MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GROWTH AND INFRASTRUCTURE

Eighty-Second Session
May 4, 2023

The Committee on Growth and Infrastructure was called to order by Chair Howard Watts at 12:35 p.m. on Thursday, May 4, 2023, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda [Exhibit A], the Attendance Roster [Exhibit B], and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/82nd2023.

COMMITTEE MEMBERS PRESENT:

Assemblyman Howard Watts, Chair
Assemblywoman Tracy Brown-May, Vice Chair
Assemblyman Max Carter
Assemblywoman Jill Dickman
Assemblywoman Danielle Gallant
Assemblyman Bert Gurr
Assemblywoman Heidi Kasama
Assemblywoman Elaine Marzola
Assemblywoman Brittney Miller
Assemblyman Cameron (C.H.) Miller
Assemblywoman Sarah Peters
Assemblywoman Shondra Summers-Armstrong

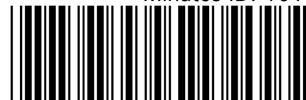
COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Fabian Doñate, Senate District No. 10
Senator Edgar Flores, Senate District No. 2

Minutes ID: 1019



STAFF MEMBERS PRESENT:

Jann Stinnesbeck, Committee Policy Analyst
Jessica Dummer, Committee Counsel
Connie Barlow, Committee Manager
Dylan Small, Committee Secretary
Garrett Kingen, Committee Assistant

OTHERS PRESENT:

Rafael Arroyo, President, Registration Services Association of Nevada
Maggie Salas Crespo, Deputy Secretary for Southern Nevada, Office of the Secretary of State
Aquilys Arroyo, Private Citizen, Las Vegas, Nevada
Sean Sever, Deputy Administrator, Research and Project Management, Department of Motor Vehicles
Mark J. Krueger, Chief Deputy Attorney General, Consumer Counsel, Bureau of Consumer Protection, Office of the Attorney General
Steve Hamile, Chief Executive Officer, Sol-Up, Las Vegas, Nevada
Chloe Chism, Government Relations Adviser, NV Energy
Misty Grimmer, representing State Contractors' Board
Ronald "Ronnie" Young, Assistant Business Manager, International Brotherhood of Electrical Workers Local 357
Nick Schneider, Government Affairs Analyst, Vegas Chamber
Tom Clark, representing Reno+Sparks Chamber of Commerce
David Cherry, Government Affairs Manager, City of Henderson
Leonardo R. Benavides, Government Affairs Manager, City of North Las Vegas
Christi Cabrera-Georgeson, Deputy Director, Nevada Conservation League and Education Fund
Sarah Adler, representing International Brotherhood of Electrical Workers Local 1245
Thomas Bird, President, Nevada Alliance for Retired Americans
Mathilda Guerrero, representing Battle Born Progress
Peter Guzman, President, Latin Chamber of Commerce, Las Vegas, Nevada
Brian Johnston, Co-Founder, Mentis Corporation, Larkspur, California
Jessica Ferrato, representing Solar Energy Industries Association
Christopher Trocola, Co-Founder, Mentis Corporation, Larkspur, California
Katherine Wyszkowski, representing Sunnova Energy International, Inc.
Ben Airith, Policy Director, Freedom Forever, Temecula, California
Julia Pyper, Vice President, Public Affairs, GoodLeap LLC, Roseville, California
Lee Barber, Regional Manager, LGCY Power, Lehi, Utah
Gabriela Olmedo, Policy Associate, Advanced Energy United
Courtney Welch, Policy and Strategy, SunPower Corporation, Richmond, California
Mark Hugh, Qualifying Electrician, 1Solar, Woods Cross City, Utah
Chris Derbyshire, Owner, Best Solar Now LLC

Tony P. Simmons, Private Citizen, Las Vegas, Nevada
Patricia Erickson, Administrative Attorney, Nevada Transportation Authority
Dora Martinez, Private Citizen, Reno, Nevada
Neal Tomlinson, representing LifeTrans, Inc.
Kimberly Maxson Rushton, representing Livery Operators Association of Las Vegas
Brent Carson, Attorney, Las Vegas, Nevada
Alan Waxler, Owner/Operator, AWG Ambassador, Las Vegas, Nevada
Thomas Davis, Owner, Reno Medical Transport LLC

Chair Watts:
[Roll was called. Committee rules and protocol were explained.] We have four bills on our agenda today. There is quite a bit going on, including the Senate floor still being in session. We are going to do our best to keep things moving. I know there are presentations and other events going on, so we may have members coming in and out. We are going to take the agenda out of order. We will start with Senate Bill 349 (1st Reprint) and then take it from there depending on whom we have available to present.

I will open the hearing on Senate Bill 349 (1st Reprint).

Senate Bill 349 (1st Reprint): Revises provisions relating to document preparation services. (BDR 43-855)

Rafael Arroyo, President, Registration Services Association of Nevada:
Registration Services Association of Nevada represents third-party Department of Motor Vehicle (DMV) registration services. Senator Flores is the sponsor of this bill. As Chair Watts said, he is on the Senate floor right now.

There are two parts to this bill. The first part has to do with third-party registration services and advertising. Back in 2019, there was a law passed that made it difficult for the industry to advertise their services because the DMV said they did not want us to use "DMV" in our name, so we were able to come to an agreement with them by putting something after the letters DMV. We were able to do that.

The second part of the bill has to do with document preparation services. We are licensed as document preparers. This is an amendment proposed by the Office of the Secretary of State in order to give them a little more teeth to go after the bad actors [Exhibit C]. Maggie Salas Crespo from the Office of the Secretary of State is in Las Vegas, and she will speak to that amendment, which you should all have.

I will quickly go over my prepared testimony. The registration services industry has over 80 small businesses in the Reno, Carson City, and Las Vegas areas. This is a group of mostly minority and women-owned businesses that has almost doubled in size since 2019. We are currently licensed as document preparers by the Office of the Secretary of State. We process DMV registration transactions on behalf of customers. I like to think of it as DoorDash but for the DMV instead of food. The industry has been advocating for better

partnership with the DMV for decades, but has only made significant progress through the legislative process. In 2019, the DMV passed a bill, Assembly Bill 63 of the 80th Session, which prohibited the use, advertising, or promoting of businesses using any name or likeness of the Department. This law made any business using the letters DMV in their name advertising illegal. After the law went into effect, it was enforced on any new businesses joining the industry. The DMV communicated their plan was to fully enforce it across all businesses, but gave us 30 to 45 days' notice before doing so.

The purpose of Senate Bill 349 (1st Reprint) is to establish a compromise with DMV where the industry members can still communicate their message of offering DMV registration services but not insinuate to customers that they are the DMV. The law will allow industry members to use the letters DMV, but only if it is followed by the words "services" or "registration services." It will also have industry members state they are a third-party business not affiliated with the DMV on their advertising. This compromise has already been discussed with DMV leadership and agreed to by all parties.

This compromise will benefit both the DMV and clients. It will reduce the need for some clients to come directly to the DMV offices for registration services and facilitate timely registration for clients who need access to local registration service sites, thus avoiding late fees and other charges. Senate Bill 349 (1st Reprint) offers your constituents a choice for their DMV services. I thank you in advance for the passage of this bill.

Chair Watts:
We will move to Las Vegas to hear from the Office of the Secretary of State about the other provisions of the bill and the latest proposed amendment [Exhibit C]. We will then open it up for questions from the members.

Maggie Salas Crespo, Deputy Secretary for Southern Nevada, Office of the Secretary of State:
In my role, I oversee the document preparation services program within the Office of the Secretary of State. I would like to start off by thanking Senator Flores for working with us on this important piece of legislation, which will streamline our compliance of the program. I will go over sections 2 through 9 of this bill and then present an amendment to the bill [Exhibit C]. The amendment stems from conversations with the industry, Mr. Arroyo, and changes to the language for consistency with the rest of our chapter.

The sections I will be presenting today reflect language borrowed from notary law, *Nevada Revised Statutes* (NRS) Chapter 240. It has been our experience that most notaries public are document preparation services and vice versa. Therefore, sections 2 through 9 of this bill seek to bring uniformity in the compliance of these two programs. Before I start, I would like to mention this bill does not change existing fee structures. The first reprint of this bill does include a $10 fee for certificate reprints due to name change, but we will be removing that fee from the language, which will be in the amendment I am presenting today.

Section 2 adds two new sections to statute, which are sections 3 and 4. Section 3 of the bill would require registrants to report changes in their information to the Office of the Secretary of State and request a reprint of a certificate of registration if needed due to a name or address change.

Section 4 of this bill covers registration requirements as well. This addresses fines that can be brought forward for misrepresenting themselves as document preparation services without being properly registered with our office. This will allow our office to assess a fine of no more than $1,000 for each violation. I want to mention, while this is an existing fee structure, we are just copying it from another section, so this already exists. People misrepresenting themselves as document preparation services is one of the biggest issues we have with compliance.

Section 5 addresses the advertisement for services and the statement the document preparation services must display. We provide a revised statement they must display that includes they cannot accept fees for giving legal advice. This allows our office to assess fines for document preparation services for improperly advertising themselves and for giving legal advice. This would allow our office to assess a fine of no more than $1,000 for each violation and either suspend or revoke the registration.

Section 6 addresses prohibited acts by registrants. This would allow our office to suspend or revoke the registration of a document preparation service or assess a fine of no more than $1,000 for each violation of provisions in this section.

Section 7 addresses investigations for alleged violations and penalties our office can bring forward. This allows the Secretary of State to refuse to renew, suspend, or revoke the registration of a document preparation service that does not collaborate with our office on investigations for alleged violations.

Section 8 addresses actions to be taken by the Secretary of State for violations of this chapter. This would allow the Office of the Secretary of State to proceed with suspending or revoking a registration pending a hearing if our office believes it is in the best interest or necessary to protect the public.

Lastly, section 9 makes this bill effective July 1, 2023.

Now I will go over conceptual amendments that capture some concerns and discussions we had with the industry as well as some changes needed for consistency with the rest of this chapter.

First would be an amendment to section 1, subsection 6, paragraph (b). This amendment provides the statement the document preparation service doing business as a third-party service should use. Providing a statement ensures uniformity to meet this requirement.

We want to make sure that DMV third-party service has a set statement; that way there is no confusion on what they should be displaying. We will also be striking section 3, subsection 3(c) to remove the $10 fee.

In section 4, subsection 2 we will strike "civil" and "attorney's fees and costs" and replace it with "investigative fees and costs." This change comes from a conversation with our legal counsel. The language here is meant to address investigations that are at the level within our agency, which makes it an administrative process. The change in the language would reflect that.

