of Corrections:

I would like to start by saying what a pleasant surprise it was hearing from Chief Freeman and Officer Rodriguez. I have many fond memories working with them at the detention center. Nevada Department of Corrections is very interested in this legislation. It has been very helpful listening in to the conversation. I think we understand its intent better. Like the previous caller, I am wondering if the Chair would be willing to entertain a question.

Chair Flores:

A question to whom? I am sorry—I do not think I understand. You want to refer a question to me during a hearing where the Assemblywoman and the copresenters are present? It is their bill.

David Green:

The question we have is the standards referred to in the bill. Are those standards going to be outlined in the bill or does each agency determine what their standards are going to be?

Chair Flores:

Assemblywoman Monroe-Moreno, do you want to respond to that? Or anybody else, please. We are trying to get the Assemblywoman to jump on.

Assemblywoman Monroe-Moreno:

The caller is correct. It is not decided in the legislation. That would be part of the regulation process that P.O.S.T. would do. The reason it was changed to the wellness visit was to make it more flexible. Each department has its own unique situations—the number of officers they have and their unique need. This gives P.O.S.T. the flexibility that it will need to create those regulations so that departments statewide can create a program that is best-suited for their department. I hope that answers the caller's question.

David Green:

It does. I appreciate it.

Scott Edwards, President, Las Vegas Peace Officers Association; and Member, Public Safety Alliance of Nevada:

I am representing nearly 10,000 officers throughout the state of Nevada. I currently work as a corrections officer for the City of Las Vegas. But as representing the union and Public Safety Alliance of Nevada, our concerns center around what will happen to the officer. The stigma of a negative psych eval can be detrimental to an officer's mental status. This can be further complicated by a department that is not sympathetic to an officer's situation. It sounds good, it feels good, but the implementation, based off the agency, may not be perfect.

We are here in neutral because we have these concerns whether, if there is negative psych eval, will it be listed as workers' comp? Will the officer be allowed to continue working? If they are not allowed to continue to work, will they be compensated during that time? If not, that could further complicate the problems. How long will someone be out on light duty if they are placed out on light duty? Currently, in my department, we recently had an officer who was diagnosed with cancer less than a year ago. He was called on a Thursday and told he had to process out on Monday because his application had been received by PERS [Public Employees' Retirement System of Nevada] for a medical retirement even though it was not going to be heard until the middle of April. So will this be treated like medical situations and somebody is going to be pushed out because it is not considered work-related, or if it is work-related, we go back to the workers' comp issue.

One of the things that should be stated is, is this going to be a voluntary session? Is this something that is going to be a burden to an individual department, a small department like Eureka that may not have the ability or the finances? I know Assemblywoman Monroe-Moreno is working on some grants, and we are greatly appreciative of that. Will an officer be able to just go into one of these assessments and say, No, I am good, everything is fine; and that will suffice? That is our neutral position. I do want to thank Assemblywoman Monroe-Moreno and Assemblyman Roberts for bringing this, and certainly my former chief, Michele Freeman—we have talked about this on many occasions. I think the intention is good; it is the logistics of working it out that is the problem.

Chair Flores:

Thank you. We will go to the next caller wishing to testify in the neutral position to Assembly Bill 336. [There was no one.] Lastly, we will close it out with Assemblywoman Monroe-Moreno, any closing remarks you may have.

Assemblywoman Monroe-Moreno:

Thank you, Chair Flores, and thank you, Committee, for giving me and my copresenters the opportunity to present this bill. I can remember hearing some similar comments, complaints, and objections when this body discussed and debated the use of body cameras just a few sessions back. I have had a number of conversations, as you have heard, from the callers who called in—with organizations that called in opposition and some that called in neutral. But at the end of the day, I feel the things that they brought up—will this be an evaluation? The answer is no. The intent of the legislation is to have a discussion. That discussion would only be brought back to the attention of the department if the officer in that discussion displays any incidence or feelings of hurting himself, herself, or others. This is strictly a discussion to give that officer an opportunity to get to the healing that he may not have gone for without it.

Would it be an annual requirement? Yes. Because it may only be that one time that the officer, during the course of the year, gets an opportunity to talk to a behavioral health care specialist. In the drafting of this legislation and the stakeholder group to put the verbiage together, I had American Family Therapy Academy therapists, substance abuse disorder specialists, and a number of behavioral health care professionals. And I heard from line officers that they wanted it to be a diverse group. That is what I have been working with—to put together a list of professionals within our state that police departments and agencies would have readily available to go to if needed.