In section 5, subsection 1 we would like to strike "licensed" and replace it with "authorized." "Licensed" is a prohibitive term within our chapter, and while the context of the statement is different, we do not want to create confusion for registrants. In section 5, subsection 3 we would like to strike "guilty" and replace it with "in violation of." Similar to the amendment in section 4, we would be at the administrative level here, so this clarifies that. Additionally, we will change "shall" to "may" to indicate the Secretary of State would take one of three approaches, (a), (b), or (c) in that subsection. Additionally, we would strike "civil" in subsection (c) for the same reasons previously mentioned. In section 5, subsection 4 we would strike "not more than $1,000" and replace it with "not less than $100 or more than $5,000 for each violation." Again, I do want to note we are not changing existing fee levels. This change would reflect the highest level of a fine we can pursue if found guilty in a criminal violation. This range is already reflected in NRS 240A.280. We are requesting this change for consistency with existing fee structures.

In section 6, subsection 4 we would strike "guilty" and replace it with "in violation of" and change "shall" to "may," as previously stated, as well as "civil" for the same reasons previously mentioned.

In section 7, subsection 2 we would strike "revoke." Another section of NRS already covers instances of when we would resort to revoking a registration. In section 7, subsection 3, paragraph (b), subparagraph (2) we would amend the language to change the order in which we can proceed with violations. Currently, even in clear instances of violations like operating without being properly registered as a document preparation service, we cannot proceed with the fine without first conducting a hearing. This section was added to our statute by Assembly Bill 245 of the 81st Session by then-Assemblyman Edgar Flores. This amendment would remove the requirement to first conduct a hearing before imposing a fine. I do want to note this does not mean the hearing process would be completely removed; it would still be part of our compliance and give our office a bit more flexibility.

Lastly, we are going to add a new section to require the Secretary of State to notify registrants of alleged violations and allow for a response. We already do this in practice, but we would like to reflect this in statute to ensure due process for registrants, and, again since we are making some changes to compliance, we want to make sure we protect that due process for registrants as well.

That concludes the presentation of sections 2 through 9 and the amendments to this bill. I want to reiterate; the main purpose of this bill is to streamline our compliance and allow our office to assess fines for violations in a speedier manner. Since the creation of the document preparation services program, the focus of our investigator has been bringing people into compliance. Now, however, as Mr. Arroyo mentioned, we are left to deal with those who refuse to comply, and these changes will allow us to assess fines on these bad actors. We are thankful for Senator Flores' working with us and for the members of the industry for sharing their concerns.

Chair Watts:
I believe that concludes the presentation. We will open the hearing for questions, beginning with Assemblyman Carter.

Assemblyman Carter:
There is an old adage that says your eyes can deceive you; do not trust them. Has there been any thought to the validity and legitimacy that having these logos and the terms on them would infer to our communities where English is not their first language?

Rafael Arroyo:
The purpose of the bill is to say we are a third-party registration service and that is how we describe what we do. We have a lot of businesses in that area and serve a lot of that population. They know what we do. However, with the Secretary of State being able to enforce those bad actors—there are a small number of people who may be doing that—that is why they have that authority to be able to enforce.

Chair Watts:
Seeing no further questions, thank you both for the presentation. With that, we will move on to testimony in support of Senate Bill 349 (1st Reprint). Is there anyone wishing to provide support testimony in Carson City or Las Vegas?

Aquilys Arroyo, Private Citizen, Las Vegas, Nevada:
I am testifying in support of S.B. 349 (R1) because I see how hard my dad works and how he really cares about this industry.

Chair Watts:
Thank you for your testimony. Well done. Perfect length as well. Adults could learn from that. Seeing no one else wishing to testify in support in person, is there anyone else wishing to provide testimony in support on the phone? [There was no one.] Does anyone wish to provide opposition testimony to S.B. 349 (R1), either in person or on the phone? [There was no one.] Does anyone wish to provide neutral testimony on S.B. 349 (R1)?

Sean Sever, Deputy Administrator, Research and Project Management, Department of Motor Vehicles:
We are neutral on this bill, and we appreciate working with the sponsor.

Chair Watts:
We do have some questions for the DMV.

Assemblywoman Peters:
I would like a little more background information on what your current relationship is with third-party services. Can you talk about what those existing relationships look like and if there is any intention of increasing working together with third parties?

Sean Sever:
I do believe we have a good relationship with them, as we appreciate all the help we can get at the DMV. As you know, we are moving most of our services online in the next two years, and that is our solution to free up offices. Kiosks, alternative services, and anything else that would help us out, we appreciate.

Assemblywoman Peters:
Do you imagine those relationships expanding as you go virtual and less in person, or are you expecting to be managing most of those services in-house through that expansion?

Sean Sever:
Right now, it is hard to tell what is going to happen there. We are nose to the grindstone working through our transformation. It is a very large project, and once the dust settles, we will be able to figure that out.

Assemblywoman Peters:
In the Assembly Committee on Health and Human Services, we ask this question a lot: language access. Do you use third parties to help with language access and language barriers?

Sean Sever:
Yes, we do. We have a language access plan I would be happy to share with you that goes over the whole program.

Assemblywoman Brown-May:
Can you paint a picture of what this service does to assist the DMV in being successful, and are there scheduled appointments where they are able to do a number of transactions quickly? What is the advantage of building this relationship for the DMV?

Sean Sever:
That might be a question for Mr. Arroyo, but as I said before, we appreciate all the help we can get.

Rafael Arroyo:
There are a couple of windows in the south in the metro offices that registration services use. This was put into NRS through legislation in 2019. Basically, we have two options: businesses can have a standing appointment with 30 minutes to process as many transactions

as possible; and then another window, called the walk-up window, where businesses come on a first-come, first-served basis and do three transactions at a time to get through as many businesses as possible. The advantage for DMV is we prepare the documents into a transaction that can be done expediently—about two to three times as fast as a regular technician because we do not have customers just walking to a window and fumbling for paperwork or things like that. We prepare those documents and we look through them.

In response to Assemblywoman Peters' question as far as the language barriers, that is something we help out with, especially with the Hispanic population. We help them prepare those forms and help them understand what they are looking at and make sure they have their stuff lined up to get their vehicles registered.

Chair Watts:
Are there any additional questions from the members? [There were none.]

Maggie Salas Crespo:
I want to add in regard to the Office of the Secretary of State, what we do is register document preparation services, and DMV third-party services falls under that category. They are not the only category. We also have tax preparers and people who prepare other legal documents. The benefit is there are some community members who, due to their work schedule, limited English proficiency, or not having enough time to be sitting at a DMV office for long periods of time, utilize these services. These services are widely used by our Latino Spanish-speaking community. For that program, all of my staff are Spanish speakers. In terms of compliance, that is why changes we are proposing today are important, and that is why we have some words in particular within NRS that are prohibited, because a *notario* here is not the same as a *notario* in Mexico or other Latin American countries. They have a lot more training and legal certifications than notaries here. Document preparation and notary are sometimes used interchangeably here because they do similar transactions. When it comes to compliance, our office works very closely with the DMV. Whenever we do have a complaint related to a DMV third-party service, we coordinate with DMV to look at those complaints.

Chair Watts:
I appreciate that, and hopefully with these additional changes to strengthen the statute, these document preparation services may not have as many issues in the future.

Sean Sever:
I want to expand on my answer from before. The goal of our transformation effort is to get the majority of our customers going online for their services, which in turn will help free up our offices so it is more of a relaxed atmosphere. The old business model of everyone trying to pile into the DMV in person just does not work anymore, so that is why we have gone to appointments and we are going online. We are hoping that will solve a lot of our issues in our offices.

Chair Watts:
Thank you, Mr. Sever, I appreciate that. We certainly hope the same. During the time I have been serving in this body, we have heard a lot of different conversations and the need to modernize some of those systems, but also to make sure in that modernization a whole range of service options and possibilities are enabled. I think this discussion leads to the importance of a holistic solution, and I think this bill speaks to that as well. Are there any additional questions from the members? [There were none.] Seeing no one else in person, is there anyone on the phone wishing to provide neutral testimony? [There was no one.] Are there any closing remarks?

Rafael Arroyo:
I want to thank you all for asking those questions, and also, the bill is no longer a two-thirds bill, so it is not a problem.

Chair Watts:
I will close the hearing on Senate Bill 349 (1st Reprint). Keeping things moving, I believe we have folks here who can help present Senate Bill 293 (1st Reprint). I will open the hearing on Senate Bill 293 (1st Reprint).

Senate Bill 293 (1st Reprint): Revises provisions relating to distributed generation systems. (BDR 52-459)

Mark J. Krueger, Chief Deputy Attorney General, Consumer Counsel, Bureau of Consumer Protection, Office of the Attorney General:
Thank you for having us today. We are sorry Senator Doñate is unable to attend. However, if he were here, he would tell you how he brought this bill because his grandfather was told something at the time of his purchase of residential rooftop solar which was not true. What ended up happening were a lot of other issues that befell his grandfather. It was a simple statement saying, You will not get an electric bill. If you are on the grid and purchase residential rooftop solar, you will continue to get an electric bill.

There are a lot of inducements like this that we have seen increasing ever since residential rooftop solar came back into Nevada in 2015. As a result, Senator Doñate asked us to assist in coming up with legislation. I would like to take you through the legislation, but first I would like to turn it over to Mr. Hamile, who can give you a little more background.

Steve Hamile, Chief Executive Officer, Sol-Up, Las Vegas, Nevada:
I would like to give you a little history on our company because it sets the background for what we are looking to do. Sol-Up was founded in 2008 and was a three-person company with an engineering platform looking not at sales but at engineering. Due to that, it all started with employees, starting from our energy consultants in the field to our engineering teams internally and our installation crews. We grew to have two NABCEP-certified individuals, which represents the North American Board of Certified Energy Practitioners. It is the highest level of electrical training you can have for the solar photovoltaic industry. We have always paid 401(k)s, medical, access to dental, and very liberal personal time off

policies. We employ a full-time safety director who visits all of our job sites daily to make sure we are in compliance. We have an indoor training facility where we have a mock faux roof. All of our installers undergo training on this roof type so we can determine S tile-clay tiles, all for safety management. Our group over the years has grown from 3 to 140 and will install over 20 megawatts this year. I bring this up because we were able to succeed throughout those years without cutting any corners and without engaging the use of any third-party lead generation sources that were selling on our behalf.

Senate Bill 358 of the 80th Session provided an extremely pioneering and innovative proposal: 50 percent renewable energy by 2030 and a 100 percent carbon-free environment in the state of Nevada by 2050. Both ambitious and pioneering, but both require the confidence of the consumer. The confidence of the consumer has been eroded by deceptive trade practices, misinformation, and half-truths—things like free solar, the Inflation Reduction Act is a check in the mail, not a tax credit; you will never see a utility bill; you can consume as much electricity as you want when solar is put on your roof; you can declare yourself as a farm and take full advantage of a system depreciation tax credit. Some will undersize the system to be twice as competitive. I receive two calls per week and numerous emails from sales organizations wanting us to install "their installation projects." This all comes at the cost of the consumer. When the consumer is told the reality, it does not just cast a poor notion on the company that misrepresented the facts, but it takes down our entire industry. Many people who may have moved forward with solar now have a distrust for the entire industry. That makes it very difficult to reach our 2030 goals.

This is not regulation. It is common sense and a consumer protection bill. It protects the elderly and disadvantaged who are the most affected. Now, it provides guardrails to protect the industry. It is not a cost burden, and I think we have proven that. And what is interesting: all of these 1099 lead generation sources also used 1099 personnel. There is not one employee in their organization.

We look forward to your support of this bill, and thank you very much for your time.

Chair Watts:
Welcome, Senator Doñate. I know you just arrived from the Senate floor, so feel free to take a moment. We have just begun the presentation of the bill, so any remarks you would like to add, please feel free whenever you are ready.

Senator Fabian Doñate, Senate District No. 10:
I am fortunate I had my copresenters start this bill hearing, but I also want to highlight a little background as to why this conversation is needed. Today's bill hearing on Senate Bill 293 (1st Reprint), which revises provisions relating to renewable energy and energy conservation, I think is very timely for the experiences we are hearing. We are going to talk about the technicality of what this issue entails, and we will be happy to answer questions. I think the personal anecdote is probably the most important. For me, it is one that has impacted my family and it is one I believe we can continue to restore equity in consumer protection provisions already agreed to by the Legislature.

Last year when I was knocking on doors and meeting with my neighbors, I started to learn about the issues families in my district cared most about. In that same time frame, my own family had encountered an issue we probably did not expect, but it is an issue I believe many of the residents in this state are finding themselves in. In the last few years, we have seen an influx of solar panels being installed in our neighborhoods, and it has been great. The transition of solar energy can reduce the burden of carbon emissions. However, I want to be clear about one thing. Not every solar panel is installed the same, or in our case sold the same. Within a short time span, we saw one of our very own family members install solar panels on the roof of their home. It sparked a debate in our family: how could we let our 70-year-old relative install these panels on their home knowing full well they could not afford to do so? When we asked our relative why he installed these panels on the roof of his home, he said, It is fine. It is going to reduce my electric bill. The finances of it will balance out in the next few years. From the perspective of my family and the encounter we had gone through, I think it is clear to say that we need to make some sort of change to address the gaps in our consumer protection models.

Over the last few years, we have seen a massive change in the practices on the ground as to how these cell services are delivered. We are now seeing fake public notices being left on homes encouraging the installation of solar panels, and we need to continue to reform the trade practices that are being exhibited in our communities. Taking advantage of our seniors and our residents, failing to disclose adequate information in the appropriate language of the participating parties, are efforts we should consider for reform. That is why we are here today.

I would like to allow my copresenters any other thoughts or remarks before we answer any questions.

Mark Krueger:
Very briefly, as I understand the Committee is under some time constraints, I would like to go through the bill and some of the amendments we added [Exhibit D].

The majority of the bill amends *Nevada Revised Statutes* (NRS) Chapter 598 with Nevada's deceptive trade practices act. This is important because the distributed generation systems, which include residential photovoltaic systems, which is solar, is already governed by Chapter 598 as well as in a component of it by NRS Chapter 624, which is Nevada's State Contractors' Board. Section 2 of the bill requires a follow-up, if you will, from the solar company to ensure the purchaser, within 48 hours, understands the terms that were told to them at the time of the sale, so if there is a problem, such as not receiving a solar bill, that should come to light at that time. In addition to saving the consumers time, effort, and money, it also saves the solar companies time, effort, and money because for the companies themselves, it is very expensive to install and then have to uninstall if it turns out there is a problem. This follow-up provision will allow that to be recorded because we are getting a lot of complaints about what the solar companies say to the buyers. There is a lot of finger-pointing back and forth. The recording would resolve that issue.

In section 3 the ability to rescind is already in Nevada law. Individuals should be able to rescind the solar contract if they change their mind within three days. We left that provision, but made it clear it is at no cost, which is noted in the amendment. That is the reason for the 48 hours, either by telephone, in person, or any type of recording, so the recission can be done in that time frame.

Section 5 of the amendment addresses the actual definition of solar. Section 5 was originally set up so the distributed generation system, which includes solar, was only applicable to residential consumers who were on the grid. This makes it clear that it is applicable to any residential consumer. If the consumers are in the rurals and not hooked to the grid or are in some other area where they are not hooked to the grid, these protections would apply as well.

Section 6 of this bill starts the agreements. There are three agreements, and sections 6, 7, and 8 address them. They are all the same language. It covers the notices that have to be given and makes it clear purchasers have a right to rescind up front. It makes it clear there is going to be a follow-up call so purchasers can go over the decision about making this purchase. These purchases are very expensive, so the average purchaser, generally speaking, should consider this carefully before fulfilling all the way through with the solar and then not understanding there was a misrepresentation made at the time. These provisions are set up to cover it, and if there are any questions, I will address those when I am finished.

Section 9 of the bill provides that when a violation of this chapter occurs, such that there was an installation and there was an inducement or a false representation to induce consumers to purchase, and we can show there was a violation of the chapter, the purchaser would then have the option of voiding the contract. This is important to the purchasers because it alleviates the back and forth of getting out of a contract when they were induced falsely to get into the contract. We find this to be a good provision that should save a lot of heartache and trouble. It also ensures the solar companies want to make sure they have done their due diligence in making sure the purchasers understand the contract before entering into it, thereby saving themselves a lot of money.

What we have noticed is there are a lot of complaints where the sales pitch was done in a language other than English. It is then rushed and the consumer and purchaser enter into this agreement. We think it is only fair if you are going to negotiate in that language, you should provide a copy of the contract and all information you are providing to them in the language you are negotiating in as well. This is in the amendment in section 9, subsection 6.

Because I had mentioned earlier that the State Contractors' Board also regulates the solar industry to a certain degree, section 10 amends a piece of NRS Chapter 624 to ensure all members who are out selling to the public are licensed contractors or are W-2 employees who work for licensed contractors.

The final provision clears up a definition to ensure expectations are met at the time of the noticing and the agreements.

With that, I kept it succinct, and we would be happy to answer any questions.

Chair Watts:
I will open the hearing up to questions from members of the Committee.

Assemblywoman Brown-May:
I am also in a neighborhood that has experienced many confusing scenarios with regard to solar installation and what it looks like on each individual home. I appreciate the energy and thought process you have put into this measure. You mentioned a W-2 employee. Does that mean an organization cannot host a 1099 employee? Are we getting into employment provisions and what is the reason behind that?

Mark Krueger:
The reason behind it is to ensure there is more accountability for the salespeople who work for the solar companies. Having someone who actually works for the company, there is more regulatory authority by the State Contractors' Board and more accountability by the salesperson directly from the company rather than third-party salespeople, where the current practice is sometimes the company does not even know the name of the individuals who are out there selling for them.

Assemblywoman Brown-May:
I appreciate that, and I sincerely appreciate the consideration. I am just curious as to how we can legislate how a company does business relative to the employment status of its employees. Is there any possible barrier we would see as a result of that provision?

Mark Krueger:
I do not see a barrier. I think there are other areas in the industry and in other industries where we have seen that type of requirement. They need to work for a licensed solar company, especially in the areas where we have so much abuse and misrepresentation. It is certainly a way to hold salespeople accountable, and it does not put that much greater burden on these sales companies.

Assemblyman Cameron (C.H.) Miller:
I am curious where the folks stand who are actually employed or are the contractors at the moment. How does it work? Are they able to contract with multiple providers? Are they able to create a business model where they are showing up as being able to offer different solutions among solar installers, or are they exclusive to one provider? With those who are doing the work the right way, are they preferring to become W-2 employees or are they preferring to be 1099 employees?

Mark Krueger:
I think it would be best if I had someone in the industry answer that question because he could provide some insight into that. I may have additional comments as well.

Steve Hamile:
Could you restate the question, sir?

Assemblyman Cameron (C.H.) Miller:
It was a long question. I think the main thing I want to understand is how does the relationship work now? What type of authority or business relationship do those current contracted salespeople have? Are they able to sell from multiple solar installer contractors? Where are they in this conversation? Do they desire to remain as independent contractors or are they looking to be employees?

Steve Hamile:
There are several different answers to that. Most of these companies are primary to a specific installer, and they wear the shirt of the installer, they represent they are an agent for XYZ Contractor, and the majority of their business goes through to them. This is from firsthand knowledge from some of these agencies coming to us and asking if they would like to move their business over to us. We understand others do provide for multiple agencies. There may be a sales company that is going to three or four different solar installers and they are representing they are a broker for solar services.

We have tried to bring some onboard in trying to raise the level and bring them on as employees. The reason we find they do not wish to become employees is because not only do they run a 1099 environment they would like to be in, but all their sales associates are also 1099. In other words, they would have to pay state unemployment, workers' compensation, et cetera, and their cost of operation would be significantly higher if they were brought on as employees. Having said that, this is a very technical business. This is not something where I would take three panels and one inverter and then put it on a home. This is something that needs to be engineered and installed by a licensed electrical contractor. I do not want to put this in a bad light, but we are seeing timeshare-type styles and approaches to selling something that is much more technical than that. I hope that answered your question.

Assemblyman Cameron (C.H.) Miller:
I think there are folks who choose and desire to work through a 1099 model. I have been either a business owner or an independent contractor through most of my adult working life. I would always choose that option when I was given the option. I have shied away from W-2 employee roles most of my life. I am curious about the position of those folks who are doing the work now about potentially becoming employees—not so much the businesses. I understand where the businesses lie because it does create some additional responsibilities. Have we looked at or considered anything as it relates to a certification for selling or a certain proven knowledge base to be registered or something like that, so someone qualifying to make these sales could still operate on an independent basis? We can address the consumer protection part by saying these folks need to know more about what they are doing when they are out there. For whatever their business reasons, individuals may still want to remain independent contractors.

Mark Krueger:
I will try to break it down and answer all of your questions. We have talked to some industry members. Some of the industry members are solar companies and some are sales companies. There are a lot of people who might work for multiple sales companies as 1099 employees or jump from one company to another. What is then happening in the industry through our complaints—and remember, we are coming from a consumer protection perspective—are the misrepresentations at the time of the sale, not into the technical component of it. That is really under the State Contractors' Board more than our point. Our point is on the actual sale and the entering into the contract. The contract is laid out in NRS Chapter 598.