But when you talk about money—we all have budgets, and we have to make priorities. We have to decide what will and what will not be part of our budget. Currently, Nevada P.O.S.T.—Nevada P.O.S.T. is who certifies, qualifies, our peace officers: Category I, II, and III peace officers. They have a standard for continuing education for peace officers. That includes racial profiling, mental health, the well-being of officers, implicit bias recognition, de-escalation, human trafficking, and firearms. Assembly Bill 336 is the natural next step in addressing and promoting officer wellness. Will this legislation cost money? Yes. Yes, it will. Will this legislation be an adjustment for police officers and the agencies that they

work for? Yes, it will. Will some administrators try to use this piece of legislation as a tool to dismiss an officer? I hope not, and I pray not; but I am no fool. I know that is a possibility. But you have to ask yourself: Can this legislation save lives? And that answer is yes. Could it prevent a suicide? Yes. Could it prevent a homicide? Yes. Could it be a tool to save on the investment that has been made by every law enforcement agency within this state? Yes.

Assembly Bill 336 is a bill that addresses both officers' emotional and mental health, but it is also police reform. It says police reform because it can change the culture of our law enforcement community. It aids in removing the stigma associated with mental health, and it will go a long way in rebuilding community trust and foster the rebuilding of relationships. By passing A.B. 336, we are saying that Nevada's peace officers' emotional and mental health is just as important as their physical health. It is a priority, and it is a priority by saying that Nevada's family, our communities and the families in our communities, and the officers who serve those communities, are our priorities. And yes, Nevada may be the first or one of the first states to pass legislation like this, but we have been the first in so many other areas—so let us be the first in this one as well. I thank you, Mr. Chair and Committee, for hearing A.B. 336, and I urge your support.

[[Exhibit D](#) was submitted but not discussed.]

Chair Flores:

Thank you, Assemblywoman, for your passion and for bringing forth so many stakeholders to this very vital and important conversation. I think the Committee echoes your sentiment. I hear the opposition and those who called in neutral, disguised in neutral who were in opposition. We have often heard the conversation where the implementation is hard. But that should never be a reason not to do anything. Of course implementation will be difficult. We are engaging in a conversation where we are addressing a very serious concern for our women and men in law enforcement. And so for anybody to come in and try to derail and kill a bill because implementation is hard will not be tolerated by this Committee. We look forward to working with our women and men in law enforcement. Assemblywoman, thank you for working with everybody; I know you will continue to do so. We hope to be a partner with you on this great policy. With that, we will close out the hearing on Assembly Bill 336.

I need to take care of a bill that I am working on, so I am going to hand over the virtual gavel for the next hearing to Vice Chair Torres.

[Assemblywoman Torres assumed the Chair.]

Vice Chair Torres:

At this moment we will go ahead and open the hearing on Assembly Bill 313.

Assembly Bill 313: Revises various provisions governing common-interest communities. (BDR 10-228)

Assemblywoman Alexis Hansen, Assembly District No. 32:

Thank you, Vice Chair Torres and the Committee on Government Affairs. It is my pleasure to be here today. I know you have had a long morning, so we will be respectful of your time. I think people look at me and go, Why do you have another HOA [homeowners' association] bill? I had one as a freshman, and now I have another one; but I see this bill, in my opinion, as I did in the last session, as a win-win for both unit owners or those who live in HOAs and for the HOA association itself.

I am here to present Assembly Bill 313. There is a conceptual amendment [[Exhibit E](#)] that I hope you have all had a chance to take a look at that is uploaded to NELIS [Nevada Electronic Legislative Information System] that I brought forward to remove sections 5 and 6. This bill originally started as an electronic voting bill, but toward the end of the deadline, I agreed to bring in some other sections, mainly the ones that are in sections 7 through 10 that deal with some streamlining, some bookkeeping processes for the associations.

I am here today to present A.B. 313, which authorizes electronic voting related to common-interest communities. All members of a common-interest community association contribute financially to their association. But for many, that is the extent of their involvement in the operations of the association. The bill is about removing some of the barriers to their participation in their own association. Electronic voting may be the easiest way to ensure common-interest community association members are all heard.