What is happening is sometimes these solar companies might find an actor they do not particularly care to work for. They discuss it with the sales company they have contracted with and indicate they do not want this employee working for them anymore. They take care of that and then find out later that same 1099 employee is actually working for them again doing the same type of activity they tried to prohibit. They had no idea because they had multiple contracts with these companies.

The legislation will clean it up so the individuals are accountable to the company. We believe along with that will be companies taking pride in their own workmanship and training of their salespeople. If the salespeople are actually working for the sales company and the company knows who their employees are, it will increase their accountability and certification or anything else required for the technical aspect of it, which as I said is with the companies and under the State Contractors' Board. Did I answer all of your questions?

Assemblyman Cameron (C.H.) Miller:
I understand. My concern is as someone who has primarily worked as a subcontractor and trying to understand alternatives. I think it is great if businesses want to bring these folks in, make them employees, and build their business that way. I also think it is okay for folks to choose a different business model that allows them to be independent contractors, especially if they are for the integrity of the business, making sure the independent contractors have the knowledge base and skill set to represent the company well.

The last piece is, there are folks, whether they can be brokers or not—we have that in the insurance world where if a person meets certain standards they can open a brokerage and provide coverage for different places—they essentially become an expert in what each company offers and what is going to be best for the customers they have built a relationship of trust with. I think there are multiple layers where we can still plug in the protection piece. I am not 100 percent opposed to this; I am just trying to understand the independent contractors, the people who are doing the sales, the ones who are doing a good job, where they want to be in this equation.

Mark Krueger:
There is an ability to be able to set up your own company as long as you get licensed, then all the people under you would be licensed as well. That way there is accountability. You could definitely contract or subcontract with another licensee and set up some type of sales force in that manner.

The other point I want to make is we did carve out these lead generation companies. That would be a 1099 employee who could go and generate leads, which is a common occurrence in this industry. There may be lead generators in a warehouse-type store asking if people want solar. They can take that information and pass it on to the company they are contracted with, to which they would generate leads. That is another provision we left as a carve-out. Hopefully, that addresses some of your concerns. I realize it does not address all of them.

Chair Watts:
That was something I was going to bring up. It looks like in section 10, subsection 1, while there are some restrictions proposed in terms of "A person shall not, directly or indirectly, on his or her own behalf or on behalf of another, perform or offer to perform any work" concerning the system unless they are licensed or work for that licensed individual. In section 10, subsection 2 it does provide that carve-out you mentioned. It does not prohibit "a person who does not hold license issued . . . from generating leads or referrals." I think in the amendment [Exhibit D] there is additional information providing guidance on what that would involve in terms of serving as a referral for licensed contractors providing contact information for contractors and setting up appointments.

I appreciate the intent behind this bill. Senator Doñate and I live pretty close to each other. I have had people come to my door before and after I got solar panels on my house. They talked about bills that have passed this body and completely misrepresented the intent. I have seen ads on social media completely mispresenting county, state, and federal programs and what that could mean for customers. Obviously, there is a range or potential arrangements for these systems, from direct sale and financing to lease arrangements and understanding the impacts those have on customers' bills. Based on all of those things, we have seen a lot of deceptive trade practices when it comes to the sale of solar generation systems. I purchased a solar system. I am very happy. Everything got lined up with the outcomes. However, I have also experienced firsthand some of the issues trying to be addressed in this bill.

While we do have some statutory language in place, it seems like the issue we have is where is the accountability. There are these third-party operators who operate as independent contractors, they may work for multiple companies, and they may represent themselves as part of the company, making claims. It sounds like the Office of the Attorney General is getting complaints. It sounds like a lot of the complaints are coming from these third-party entities that are trying to generate these sales. When you get those, even though there are some provisions in place that indicate they are deceptive trade practices, it is hard to find accountability. They are not a contractor so they cannot be held accountable by the State Contractors' Board, and we do not have an occupational licensing regime for these types of

advertisers so their license could be revoked or otherwise penalized. It sounds like part of this is also trying to get some additional evidence that can hold people accountable if they are misrepresenting the terms of any of these arrangements that provides something concrete the Attorney General could go after. It is also trying to strengthen some of the provisions to ensure there are no loopholes or the ability for folks to dodge the enforcement we meant to put in place. Ultimately, the result of this bill, hopefully, should be having a strong enough system that people know they cannot get away with misrepresenting the facts and can sell these products based on their merits. Can you speak to the complaints you are getting and where the issues are in the current system, because we do have deceptive trade practice laws on the books. You need to speak to that and why it led to this particular approach to try to rein in these practices.

Mark Krueger:
If I could adopt the statement you just made as testimony, it was absolutely spot-on—everything you just said. We are getting a substantial and significant increase in complaints in this arena. There are patterns in these complaints in that they are relatively the same thing—misrepresentation to induce a consumer to purchase. This is not just a $10 item, but a $40,000, $50,000, $60,000, $80,000 item with significant impacts to their home. These are major decisions that should be considered carefully and purchasers should have time, rather than signing immediately, to consider the implications.

In addition to that, as you have heard from testimony, it is a highly technical area. There are different types of solar—and I learned this myself recently—there are different assumptions that are made. For example, as I understand it, solar works better in cold weather with lots of sun rather than in hot weather with lots of sun. These types of nuances are pretty much unknown to the average purchaser, me included. It is something this bill now tries to slow the process, just for a second, to make sure the purchasers understand everything they were told. It is a self-check for the industry, it saves them money, and it saves the consumers grief and money as well.

I believe I answered all your questions. If I did not, please ask me again.

Chair Watts:
You did. I want to put a finer point on section 10, which I think is where a lot of the questions from the Committee are coming from. I also want to understand section 10, subsections 1 and 2. You spoke about folks signing on the dotted line and committing themselves but not fully understanding. I want to see if my understanding is correct. The idea is if you want to be a third-party lead generator in terms of, Hey, are you interested in solar? Let me talk to you in general about the benefits, and then let me connect you to a company that does these installations. That is intended to remain in place as a business model. What is trying to be prevented is those third-party folks actually getting a commitment and a contract finalized when in fact they have not done the work to evaluate

roof space or the electrical panel to flesh out the details. They are doing some guesstimates and some quick math to get people committed into a contract. That is the piece that is intended to be taken out of the third-party role and make sure it is placed within a licensed contractor only. Is that a fair representation?

Mark Krueger:
This is absolutely a fair representation. However, I would take it one step further. It is not just a best guess; it is outright misrepresentation to induce consumers to purchase.

Chair Watts:
Are there any additional questions from members? [There were none.] We will move to support testimony for S.B. 293 (R1) from those in Carson City and Las Vegas.

Chloe Chism, Government Relations Adviser, NV Energy:
NV Energy is in support of S.B. 293 (R1). This bill adds much-needed consumer protections surrounding deceptive and unfair sales practices that take advantage of Nevada's most vulnerable communities. Bad actors in the residential rooftop solar industry often mislead customers to believe they will be receiving an NV Energy product or service. Just last month one of our customers shared an email solicitation sent to them containing NV Energy's logo, making it seem it came directly from NV Energy. This is completely unacceptable. Due to these misleading tactics, NV Energy is forced to expend countless hours and resources to remedy the confusion and to protect our customers from these deceptive practices.

We supported this bill in the Senate and appreciate the opportunity to express our support to the Assembly as well. We would like to thank Senator Doñate for his leadership on this important issue and urge the Committee to support the bill.

Misty Grimmer, representing State Contractors' Board:
We have worked closely with Mr. Krueger and Senator Doñate on this bill to get all of the language you just talked about. As he said, we are the sister agency that is the enforcement arm of this industry. In the 2021 Session, we worked with Senator Brooks in passing Senate Bill 303 of the 81st Session, which put in the levels of regulation over these types of activities into NRS Chapter 624. Now we are supportive of what the Attorney General's Office is doing in putting the balance of that into NRS Chapter 598.

Ronald "Ronnie" Young, Assistant Business Manager, International Brotherhood of Electrical Workers Local 357:
We represent over 4,000 members in the southern Nevada area. We fully support this bill. We supported it in the Senate and we continue to support it. This consumer protection is vital. As a personal note, my grandmother, who was a first-generation immigrant from Cuba whose English is her second language, was almost the victim of such predatory business models. This should be addressed as quickly as possible, and I urge your support.

Nick Schneider, Government Affairs Analyst, Vegas Chamber:
We would like to thank Senator Doñate for bringing forward S.B. 293 (R1). We are in support, as we believe it establishes standards that will ensure honest and accessible sales and marketing practices within a quickly growing industry. We urge your support.

Tom Clark, representing Reno+Sparks Chamber of Commerce:
Listening to the proceedings, it reminds me of roughly 20 years ago when we developed the solar generations program. Assemblyman Carter may understand. That was a great incentive program for rooftop solar, but it ended up with a lot of panels on north-facing roofs. This has been an issue we have dealt with for a number of years. I think this piece of legislation moves the ball forward as far as the consumer protections we need for this growing industry.

David Cherry, Government Affairs Manager, City of Henderson:
I want to compliment Senator Doñate for this bill, which will shine a bright light on the shady practices of unscrupulous scam artists who are preying on residents in Henderson and other communities throughout Nevada. Oftentimes when people fall victim to those whom this bill is targeting, they turn to their mayor or city councilmember to seek help.

Senate Bill 293 (1st Reprint) would add safeguards meant to protect individuals before they suffer the negative consequences, the type of which have been described in detail during today's bill presentation. For these reasons, the City of Henderson stands in support of S.B. 293 (R1).

Leonardo R. Benavides, Government Affairs Manager, City of North Las Vegas:
I would like to ditto Mr. Cherry's testimony but without all the puns.

Christi Cabrera-Georgeson, Deputy Director, Nevada Conservation League and Education Fund:
We are here in support.

Sarah Adler, representing International Brotherhood of Electrical Workers Local 1245:
Renewable energy holds such promise in Nevada, and it is completely wrong to mislead consumers in the way that has been done. We appreciate the sponsor and urge your support of the bill.

Chair Watts:
Seeing no one else in person, is there anyone on the phone wishing to provide support testimony for S.B. 293 (R1)?

Thomas Bird, President, Nevada Alliance for Retired Americans:
We represent 19,500 retirees and elderly people in the organization. I am here in support of S.B. 293 (R1). This is a simple response from me: This bill will help protect Nevada seniors

and other low-income consumers who unfortunately fall prey and are the most targeted and impacted by deceptive and unfair practices in the rooftop solar industry. Please join me in support of S.B. 293 (R1).

Mathilda Guerrero, representing Battle Born Progress:
We are in support of S.B. 293 (R1). This bill would provide consumer protection for purchasing rooftop solar panels while also helping Nevadans reduce their dependence on fossil fuels through energy conservation, electrification, and increased access to renewable electricity. This bill is a ray of hope for a cleaner and more sustainable future for our state and our climate. By supporting this bill, we can show the rest of the nation what can be achieved when we harness the power of the sun. This bill is more than just a bright idea, it is a powerful tool that can help create a brighter future for all. We urge your support for this critical measure. [Written testimony was also submitted, Exhibit E.]

Peter Guzman, President, Latin Chamber of Commerce, Las Vegas, Nevada:
We are in support of S.B. 293 (R1). We believe it will protect all Nevadans from deceptive and unfair sales practices in the residential rooftop solar industry. Consumers have had to deal with misleading contracts, shoddy installation, failed inspections, and false promises of savings. Senate Bill 293 (1st Reprint) is an important bill that will protect consumers from false and misleading acts in the marketing and sale or lease of solar panels.

Finally, S.B. 293 (R1) will provide important protections for seniors, low-income consumers, and the most vulnerable who have been most impacted by the deceptive and unfair sales practices seen throughout the residential rooftop solar industry. In closing, I want to give a special thanks to Senator Doñate, who is always looking out for the most vulnerable, and we appreciate it at the Latin Chamber of Commerce.

Chair Watts:
Seeing no further callers for support testimony, we will move to opposition testimony for S.B. 293 (R1) for those in Carson City or Las Vegas.

Brian Johnston, Co-Founder, Mentis Corporation, Larkspur, California:
We want to thank Senator Doñate for bringing the bill forward. We are only in opposition given the fact that we do not agree with the current language of the bill. We like the spirit of S.B. 293 (R1). We would like to propose some updates to close some loopholes and eliminate potential exploitation of Nevada homeowners. We are very much in favor of protecting NRS Chapter 598. My partner, Christopher Trocola, and I have been in the solar industry on the residential side for over ten years each.

The problems we see with the bill center around section 10 related to the W-2 requirement. If implemented, it still does not track the behavior and history of solar salespeople. What happens today is if a salesperson gets fired for deceptive practices, they just go down the street to another solar company, get hired, and repeat the same issues all over again. There is

no tracking of that. There are attorney general complaints, but it does not go back to the person making those misrepresentations. A 1099 versus a W-2 employee will not change that. There is still no fiduciary responsibility on the salesperson for what they are saying to the Nevada homeowners.

We have been in conversations with Senator Doñate and Mr. Krueger and his team as well. We want to propose to the Assembly and to the Senator our identification database. It does not add fees to the state, to the utility, or to consumers. We want to create a process for salespeople for identification. We are doing it in Nevada and across the country, and we have good support. The process ultimately is a registration and background check of any salesperson or any sales company. There is an identification number assignment once they pass a background check. There is a standard of training.

The big point I think is missing from the current bill is the misrepresentation. Many times it is not malicious. There is no standard of training, so we can set that standard and make sure everyone has the same knowledge base to represent the consumers. Otherwise we create a fiduciary responsibility for these salespeople and we wrap it up with every single consumer with a recorded quality assurance call by video. It records the customer's face and their acknowledgement of all the terms, which is written in on S.B. 293 (R1), to clarify they do have a full and true recorded understanding of the contract. [Written testimony was also submitted, Exhibit F.]

Jessica Ferrato, representing Solar Energy Industries Association:
The Solar Energy Industries Association (SEIA) is the national trade association through advocacy and education. Solar Energy Industries Association and its 1,000 member companies work to make solar energy a mainstream and significant energy source by expanding markets, removing market barriers, strengthening the industry, and educating the public on the benefits of solar energy. Solar Energy Industries Association is strongly committed to consumer protection. We are continuously developing resources designed to safeguard consumer rights and provide stakeholders access to important materials. Our industry survives based on satisfied customers telling family, friends, and neighbors about their experiences.

Our members want the state to take action against bad actors who take advantage of customers. We worked on legislation in 2017 through Assembly Bill 405 of the 79th Session to standardize consumer protection language, and again in 2021 on Senate Bill 303 of the 81st Session with the State Contractors' Board to again strengthen protection to consumers. We worked with the State Contractors' Board to get regulations in place in S.B. 303 of the 81st Session and then helped coordinate the distribution of the rules to our membership.

While SEIA does support portions of the bill, we have a few concerns and are opposed to some portions as well. I want to highlight the portions of the bill we are supportive of. We support confirmation of customers' identities and their understanding of the information by

requiring a recording of the communication and consistent paperwork for industry contracts. We understand there have been consumer complaints and we also want to put provisions in place to be able to address those bad actors and protect Nevadans.

The few areas of concern that we have are the following: the bill would restrict any sales to be done through an employee of a licensed contractor. We are not aware of any other industry that has this restriction. We have suggested that any person who is not an employee of a solar company, but is providing sales services, should be required to register with a state agency. This would allow for traceable and penalization for any offenses or complaints. The bill would allow for customers to void a contract after it has been signed and agreed to. Our industry is committed to quality and transparency. However, under this specific proposal, a small clerical error could result in voiding a contract, costing businesses tens of thousands of dollars per project after work has already been performed. This would have a chilling effect on the industry, as finance companies would be very wary of doing business here.

We have seen a lot of growth in the solar industry in Nevada. We want to ensure growth happens in a responsible and ethical manner. If there are problems and complaints, we want to work with the state to correct them. I want to thank the Senator and the Attorney General's Office. We have had conversations with them for months now. We are continuing to provide some suggestions on language that could be amended to resolve our concerns and are here to answer any questions. [Written testimony was also submitted, [Exhibit G.]

Chair Watts:
Members, are there any questions? [There were none.] I encourage you, with the point that we are in session, to get any additional feedback you have to the bill sponsor and to me as the Committee Chair as soon as possible. One thing I will say is, yes, we have definitely taken action, but there are still problems and we need to address them.

Christopher Trocola, Co-Founder, Mentis Corporation, Larkspur, California:
I have been in the solar industry for almost a decade now. My entire career has been direct sales. As Assemblyman Cameron (C.H.) Miller mentioned, having that restriction on 1099 contracts and preferring to go with W-2 employees, I would prefer 1099 nearly every time. It has allowed me to help my family, has helped me grow as an individual, and provide a status for myself I was not able to do as a W-2 employee. It is going to happen a lot in the industry as well. The only issue we have is the W-2 employee in the bill. We are not trying to reinvent the wheel and we are not trying to ask anyone to reinvent the wheel. There are already language and licenses available for sales that are 1099, including real estate agents, financial institutions, financial advisors, and insurance agents. Even barbers and beauticians are required to have a license in order to cut hair in a public place. That is not currently available here in the United States, not just Nevada.

Having a database available to track behaviors, work history, and be able to provide that standard of training to say this person has been trained—having the state put in the recommendations they choose to have these representatives and salespeople follow. Especially coming up on the summer sales season, Nevada is one of the most desired states

to come to and sell in the summer. People all over the country fly and drive here to sell. We are not suggesting blocking anyone from doing that, but create a barrier of entry and a standard of training that allows these people to be able to make the money they want to make and how they want to make it, whether it is W-2 or 1099, and protect the consumer in the meantime. If there is a bad actor, you can go online and check the status. It could be a simple implementation as utility companies or permitting offices having a license number available on the form and deny moving forward with the installation until someone's license can be put on there that assigns that fiduciary responsibility, and that person can now be tracked and prosecuted in the future if they are seen to participate in deceptive or malicious sales practices.

Chair Watts:
Seeing no one else in person wishing to testify in opposition to S.B. 293 (R1), we will move to the phones. Is there anyone waiting on the phone to provide opposition testimony?

Katherine Wyszkowski, representing Sunnova Energy International, Inc.:
Sunnova Energy International, Inc. is a national provider of solar energy as a service. Founded in 2012, Sunnova services more than 250,000 customers across 40 states and U.S. territories, including Nevada. Sunnova is a residential solar and storage service provider that teams with installers to provide financing to customers. Sunnova's contracts extend up to 30 years, and we have long-term relationships with our customers built on trust and confidence. Sunnova supports customer protection and the significant measures Nevada already has in place. Deceptive and unfair business practices damage solar customers and the solar industry, and I want to assure you that you have an ally in Sunnova in protecting Nevada consumers.

I am reaching out today, however, to voice Sunnova's opposition to aspects of S.B. 293 (R1). I want to call your attention to two small changes that will allow this legislation to provide intended protection to Nevada consumers without making it difficult for some or all law-abiding solar providers to continue to operate in Nevada.

First, I would like to suggest a minor language tweak. While customers have three business days to rescind an application, solar companies have 48 hours to have verbal communication with them, according to section 2. For consideration of holidays and weekends, solar companies should have two business days to reach out to customers. I would also like to add that Sunnova has a seven-day recission period.

Second is the amendment limiting sales to employees of the contractor and only allowing third parties to be used for lead generation. Solar contractors specialize in the installation and repair of solar systems and have passed exams and other licensure requirements appropriate for such work. They leverage third-party marketers for sales because they do not have an internal marketing team that can scale sales. We agree with the recommendation to require independent sales agents to register with a government office. This will improve accountability without removing solar salesperson opportunities in Nevada.

Thank you for the opportunity to present these comments today. Sunnova believes that with more collaboration between the proponents of this bill and the solar industry, we can identify best practices that protect consumers, increase trust, and improve transparency. [Written testimony was also received, Exhibit H.]

Chair Watts:
While I did receive comments from your company in opposition, if you could please follow up with the bill sponsor with your proposed amendments or language changes, we would appreciate that. Are there any other callers waiting to provide opposition testimony?

Ben Airith, Policy Director, Freedom Forever, Temecula, California:
We are a national residential solar installation company. We recently opened an office in Las Vegas to service Nevada and employ nearly 400 people. We also appreciate the legislation in what it is attempting to achieve. Freedom Forever takes consumer protection very seriously and agrees with much of what has been stated here. We also care deeply about the quality of our installations and the experience of our customers.

One of the key amendments the solar industry offered on the bill specific to section 10, which was turned down, unfortunately, would be to create a salesperson registry making consumer protection measures more robust compared to the bill as written. This is only a commonsense approach.

A salesperson registry mirrored after several other states in the United States would provide the traceability and accountability between the salesperson and the contractor performing the installation, which is exactly what this legislation is attempting to achieve, while also providing more security through fingerprinting and background checks to those who work directly with homeowners face to face. Why these amendments were turned down is confusing when this approach would only strengthen consumer protection.

Instead, while this bill claims to be protecting consumers, it only provides token benefits and is seen as a punitive measure against the solar industry primarily because other construction industries utilize 1099 contract workers. If we want real consumer protection, we need to collectively get back to the drawing board and create something that provides real protections while not completely disrupting the solar market, which would slow down our clean energy goals and only create job loss. We do not disagree with the intent of the bill. We just feel there is a better way to get to the legislative goals.