With me here today to help present is Ms. Lorrie Olson. She is an acquaintance whom I belong to an organization with, and in conversation she brought to my attention the genesis for why I agreed to carry this bill. Also with me are Mr. Garrett Gordon, who is an attorney and represents a variety of clients that include common-interest communities, and Adam Clarkson, an attorney whose practice of law is primarily dedicated to representing community associations. With your permission, Vice Chair, we could have Ms. Olson go first, and she could give the genesis of the need for this bill; then to Mr. Gordon, who could walk through the bill; and Mr. Clarkson is here as a resource for answering questions along with Mr. Gordon.

Vice Chair Torres:

Yes, please, go ahead.

Lorrie Olson, Private Citizen, Reno, Nevada:

Good morning. I have been a Nevada community association manager since 2000, and a supervising community association manager since 2006. I first want to thank Assemblywoman Hansen for sponsoring A.B. 313. We are very grateful for her understanding and support.

I previously served as a community association manager for six years on-site, seven years as a portfolio manager, and now have been on-site at Caughlin Ranch since March of 2012. I have the professional community association management designation from Community Associations Institute, along with the large-scale managers designation. I have been facilitating board member elections in Nevada for over 20 years, with none of the elections ever being challenged or disputed.

The two-envelope system accompanied by a paper ballot is as antiquated as it is time-consuming and very costly. Nevada is one of only a few states that does not allow online board member elections. The annual cost at Caughlin Ranch exceeds \$11,000, with fewer than 20 percent of the 2,400-plus ballots we mail being returned—less than 20 percent. There are printing, copying, collating, stuffing, and mailing costs. Larger associations such as Caughlin Ranch need to utilize the services of a printing and mailing house, since the time to copy, collate, and stuff over 2,400 envelopes with approximately 70 pages printed as required by *Nevada Revised Statutes* (NRS) Chapter 116, along with two envelopes and a paper ballot, is time-prohibitive and puts a great strain on our office machines and staff. In 2020, our annual cost exceeded \$13,000, since we directed the owners to mail their postage prepaid envelopes to our Certified Public Accountancy firm. Again, the return was less than 20 percent, and that was with prepaid postage envelopes.

This puts an even larger burden on smaller HOAs. They are forced to either pay the management company to mail their annual election packet or a mailing house. Either way, they are charged for copies, envelopes, stuffing, et cetera. Unfortunately, management companies are not in the business of losing money, so their charges are understandably above costs. Regardless of the size of the HOA, some management companies require a printing or mailing house to complete the annual election packet, so the HOA may not have an option.

Unfortunately, Nevada has experienced profound fraud with its board member elections. Allowing for online voting will help to maintain the integrity of any election since paper ballots can easily be used to commit mail fraud, as unfortunately has happened in the past in Nevada. There are a few national companies who have been and continue to conduct secure, confidential, and affordable online elections. I am confident that offering the online voting option will save Caughlin Ranch thousands of dollars each year that we have the need for a secret ballot. Owners should be offered the option to vote online or to request a paper ballot and envelopes from the HOA; as managers we understand that everyone is not tech-savvy. Annual election packets will still need to be mailed, but they will not contain a secret ballot or two envelopes. Therefore, the printing, copying, collating, stuffing, and mailing costs are expected to decrease exponentially. Thank you for your time, and I am available to answer questions.

Vice Chair Torres:

Go ahead, Mr. Gordon.

Garrett Gordon, representing Community Associations Institute; and Southern Highlands Homeowners Association:

The Community Associations Institute has over 1,700 members and we represent over 3,000 HOA communities in Nevada. Also, for the record, I am today representing Southern Highlands Homeowners Association, a 10,000-unit master-planned community in Clark County. We first want to thank the sponsor, Assemblywoman Hansen, for bringing the bill and including a few of our sections. We really appreciate it, and also the Chair and Vice Chair for hearing our bill today.

The bill consists of three sections or three topics, now that the insurance sections were removed. Sections 1 through 4 deal with electronic voting. The goal here is to make it easier to vote in HOA elections and certainly during a pandemic. We would like to try to involve as many homeowners as possible in the election process, and giving them the ability to do it electronically, we think, will increase turnout in all associations across the state.

The next section or topic is automatic payments. Many of us use automatic payments in our daily lives to pay utility bills, to pay credit card bills. For whatever reason, in the statute—it is kind of dated—that ability for associations is currently not there. It has been certainly burdensome in times of the pandemic to go chase around a board member or two for signatures on paper checks. We think just being able to automate that system at the board's discretion is important.

Finally, the third topic is transfer—what happens when an HOA decides to transfer management companies? They hired Company A, then decide to move forward with Company B; what happens with all the books and records? It is a little bit ambiguous currently in the statute that there is a 30-day requirement to turn over materials; and it is a little questionable when that starts, when it ends, and how to efficiently turn over the files and the books and records that certainly include sensitive information when a new management company is hired. So what we are proposing is let us delegate some authority to the Commission for Common-Interest Communities and Condominium Hotels to hold workshops with the homeowners, with management companies, with HOAs, to really get some good community industry feedback on how that transition should work, then they would codify or implement some regulations.

Those are the three real topics of the bill, Vice Chair Torres. Adam Clarkson, who is an HOA attorney and was appointed to the Nevada HOA Task Force, helped draft the language of the bill, which was then sent to the Legislative Counsel Bureau (LCB), which did a phenomenal job putting pen to paper. He can get very technical, if you would like to go through any specific language or section by section. Otherwise we will just stand for questions.

Vice Chair Torres:

Thank you, Mr. Gordon. I will open it up to questions from the Committee.

Assemblywoman Brown-May:

Thank you very much for bringing this forward. I am a former president of my homeowners' association many years ago. I understand the complexity of the voting and how we have to communicate. I have two questions. Can a homeowner elect a preferred method or would only one method be available? I know that in my community, some homeowners prefer to have mail-in ballots; the others prefer electronic, or electronic payment. I am curious to know if there is one set standard that is expected or if all of the above can be included.

And then, are there multiple languages that are identified or recommended for homeowners' ballots? Are we communicating with people of varied backgrounds?

Garrett Gordon:

As the bill is written, it is purely voluntary. It is up to the board; they can either opt in, decide, choose to go with the electronic voting route; or they can stick with the paper route. It is really up to them on a case-by-case basis. Mr. Clarkson, would you like to jump in with any specific comments related to that question?

Adam Clarkson, Vice Chair, Legislative Action Committee, Community Associations Institute:

That is absolutely correct, Mr. Gordon. The bill is very broad. We have anticipated that it will essentially default to the notice process under NRS 116.31068, which allows for the delivery of notices to homeowners electronically where they have provided electronic addresses, and we anticipate that where they do not have electronic addresses or they request a written ballot, they would still be able to get that done. The genesis for the change came from NRS 116.311, which already allows for the option of electronic or paper voting for associations; it just does not include elections or recalls, which this one expands to that.

To your question about whether or not these come out in different languages, the law currently does not address any requirements for different languages, so I believe most of these are uniformly going out in English.

Assemblywoman Thomas:

As an HOA homeowner and member, my concern is the security of the ballot. How do you secure electronically my secret ballot? And what program would be designed to ensure that others could not hack into there and wipe out any voting that I or others in my HOA have done?

Adam Clarkson:

As I mentioned earlier, currently under NRS 116.311, we have electronic voting for everything except for elections. Subsection 311 really does not provide for security protocol. When we made the conceptual change to create this electronic voting for elections and removals, which the LCB did a really good job of putting into this document and A.B. 313, we simply tracked largely giving associations and basically following what we already had in NRS 116.311. However, I would note and agree that it essentially could be a very good amendment to this bill to add some sort of requirements and add some expectations, whether

it be broad or tracking some other states. We could look at what some of the other states have done with those. But certainly, it is really broad right now, which was somewhat intentional to allow every association access to this. But we understand your concerns. It sounds like a potential good amendment to revise this bill.

Garrett Gordon:

I was going to concur with Mr. Clarkson. A couple of your colleagues had the same question regarding security, which is obviously important. There are 21 other states that have incorporated electronic voting, so our idea was to reach out to those states to see what they have done. Certainly, it is a balance in that we do not want to put too many protocols or requirements; that would be very costly, so it would prohibit the ability for a smaller association to comply; but on the other hand, you certainly want fair and private and secure elections. I am also told that, given other states have already approved this, there are a number of vendors out there that HOAs would use and hire to run these elections electronically who do have that security software in place. Let us do a little bit more research on that issue, and I would be happy to follow up with you and the Committee.