Chair Watts:
Again, if opponents could provide some information on the sales registry systems that have been implemented in other states to the Committee and the bill sponsor, it would be appreciated.

Julia Pyper, Vice President, Public Affairs, GoodLeap LLC, Roseville, California:
We are speaking today in opposition to S.B. 293 (R1) unless further provisions are made. I do want to be clear: we support the broader intent of this bill but respectfully request special amendments to ensure it works for consumers, the solar industry, and their financial affiliates.

For context, GoodLeap, LLC is the largest financier of residential solar systems in the nation with over 20 years' experience in consumer lending. To our point of sales technology, we connect homeowners with carefully vetted, local installers for products ranging from solar to home batteries to home improvement products like windows, roofing, and HVAC [heating, ventilation, and air conditioning] systems. Our systems use over 26,000 solar and home improvement professionals, and that includes in Nevada where we work with 57 solar installation companies and have served over 30,000 Nevadans since 2018.

As a licensed lender in all 50 states with a 20-year track record and oversight by the Bureau of Consumer Financial Protection, we are fully committed to quality work and consumer protection, and we are very much aligned with you on that front. It is in our interest to ensure customers enjoy their solar purchase and continue to pay down their loan over time.

With that said, as currently written, we are troubled that S.B. 293 (R1) would enable consumers to void contracts without proof of harm or maleficence, which will have far-reaching consequences that put a chill on investments and create broader uncertainty in the Nevada market. This legislation sets a troubling precedent for how contracts are treated. The language is very broad and does not provide any avenue for resolution. This is particularly concerning for parties like us who are not involved in the sales process but are nonetheless affected by this legislation.

Based on the amendments we have seen for section 2, the bill would allow consumers to void a contract at any point within four years for issues that are nonmaterial to the contract or the work delivered, such as clerical errors. We respect the need for clear customer communication and industry standards, but that punishment is not reasonable or proportional to the violation and creates deep uncertainty for lenders like us. It is unreasonable that failure to furnish documents in any language requested would be cause for a voided contract. It is reasonable to have the language in which the majority of the solicitation occurred be the language in which documentation is provided. However, there are lines in the bill that broaden that to any language whatsoever as cause to void the contract. We would like to work with the sponsors on that front.

Finally, while it is not our line of business, we know many solar companies rely on third-party marketers for sales service, and they are primarily contractors who are skilled in the process of installations and with contract work throughout the life of the project. We do not think someone's type of employment or method of compensation is a fair or necessary nexus for allowing or disallowing them to sell in market solar. That does not mean we

oppose greater oversight. As others mentioned today, there are other examples of licensing or registration of certifications in the state, different from a licensed contractor but nonetheless an oversight process that we think would be applicable here.

Thank you for your time. I appreciate the opportunity to continue working with the sponsor and other members on getting this language right.

Chair Watts:
For those who have written remarks, please send those in to our Committee staff. Please provide any amendments or additional background information to our Committee staff and to the bill sponsor as soon as possible. I know we have several other callers on the line, but if you have written remarks, please send those in and abbreviate your verbal remarks. We still have two additional bills to hear. While we want to have a robust hearing and get the information out there, if you could quickly get to your points, we would appreciate it.

Lee Barber, Regional Manager, LGCY Power, Lehi, Utah:
I would like to thank you for allowing me to testify in opposition to S.B. 293 (R1) in hopes that additional amendments can be made. LGCY Power is headquartered in Utah with installation facilities here in Nevada. I am also the owner of Fortitude Roofing in Nevada, so I am a licensed contractor myself.

I would like to speak quickly on Assemblyman Cameron (C.H.) Miller's point on 1099 contractors. I can tell you we have 80-plus team members currently in Nevada who all choose to be 1099 and would prefer to stay 1099. I am also familiar with a broad range of other 1099 employees in Nevada, and they would also like to stay 1099.

LGCY Power supports the bill, but the language of the bill is what we would like to oppose to an extent. LGCY Power supports the broader goals of the bill and we agree there are steps that can be taken to enhance solar consumer protection, but the provisions in S.B. 293 (R1), which include the prohibition of contractor solar sales and marketing services and multiyear provisions of recordings and the ability for customers to void contracts without proof of harm, will place financial strain and undue risk on residential solar and have unintended consequences creating market uncertainty.

The residential solar industry is committed to consumer protection, as well as LGCY Power. We believe it is in the industry's best interest to ensure customers have a positive experience with their solar systems from the sale to the operation of the system. LGCY Power currently takes steps to do so by doing full training with solar at LGCY University, including understanding solar and ethics in selling, as well as full criminal background checks on all 1099 contractors. We record all welcome calls with customers at the time of purchasing to confirm they understand everything that was explained by the sale's professional, including that homeowners know they will still have an NV Energy utility bill.

Chair Watts:
Sir, if you could begin to wrap up your remarks, please.

Lee Barber:
We also do all communications in Spanish with Spanish-speaking customers and have Spanish-speaking contracts. We would like the Committee to know we support consumer protections, but we would like some of the language to be rewritten so we can work with the language in the support of solar in the state of Nevada.

Gabriela Olmedo, Policy Associate, Advanced Energy United:
Advanced Energy United is a business association working to make the energy we use clean, affordable, and reliable. We are supportive of many portions of this bill that work to improve consumer protections and meet best practices to protect Nevadans. However, I am here today in opposition because there is room for small changes that would greatly improve the bill to ensure this is a quality piece of legislation, that it sees intended outcomes while ensuring solar companies can reasonably comply. We would like to continue working together to make this a robust bill that protects consumers but maintains a welcoming environment for residential solar to continue providing benefits and savings for residents in southern Nevada. Thank you for your consideration.

Courtney Welch, Policy and Strategy, SunPower Corporation, Richmond, California:
SunPower Corporation is a residential solar, storage, UV charging, and grid services company. We are one of the longest-standing solar businesses in the world, established 37 years ago. We serve 1.5 million customers nationwide, including over 3,000 here in Nevada. We partner with 27 dealers in Nevada, which are small, locally-based businesses that conduct sales and installations. One of the reasons why we have been so successful is because we are the top-rated solar provider in the United States. We take that ranking very seriously and understand part of that honor means preserving consumer protections across all the markets we serve.

The intention behind the legislation is one we support; we just see the need to make sure there are some very minor amendments in order for it to: (a) achieve its intended outcome; and (b) so companies like ours that pride ourselves on consumer protection can reasonably comply.

I would like to say thank you for the work that has already gone into drafting amendments to the bill that will continue to protect consumers and allow us to reasonably comply with the law.

To keep my comments brief, I will echo the recommendations made by Ms. Wyszkowski from Sunnova and Ms. Ferrato with SEIA, first to extend the time frame for welcome and sales confirmation calls to at least two business days. This is standard business practice for SunPower and many other companies. The reason this is so important is because so many initial sales conversations are in person. However, before a consumer can proceed, we have the supportive welcome call to double-check the customer understands what they have signed on to, the terms, pricing, design, timeline, et cetera, that they have not been misled, or have any additional clarifying questions. We just request a couple of extra days—in fact, just a few more hours really.

Second, I also want to urge you to consider the sale's registration system in order to track third-party salespersons. The 1099 employees are important to our business, as you have heard from several companies on the call today. We urge you to make these very modest amendments to achieve the bill's intended outcome. I want to thank you for the time to speak today.

Mark Hugh, Qualifying Electrician, 1Solar, Woods Cross City, Utah:
1Solar is headquartered in Woods Cross City, Utah, and we have an office in Las Vegas, Nevada. My position in the company is the qualifying electrician. I agree with what has been said. We support the board's goals of this bill and agree there are steps we can take to enhance solar consumer protections.

Chair Watts:
Seeing no other callers, we will return to Las Vegas.

Chris Derbyshire, Owner, Best Solar Now LLC:
We currently have 36 contractors. I want to testify in opposition to the proposed bill unless the amendments are made, specifically to section 10. The way the bill is currently written, it basically eliminates 1099 contractor jobs in the industry overnight. A lot of people, as Assemblyman Cameron (C.H.) Miller was saying, want to be a 1099 contractor. You want to protect the consumers. I get it. I completely agree. The residential solar industry in general is committed to increased customer protection and holding bad actors accountable. Nevada is my home and the home of my business. If this is passed the way it is written, it basically kills our business overnight.

We take a lot of pride in transparency and education with our customers and with our sales representatives. We have invested countless hours into additional training and education for our representatives to make sure they are not misrepresenting the products they are selling on the financial or solar side. We founded ourselves based on being a brokerage so we could provide different options for people. If you take away 1099 positions, it hurts us. We are on the same page when it comes to misinformation and more transparency. We represent ourselves and we have our own identity. You can google us, we have a website, and we use our own badges and our own shirts so we do not misrepresent ourselves at all pretending to be someone we are not or trying to be NV Energy. Our installers make verification calls to verify the information is understood by the customers for what they are signing up for. I am in favor of additional education and licensing to sell solar and the products associated with them. I think a general certification would be appropriate, as other people were saying. When you have third-party sales for vehicles, homes, or other financial products, having some sort of standard or certification is appropriate instead of making it a W-2 requirement across the board.

Chair Watts:
Seeing no one else wishing to provide opposition testimony, we will move to neutral testimony on S.B. 293 (R1). Is there anyone wishing to provide neutral testimony in Carson City, Las Vegas, or over the phone?

Tony P. Simmons, Private Citizen, Las Vegas, Nevada:
I am fairly neutral on this bill at this point, but I do want to commend the legislative staff for providing an excellent bill I am sure will achieve the desired results.

Chair Watts:
Seeing no one else in person or over the phone, are there any closing remarks?

Senator Doñate:
I want to dispel a few statements that were made that I believe is misinformation. First and foremost, this bill adds protections to what is currently in statute. We talk about the recission of contracting, et cetera, that already exists in the law. We want to make sure we are clarifying the protections that consumers understand so if they find themselves in the deceptive practices that are occurring, they have the ability to remediate them and what they are entitled to. This is not my purchasing a toy from Toys R Us or going to Target and complaining because I purchased something incorrectly. We are talking about products that are thousands of dollars that can be installed on someone's home and that can change, depending on your age—which is what my family had gone through.

I also find it interesting that the folks who testified in opposition to this bill are also the ones who have a lot of complaints from constituents and throughout this state. Take that as you will. Times are changing. We are seeing companies that have moved in with this sales model and they will continue to move in. We have heard testimony that folks come into this state and commit a misdemeanor. I would refute this. While folks are coming into the state to sell solar panels, they also close a contract and leave, and we have to clean up the mess we see from that action.