Assemblywoman Thomas:

I would appreciate the follow-up.

Vice Chair Torres:

I have next Assemblywoman Anderson. But before we go to Assemblywoman Anderson, I know I have several new members who are on this call and awaiting additional floor training. Just so you know, Ms. Susan Furlong will be sending out an email with when that training will occur; you have no need to leave the meeting early, if you choose to stay.

Assemblywoman Anderson:

My question has to do with—it is on page 15. I think it is section 4, subsection 7(d). It is mentioned a few times that the counting of the ballots does not require a quorum. Before, when it was a written ballot, there was still that evidence, so it still touches a little bit upon what Assemblywoman Thomas was bringing up. What are the safeguards to make sure that there is not somebody who just decides, Hey I am going to look at these now and then turn around and make sure that other people know. I realize that we need to go by trust, but unfortunately without there being a quorum or other people present, what are the safeguards to make sure that there is not some early counting?

Adam Clarkson:

For clarification, currently there are no quorum requirements for the elections or recalls. A recall or an election does not require a quorum at this time, just like a budget ratification does not require a quorum at a community association. They do, however, have safeguards in place with the physical counting. In a physical counting, the ballots have to be opened in front of the members. So when you are mentioning safeguards for the current method, there is that requirement that they are not allowed to be touched by anyone who is up for election or anyone related to them. They are also not allowed to be opened up until the meeting. They have to all be opened during the meeting. So they have to be opened in a meeting,

witnesses are present; that way anybody can see that, and nobody can touch it if they are involved.

With respect to the electronic process, we have not added particular safeguards for this. Again, this also sounds like something that may be a good change for the amendments. The process that we had established right now was that the matter was going to be read into the record; there is, of course, the general obligation of good faith, but fitting in some additional processes perhaps tied to how the other states are doing them could be another addition to this. It would be a thing we will note to look into; what other states are doing so that folks are not getting early access to the election results. A lot of times we could look at maybe third parties handling them and other things like that. Certainly, another good suggestion for an amendment for this one.

Assemblywoman Anderson:

I want to verify that I heard correctly that it is up to the board to make a decision whether the vote would be done by paper ballot or online—or is it up to the members of the homeowners' association? I thought I heard that from Assemblywoman Brown-May's question. But if you could, verify that it is up to the board and not up to the people who are members of the homeowners' association?

Adam Clarkson:

As drafted, it would be discretionary for the board, whereas there is also similar discretion currently for any other situation where they want to use electronic or paper voting. We simply tracked the language that exists in NRS 116.311, which does allow the ballot to be discretionary. However, there are implicit, if not expressed, limitations on that, which are that NRS 116.31068 requires the association to provide these communications in a reasonable basis. So for homeowners who have not provided an electronic address, the board would still have to go with the traditional paper ballot because they would not have another option under this section. Also, similarly, if someone requested it, potentially that would be something that we would look at. Again, this could be another place where we can add some clarification, something in this bill that is going to specify the right for an option for a homeowner to get that right for a paper ballot, just so there is no debate in the future. That could certainly be another ideal amendment for this.

Assemblywoman Considine:

Thank you for following up with a little bit more clarification, because when I was reading that same section where it says "paper or electronic," I did not know if that meant that as a homeowner, especially let us say in some areas where there are seniors, even if the senior has an email address, how often do they check it? Can they individually opt for a paper ballot? Can somebody opt for a paper ballot, but then if they live half the year elsewhere, opt for electronic? Those were some of the clarifying questions that I was going to ask. But I think those were asked and you have mentioned, Mr. Clarkson, maybe doing a little bit more clarification.

But my question now is, on the bottom of page 12 starting at line 40; this is in section 3, subsection 9: "An association may conduct a vote without a meeting including without limitation a vote for the election or removal of a member of the executive board." I want to know why that is listed in the NRS section for proxy votes? I might just be missing that. Is that usual practice? It looks like the language that was taken out says "Unless prohibited or limited by the declaration or bylaws" Does this mean that any individual homeowners' association cannot now say, No, if we are going to remove somebody by a vote that may even be electronic, we can remove them without actually having a meeting.

Adam Clarkson:

Nevada Revised Statutes 116.311 is the section. It addresses a lot of different issues. It addresses voting. It is titled "Voting by units' owners; use of absentee ballots and proxies; voting by lessees of leased units; association prohibited from voting as owner of unit; voting without a meeting." I realize that is not listed in the actual document itself, but that is, if you pull up NRS Chapter 116, the title of this section. We do have large parts of NRS Chapter 116 hidden all over the place, as many of you probably noticed if you read it before.

What we did here is we addressed the change in a manner that was intended to track the current language with respect to, generally, voting electronically. One of the things that we also changed here that is important—and you dialed into this issue—is we changed the right to do it. We basically flipped it to where there was a limitation—so an association's declaration or bylaws could have restricted the manner in which an association was able to do an electronic vote. I have clients that have been associations since 1925. Some of their original declarations and bylaws do not really contemplate electronic voting, as you would imagine. We basically made it to where any association here in Nevada would be able to take advantage of this statute, and they would be able to utilize it. It is pushing this to where it is giving an option for all associations regardless of what their governing documents provide. That is part of the reason that is in there. It does land right beside the proxy section, but this is not really a proxy; this is an actual vote.

Garrett Gordon:

I just want to make the record clear: One, the board can opt in to electronic voting, and even if they opt in and choose that method, any homeowner can opt in to still a written ballot. So just because a board says, We are going electronic voting, a homeowner who does not have an email address or does not want to move forward with electronic voting can always request a paper ballot. We are going to clean up or clarify that language because you and a couple of your colleagues have had that same comment for clarification. I really appreciate that input.

Two, the question you mentioned about no meeting for removal of a board member, that is current law. But you are actually right. There seems to maybe be a missing link there with regard to having a meeting and having a discussion about why a board member would be removed. Again, a couple of your colleagues had the same issue and said, While we have this statute open, maybe we put in there the right to request a meeting if they feel that they should not be removed and want to make their case for not being removed. In the conceptual

amendment we are thinking through, we are going to address that issue. Thank you for bringing it up. I think it is a good one to handle while we have this statute open.

Assemblywoman Considine:

This is not necessarily something that is addressed in this bill, but as we are having this conversation, I am wondering—if the move is toward electronic—is there anywhere in here or has there been any discussion about then having streaming homeowners' association meetings so that instead of a situation where you can have a meeting with no one present, you could stream those or those could be available for people to attend online? I know that might not be part of this, but it was just a thought.

Adam Clarkson:

Under Chapter 82 which applies where NRS Chapter 116 is silent, community associations are allowed to have their meetings electronically. Our Nevada community associations have, during COVID-19, been running meetings through Zoom and through other platforms. However, meetings are private; they are not public meetings like this meeting. They are directing them; folks are getting log-ins just like they get log-ins for this meeting. They are getting log-ins through their community association sending out the notice and sending in the contact information, because they are not in the position to livestream them, for example, through YouTube or another fully accessible portion, because that goes out broadly and community associations are private nonprofit corporations, so they are keeping their business closed in-house. But that is a great idea and it is something that is generally available now.

Assemblywoman Considine:

I know I said streaming, but I did mean exactly how you said it, a closed meeting. If we are talking about access and we are talking about folks' ability to vote, I am all for making voting easier and for everybody to be able to participate, so thank you for that. It is good to know.

Vice Chair Torres:

I see that the Chair has returned.

[Assemblyman Flores reassumed the Chair.]

Chair Flores:

Thank you, Madam Vice Chair, for taking control of the meeting for me there for a second.

Assemblyman Matthews:

I wanted to thank the Committee members, actually Assemblywoman Thomas, for the really good line of questioning regarding ballot security, and I also appreciate the answers from Mr. Gordon and Mr. Clarkson. Obviously, election integrity, ballot security, whether it is an election for an HOA or for a political office, is very crucial. I just wanted to say how much I appreciated that.