I do not believe this will kill any businesses. In fact, I believe in some of the provisions we have for W-2s. We want to make sure there is a system in place so the workers understand what this entails. I would contend that with the W-2 provisions, what we have is not working, obviously. The structure we have right now with 1099 workers, there are no requirements or incentives to train them. If there is a product, et cetera, there are questions as to registries and so forth. Those requests have not been sent to us formally for consideration of amendment or implementation of the bill. I caution the folks on this Committee to realize what is actually going on in the provisions we can do to protect consumers. After all, this bill was passed bipartisan, it was supported overwhelmingly by the Senate chamber, and I ask my colleagues in the Assembly to consider that because it is important to protect the people who call this state home.

Chair Watts:
With that, I will close the hearing on Senate Bill 293 (1st Reprint). Thank you for your patience, Senator Flores. I will open the hearing on Senate Bill 338 (1st Reprint).

Senate Bill 338 (1st Reprint): Revises provisions relating to off-highway vehicles. (BDR 43-678)

Senator Edgar Flores, Senate District No. 2:
I am here to present Senate Bill 338 (1st Reprint). I would like to say today is Tyrone Thompson Mentoring Day in the building. Please make sure you go to Room 2224. We have amazing food and it is open to everyone in this room. I also have to say may the fourth be with you. It is a very serious day for me as well.

If I may provide some context for S.B. 338 (R1). I would like to first explain the genesis and the issue I am trying to address, followed by how I believe this bill gets us closer to that. Lastly, I will preemptively address some of the concerns raised by opposition.

A long time ago in a galaxy far, far away—maybe not that far away—we are going back to 2013, Senate Bill 343 of the 77th Session, Senator Goicoechea and Assemblyman Ellison brought forth a piece of legislation that did the following: It created a definition for large all-terrain vehicles. At the time and as is currently in *Nevada Revised Statutes*, it reads as follows: "'Large all-terrain vehicle' means any all-terrain vehicle that includes seating capacity for at least two people abreast and: (1) Total seating capacity for a least four people; or (2) A truck bed."

I am part of the off-roading community, which is a fancy way of saying we like utilizing our vast, beautiful, open land. A lot of us own two major brands, but there are others. There are custom-builds called RZRs or Can-Ams. If you want to look them up, you will see exactly what I am talking about. It is a very expensive lifestyle and not everyone can participate in it, but we put a lot of money into it. It is normal for someone to say they spent $80,000 or $90,000 on one of their builds. It is normal for individuals to live in specific areas of Nevada based on this lifestyle, and choose to live in a certain area of a city or county because they have access to some of our off-roading trails.

I do not want to reopen that chapter, but I do want to make clear, when I first started with this bill, it was a very voluminous, comprehensive bill in the Senate. At the time, what I wanted to do was to replicate what other states have done, namely Utah, and take it to the next level. Off-roading is a billion-dollar industry. It is a small club, but those who participate spend a lot of money on it. I want to create and make Nevada the friendliest off-roading state in the country. There is a whole host of reasons for it.

Presently, if you live in southern Nevada, when you get out of the airport, you will see signs that say "Rent Me" with pictures of side-by-sides they are advertising. They do guided tours because the industry is exploding and people love to participate recreationally in this world. What I wanted to do in the origin of my bill was to create a mechanism so people who owned these vehicles can make them street legal. The reason I want to make them street legal is because it is frustrating for someone like myself, who lives in northeast Las Vegas, a few miles away from an off-roading trail which is a famous recreational area called Apex Park and Recreation District. We are there several times a month off-roading on the weekends.

When I go there or when my neighbors go there or anyone on that side of town, we have to grab our side-by-side, throw it on a trailer, and tow it there. That in and of itself is a dangerous process. I think it is dangerous to constantly be towing things. We know this. I will explain what I mean by that. You have to tow it there, which means you have to have a truck or something that can tow, you get to the off-roading location, you unload, you off-road for several hours, you put it back on the trailer, and take it back home.

I am going to start with the process of convenience. The process of putting something on and off a trailer is inconvenient, but that on its own is not a reason why we should change the law. What is a reason we should change the law is the question I pose before this Committee and with my original bill, which is, What is safer: someone driving those two miles on their side-by-side that they spent $60,000 on, off-roading, and coming back, or having a truck with a trailer that they are pulling on the road? I would argue that it is more dangerous to be towing a side-by-side. In addition, when you get to the site if you are towing, it means you pull your toy off the trailer, you go off-roading miles into the desert, and you leave your truck there. What happened to us is we went off-roading, we came back, our windows were smashed out, our tools were taken. We were leaving our items behind. We could have prevented that had those of us who could have just jumped on the road and got there in a three- or four-mile drive. We could have avoided that scenario.

That is what I was trying to do. However, something I admit and why every single local jurisdiction came in support after I amended the bill is, I had not worked with them. My objective is to create the friendliest state in the country for off-roading and to create a mechanism for us to make these side-by-sides street legal, but I had not worked with the local jurisdictions.

Here is my commitment and why I am amending the bill this way now. I am going to devote the next two years, and I bring anyone who wants to participate in this conversation, and sit down with the local jurisdictions, particularly in southern Nevada. The reason I am focusing on southern Nevada is northern Nevada is incredibly friendly already. There are counties and cities in northern Nevada where you can utilize your side-by-side to access any county road or city street presently. That is already the norm. They have an incredibly beautiful relationship. The off-roading community is very strong and is continuing to grow. I want to mimic that relationship that is happening in northern Nevada in southern Nevada.

Understandably, I know there are limitations. We do not want a side-by-side on the freeway, we do not want them in all areas of the community, but what I do want is for us to sit down with our cities and counties to define access points. If you live in these communities and these outskirts that are within X amount of miles from an off-roading trail, we are going to allow you to utilize your vehicle to access it. That makes it easier and it does all the three things I mentioned: it is more convenient for the off-roading community; it is safer for the folks on the road—I would rather be next to another vehicle than next to someone towing something because sometimes they cannot see me when they are switching lanes, et cetera;

and it is a safety precaution for the off-roading community so they do not have to leave their vehicles or trucks with really expensive items as they are off-roading and leaving it behind for someone to take advantage of. We achieved those three objectives.

The reason I am amending this bill is because presently the way it is written under the definition of "large all-terrain vehicle," it has to be at least four passengers. A lot of us in the off-roading community have two-passenger off-roading vehicles and we want them to be encapsulated here. This particular section is very important. Presently, you can go to the Department of Motor Vehicles (DMV) where there is a large all-terrain vehicle insurance declaration that you can fill out with the DMV. What you do is go to DMV, give them the vehicle identification number to your custom-built, all-terrain vehicle, or whatever it may be, and you prove to them you have insurance. If you do that, the DMV will give you a decal. When you put that decal on your all-terrain vehicle, when law enforcement sees you, they know you have the minimum requirement of insurance and it is registered. You can utilize it because as I said, in Nevada there are already areas where you can drive it on county roads or city streets. I want to do that in southern Nevada. We want to find certain areas where we are able to use them as access points.

My commitment over the next two years, which I am putting on the record although it is not in this bill, is that cities and counties in southern Nevada are going to clearly, on their websites, draw a map that anyone from the off-roading community can access. They can go on specific streets to access an off-roading trail. That is what we are going to be doing collectively in this body. If that does not happen, then I am going to come back and bring back my original bill, but I am going to give them two years to do this right. I think that is fair. I do admit I was a little too ambitious in the beginning without having an opportunity to work with them.

That is all this bill does. I am not changing the rules with the exception of changing the definition from four passengers to two. That is all I am presently doing. I want the record to be clear, anyone with a side-by-side can now go to the DMV and can have a two-seater and get a decal to access off-roading trails. This will make it more friendly and, again, there are a lot of people who have a two-seater and not a four-seater and we move in that direction.

Before I open it up to questions, I did have an opportunity to listen to the opposition in the Senate. I acknowledge that they have also sent you a letter explaining they do not agree with large all-terrain vehicles being on the road now. They believe it to be dangerous. I am not suggesting they were made to be on the road. I agree with that 100 percent. However, presently we allow mopeds on the road that do not have roll-over cages or safety inspections. It is difficult for the off-roading community to agree that a moped can be on the road, but we would not agree, in certain circumstances, to allow something that is built specifically for safety and to engage in dangerous activities when you are off-roading and doing complex things with the side-by-side, and somehow that is not adequate. Also, I am not changing the rules of the road. Presently, if you get the decal, the decal indicates you have insurance and if you are going to be on the road, you have to obey the rules of the road. If you cannot do the speed limit or other things, then obviously you cannot be on that road. It does not change

those rules. They are already set in place. Lastly, this is already existing law. That decal allows four passengers to be on a side-by-side and utilizing our county roads and city streets. That is already a rule. All I am saying is there are also two-passenger-abreast side-by-sides that we are not capturing that the off-roading community is using. I just want to make sure we expand the definition so we also capture them. Based on that, that is why I disagree with what the opposition is saying because we are not necessarily doing anything different other than expanding it to include two-passenger side-by-sides versus four-passenger.

With that, I will take any questions you may have.

Chair Watts:
Thank you for that extremely thorough overview of this two-line bill. One question I have before I turn it over to Committee members is, do you have any idea the proportion of vehicles that are two-seater versus the four-seater or vehicles with beds on them? I know you probably do not have the exact data, but do you have any sense in the total universe of how many off-highway vehicles are under this current definition and how many are side-by-sides?

Senator Flores:
In my experience, there is no such thing as luck. I always like to make sure I capture all of my issues. I did ask and hopefully can get a response soon regarding how many folks have submitted the large all-terrain vehicle insurance declaration. That could—at least at a minimum—give you an idea of how many folks presently have it. I will not be able to give you any real data on how many are in Nevada. I will try to provide you with that information.

Chair Watts:
I appreciate that. I will say, when it comes to vehicles that are towing and those drivers, I do find your lack of faith in them disturbing. Are there any questions from the members?

Assemblywoman Brittney Miller:
I have 12 or 13 questions, but for the sake of time, I will take them offline with the Senator because based on the language of the bill, it warrants 12 or 13 specific questions for the lengthy bill and all the verbiage.

Assemblywoman Gallant:
I did not even know there were statutes about all-terrain vehicles. I have some questions in terms of parking. I do not know if you have seen the obnoxious Jeep I drive with the huge tires. That is considered a vehicle even though it does go off-roading. I want to circle back to an issue that southern Nevadans have regarding the issue with homeowner's associations (HOAs) and once you are able to drive these, because I see it is going to be a progression. Currently, the statute in 2015 gave HOAs limited ability to police public streets that are in communities. They were very specific on what could be monitored or policed. I am probably not using the right words, but it is recreational vehicles, trailers, and commercial vehicles. I am curious if you are foreseeing, once you are able to drive these, being able to

park on the street? By the way, I would not have an issue with that. How are you going to ensure you protect other homeowners who are in HOAs that are nongated with public streets so they are not getting harassed by their HOA when they have vehicles like that?