Assemblywoman Brown-May:

Just one follow-up from earlier. I am going to paint a very quick picture. The homeowners' association where I became president was in an area of town where it was a brand-new townhome community that cost less than \$85,000 for a three-bedroom home. So, many people who had never had access to purchasing a home lived in that community. There were multiple languages, as I stated. When I was president of the board, we worked really hard to make sure that all of our homeowners were engaged in that process. Thank you for hearing us as we talk about options for people to be able to opt in. Giving the homeowners the opportunity to tell us how they want to receive their ballots is going to be the most important, but then I would also like to throw in there perhaps including an option for a homeowner to identify a language that is beneficial to them; that would be another consideration. I just want to throw that out there for people to consider as we look at amending this statute.

Garrett Gordon:

I think that is a great idea. It has been mentioned a couple of times in this hearing. In our conceptual amendment, we will look at the language opt-in and see if we cannot craft something that is agreeable to the Committee.

Chair Flores:

Members, I do not think we have any additional questions at this time. I would like to invite those wishing to testify in support of Assembly Bill 313 to please join us at this time.

Lara Knipmeyer-Garrell, Member, Legislative Action Committee, Community Associations Institute:

As a licensed and practicing community manager for nearly 16 years now, back in February 2020 I oversaw a secret ballot-opening process where over 70 homeowners were in attendance at the meeting. After the ballot-opening process began, it then took over two hours to open, count, and double-check the final tally of ballots. This particular ballot-opening task lasted well past 8 p.m. I am in support of Assembly Bill 313, specifically electronic voting, as this will save homeowners time and money as well as provide a safe and much easier way to vote, given the ongoing COVID-19 pandemic.

Chair Flores:

Thank you. The next caller in support of Assembly Bill 313. [There was no one.] At this time, I would like to go to those wishing to testify in opposition to Assembly Bill 313.

Mike Kosor, Private Citizen, Las Vegas, Nevada:

I am calling in opposition to A.B. 313. To be clear, I am in favor and appreciate legislation that would make it easier for homeowners to access and be involved in their community and reduce costs, which, I believe, when properly constructed, A.B. 313 may in fact do.

However, currently as written, the bill is not ready for prime time. I believe, based on the questions provided by this Committee, there are a number of issues that still remain and need to be addressed before this bill moves forward. Security is certainly high on the list; how it is administered and by whom and under what rules; and whether it is discretionary for the

board or not, obviously needs to be addressed. And then I would be real cautious about this bill; as written, it would override the covenants, conditions and restrictions and require homeowners to actually opt in to a process. Again, another one that needs to be considered very closely. I am in opposition as written but want to make it clear that I think the objective has started out as probably what we need to continue to pursue.

Chair Flores:

We will go to those wishing to testify in opposition of Assembly Bill 313. [There were none.] We will go to those wishing to testify in the neutral position on Assembly Bill 313.

Bailey Bortolin, representing Nevada Coalition of Legal Service Providers:

I want to note that we did have concerns with the original section 5, but after speaking with Assemblywoman Hansen, we learned that piece has been removed; we appreciate being on the same page there, and have no remaining concerns with the bill.

Charvez Foger, Ombudsman, Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, Real Estate Division, Department of Business and Industry:

I just have a couple of things. I want to make sure the Committee understands that the change in NRS Chapter 116A may also need to be amended in NRS Chapter 116B, which is often omitted. Based on the presentation this morning, my office may have some concerns that we will send to the Committee for review later on today or tomorrow.

Chair Flores:

The next caller wishing to testify in the neutral position for Assembly Bill 313. [There were no more callers.] At this time, we will come back to Assemblywoman Hansen for any closing remarks you may have.

Assemblywoman Hansen:

Thank you, Chair Flores and Vice Chair Torres, for this hearing. Certainly we know, and we have been down this path before, that when you bring an HOA bill, it is a collaborative effort. I have made note and I am very encouraged by the comments and the suggestions for amending: from Assemblywoman Thomas on the security issues, from Assemblywoman Considine on the board member having the option to be available for removal, and also Assemblywoman Brown-May's request to perhaps identify languages. Thank you so much for your input. This is how we get good legislation. I appreciate the opportunity and look forward to your support when we can get there for a win-win for those who live in HOA communities and for those who need to streamline their processes in the HOA community associations.

[[Exhibit F](#) was submitted but not discussed.]

Chair Flores:

Members who are in your first term, I know that you are all being summoned down to the floor for your legislative training. Members of the public, we are going to go to public

comment, but do not take their leaving as a sign of disrespect as they have to address some training requirements. Thank you, members. Let us go at this time to public comment. [Rules for public comment were explained.]

Mike Kosor, Private Citizen, Las Vegas, Nevada:

I am a longtime board member of an HOA. The discussion earlier of A.B. 313 was that it be opened up and potentially address some other issues within the area of NRS Chapter 116. One, in particular, that comes to mind is the issue that I would wish this Committee would look at: the longstanding controversial issue around when major contracts of an HOA are to be bid out. The language in NRS Chapter 116 remains very vague. There is a Nevada Real Estate Division opinion back in September 2011 which tries to define what "when practical" means; however, if you talk to the various HOA attorneys, they are all over the map as to when it is required or not. Most importantly, when a board elects on the rare occasion that they do not follow this and not bid out major contracts, then it is very difficult to hold them accountable. I wish this Committee would look at potentially shoring up the language of that, and also that in *Nevada Administrative Code* 116.405 when it deals with the bidding out of major contracts in HOAs.

Annemarie Grant, Private Citizen, Quincy, Massachusetts:

My brother, Thomas Purdy, like George Floyd, was asphyxiated by Reno Police and Washoe County Sheriff's Office during a mental health crisis as he pleaded, "Please guys, please do not do this." The officers thought enough to get a handheld video camera but not to call an ambulance for my brother, who was in clear medical distress. Three years ago today, March 31, 2018, 21-year-old Nicolas Sedano was shot by Reno Police Officer Christopher Rose. Nicolas was unarmed. District Attorney Chris Hicks did not release his report justifying the shooting until September 11, 2020—that is 2 1/2 years later that the family had to wait for any type of information, because when your loved one is killed by police, it is a blue wall of silence that you encounter. My heart goes out to victims of police murder—anybody killed unjustifiably by another human being—and people need to recognize that families are victims just as much as those who are killed by somebody not wearing a badge. If anything, we need to hold police officers wearing a badge to a higher standard. Perhaps if there were consequences like jail time, they would think twice about acting recklessly, negligently like they did with my brother. As you heard today, law enforcement is a danger to themselves when their mental welfare is not in check. Now imagine them armed and legally able to kill without consequence. Officer Ryan Patterson killed Michia Lee 1/5/2020. Shortly before that, he killed community member Jose Dominguez 4/28/2019. Perhaps if he had not been dumped right back on the street after his paid vacation of probably a week, if that, and got some mental health care, Michia might be alive. Please do not support bills that protect police officers. Please support bills that promote transparency and accountability from those who can already kill without consequence.

Chair Flores:

Thank you for calling in. Next caller for public comment. [There were no more callers.]

Members, I appreciate the dialogue today. As you saw, the hearings are getting progressively longer. So I do not know whether our start time will continue to work unless we start limiting the number of questions to one question per member on each hearing so that we can allow for the flow of the hearing to go a little bit better, and also limiting the number of presenters perhaps on the back end of it. We will definitely go with Monday at 9 a.m. and then we may have to start times for the rest of the week after that. I want to remind you that tomorrow we are going to hear Assembly Bill 245, Assembly Bill 325, and Assembly Bill 365. Give yourself an opportunity to read those bills ahead of the hearing.

Today, in honor of César Chávez Day, I would like to adjourn in honor of his legacy and his work for the hardworking folk in this country and everything he represents in bringing folk together. With that, this meeting is adjourned [at 11:57 a.m.].

RESPECTFULLY SUBMITTED:

Geigy Stringer
Committee Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a proposed amendment to Assembly Bill 336 prepared and submitted by Assemblywoman Daniele Monroe-Moreno, Assembly District No. 1.

[Exhibit D](#) is a letter dated March 30, 2021, from Jean Kanokogi, Ph.D., Director of Mental Health and Peer Support Services, Federal Law Enforcement Officers Association, and Lewis Z. Schlosser, Ph.D., ABPP, Licensed Psychologist, Managing Partner, The Institute for Forensic Psychology, submitted by Assemblywoman Monroe-Moreno, in support of Assembly Bill 336.

[Exhibit E](#) is a conceptual amendment to Assembly Bill 313, prepared and submitted by Assemblywoman Alexis Hansen, Assembly District No. 32.

[Exhibit F](#) is a letter dated March 30, 2021, from Kim Surratt, President, Nevada Justice Association, in support of Assembly Bill 313.