Senator Flores:
I agree. Something that would be appropriate for me to say is your eyes can deceive you, do not trust them. Sometimes you will see a Jeep and it looks like it is an all-terrain vehicle, but really it is just a regular Jeep that has been heavily modified by lifting it, adding huge tires, and a whole host of things, but it really is just a Jeep. It continues to be a Jeep, you have to register it, pass smog, and do the same exact thing. Now, there are custom-builds that your vehicle can, with enough modifications, get into a different classification. That is also true because sometimes people will piecemeal a vehicle. They will grab a piece of this and a piece of that and put it all together and it becomes something else. The reason I mention that to you is if we specifically focus on large all-terrain vehicles, assuming we were 30 years down the road and we were the friendliest state, which is my absolute vision and goal when it comes to this billion-dollar industry, I will say whatever is true now with HOAs would remain true.

If I may give you an example. Some HOAs will not allow you to park your business vehicle outside your property. Some of them will not allow you to park a huge semitruck outside your property. Some of them will not allow you to park X, Y, or Z, even though you can lawfully operate those vehicles on our highways and streets from point A to point B, HOAs can still go above that and create limitations to your vehicle. You would have to make adjustments accordingly, whether it is keeping it inside your garage or in your back yard. You would have to abide by those rules. That would not supersede it. That remains true today. I remember we were having a conversation on a different issue, but it was with folks who took their police cars or their company trucks to their homes. The HOAs did not allow them to have them there. It was particularly an issue when it was an emergency vehicle because you have to have it immediately ready in case lines went down and you work for NV Energy, or something happened with a pipe, or whatever that might be. There had to be some type of negotiation. My point is, whatever those rules are, we are not able to supersede them. All we are saying here, and eventually down the road, is they are going to be able to coexist with us to access highways. The objective here is for them to access off-roading sites, if you live near an off-roading site, to make it easier to access. That is the real vision, not so much that it becomes a daily drive. It also does not make sense for it to move in that direction for a host of other reasons. The objective is that we are very friendly and people can get their off-roading toy and get to the off-roading site.

Assemblywoman Gallant:
What you are referring to is gated communities where the HOA actually owns that property. I am referring to those communities where there are actually public streets. As a suggestion, maybe add some protections so particular HOAs do not decide to overstep their bounds if that vehicle is being parked. It does not fit in any statute right now and they could try to stretch that. It could cause a lot of problems for HOAs and the homeowners as well. That may be something you and I could talk about offline.

Chair Watts:
I certainly appreciate the overall vision you have for the community, but I would caution you to be careful not to choke on your aspirations.

Assemblyman Gurr:
Senator Flores, I happen to live in the largest HOA in the nation, I have been told. We do allow side-by-sides, four-ups, and unfortunately, four-wheelers. There are a ton of questions I could bring up, but in the interest of speed, this is a very short bill. I would like to talk to you about them offline.

Chair Watts:
Are there any additional questions? [There were none.] Remember, Senator, the force will be with you always. We will begin with testimony in support of S.B. 338 (R1). Is there anyone wishing to provide testimony in support, either in Carson City or Las Vegas? [There was no one.] Is there anyone waiting on the phone to provide support testimony? [There was no one.] We will move to opposition testimony. Is there anyone wishing to provide opposition testimony in Carson City, Las Vegas, or over the phone? [There was no one.] We will move to neutral testimony. Is there anyone wishing to provide neutral testimony in Carson City, Las Vegas, or over the phone? [There was no one.] Are there any closing remarks? [There were none.] I will close the hearing on S.B. 338 (R1).

I will open the hearing on Senate Bill 424 (1st Reprint).

Senate Bill 424 (1st Reprint): Revises provisions relating to the Nevada Transportation Authority. (BDR 58-860)

Senator Edgar Flores, Senate District No. 2:
I would like to start off by saying, if you only knew the power of the dark side, that is 100 percent the essence of this bill. I wish I was kidding. I am so serious. Senate Bill 424 (1st Reprint) is me sincerely trying to fight the dark side. Let me give you the genesis of this bill, and I will walk you through how we are fixing it collectively in an open forum.

I have never in my life engaged with the Nevada Transportation Authority (NTA). To simplify, and as you all know, three commissioners sit on it, and there is a whole host of applicants and/or folks who are already in a specific type of industry who are trying to expand their business or maybe going to a different model and they have to go through the NTA. There is an application process—you file it, and once that application is accepted by the NTA, public notice is given, and then folks who may have some type of interest in that particular subject matter can try to intervene with their concerns. That is the process. It sounds very simple. Let me explain the dark side of this.

During the pandemic, I was working with then-Lieutenant Governor Lisa Cano Burkhead, Commissioner William McCurdy, Senator Dina Neal, and there was a host of other people. We were specifically addressing the issues that are impacting negatively in North Las Vegas and east Las Vegas. I share that because I think it is important that all of us work with other

bodies that are also serving the community. We thought, why not address issues and try to get a better lens where our constituency is bringing up issues that impact all of them and maybe we can work together. We also had city council members. In this conversation, there were some folks, two in particular, who had applications before the NTA. The objective was to work deeply with the Latino community and then with our Asian community. That was their focus, but obviously they were going to serve all members of the community. One of the things they wanted to do was nonemergency transportation services. One of the big issues we were bringing up, particularly during the pandemic and particularly in communities of color, is double homes are very normal. Second- or third-generation homes living under one roof. Sometimes one will take off to work and mom and dad will stay behind or the grandparents stay behind. They may need to go to the grocery store, a recreation center or senior center; they still have to go get their medication. There is a host of things they have to do. We were talking about who was filling that void, and who is providing some of those services?

We had two companies explaining they wanted to provide services like that: not just with those things I mentioned, but in essence, that is what they wanted to do. We wrote a bunch of letters of support, then we stopped paying attention to it. Fast forward to 2022. That application we all thought was going to be clean and had so much support, with a letter from an attorney and the NTA saying everything looked good, one of them did have some issues. Long story short, it turned into a very tedious, long-winded process that exceeded a year and a half. On one application, folks decided to step away from it, they could not do it; financially, they were not there. They are still fighting the other application, and I believe it is in court.

Why is this relevant? A petition for leave to intervene is a process that after someone goes to the NTA—and I want you to think of it through the context of a small business—you submit your application, and this application is very tedious. They ask for financials, contracts, ideas of what segment of the industry you are trying to come into and serve. They will go through the entire application. In essence, anyone who lives in the jurisdictional bounds that you are going to be serving is the criterion for who can file a petition for leave to intervene, saying there are already too many people already doing this and we do not want them to come in. It starts this lengthy dance. In that dance, there is discovery. I will give you a hypothetical that will probably frustrate all of you.

For example, Assemblyman Miller is trying to open a business that is moving a person from point A to point B, but I already do that. I file a petition for leave to intervene, saying I do not want Assemblyman Miller to open that business. I make him go through these hurdles for a year and a half or two years. In that, there is a discovery process where I can go on a fishing expedition and force him to open his potential new clients, what contracts he signed, the industry he is going to be serving, his strategy. He opens his entire model. They then deny his application. Then what do I do? Oh, by the way, I heard you were going to work with Assemblyman Miller, give me that contract instead because it is not going to work with him. It has been a year and a half. It is too late. I steal that contract.

It is incredible to me that we allow this to work and operate in the state of Nevada. I get that there is a whole history in Nevada this goes back to, but for me it was very frustrating. I reached out to the NTA and I have been working and having conversations with them. They are joining us today. I want to make it abundantly clear; they are not here in support of the bill, but they are here to provide expert testimony only.

Imagine if restaurants did this. There are already too many pizza parlors, we do not want them; do not come in. There are already too many attorneys, so you cannot come into the profession. If we allowed this process to be the norm, at its core it is really anticapitalism, and it goes against the core and essence of what we think business is in the state of Nevada and in this country. How do I address it? I will now walk you through the sections.

Section 1 says we shall not accept any petition to intervene and we will not go through this lengthy dance. Instead, the NTA is going to do their regular background check—and they do a lengthy background check. The NTA will also check financials to make sure you can actually do what you are saying. They are also going to have the authority to bring you before the body so they can interview, ask questions, interrogate you, make you bring more stuff in, et cetera. The hearings process is captured in section 3, lines 17 through 24. They can still have the open process. By the way, during this entire process, there is nothing stopping someone who has a concern from notifying the commissioners and the NTA.

In that same hypothetical we started off with where Assemblyman Miller wants to come in, if I have some concerns, I can share that with the NTA and they will take it into consideration. I can tell the NTA why I do not think he should do it because he has a history of X, Y, and Z. That can still be done, but there is not going to be a specific process to halt the application.

In section 4, subsection 4, which is very important to me, it says "The Authority shall approve or deny an application for a permit within 9 months after the date on which the Authority receives the completed application." This is so we avoid any small business ever being put through some type of process meant solely to slow them down and make them run out of money because they cannot afford their legal fees, or because they do not know how to navigate a complex process. That is not the only reason why a business does not open in the state of Nevada.

I have been asked, What happens if the business does not provide everything it is supposed to? It is going to be denied. But if they have provided everything and have done everything right, nine months should be more than a sufficient amount of time. I asked the NTA specifically if they thought that amount of time would be sufficient, and I was told yes. However, I have also had an opportunity to speak with folks who are involved in the private sector and/or who represent people before the NTA. They told me they do not believe it is true. I would like to get that clear on the record, so maybe we can ask that of the NTA.

Something else I asked the NTA, which is very important, are there scenarios where the petition for leave to intervene actually brought something forth, but for that process they would not have caught it themselves? I have had a hard time getting a response to that. The private sector and some of the folks who represent people before the NTA have told me that is not true. They do believe there are examples where, but for the petition for leave to intervene, the NTA would not have caught it. From what I have been told, they catch it too. In other words, you bring something forth that the NTA had already identified internally.

That is the intent and that is how I seek to address this issue. That is why I have this bill before you. I do want to put on the record again that the NTA is here, but they are not here to testify in support, only as experts.

Chair Watts:
I think we all share your concern about going through a long-winded process. I have one question before I turn it over to the Committee. In section 1, you talked about the petition for leave to intervene and the way individuals can use that to hold things up. I think members of this Committee are also familiar with the Public Utilities Commission of Nevada and other regulatory bodies that also have petitions for leave to intervene to participate in for various regulatory decision-making processes. Having worked in other areas where we know there are state decision-making processes where people can file protests and engage in those processes and then there is usually judicial review, my concern is the potential impact the provisions in section 1 have on people's due process and ability to participate if they have concerns. Could you speak to that generally? How does this balance the due process issues, and are you aware of any judicial review available if this process is taken and someone believes there is a serious issue? Is there an ability to bring forward a legal challenge if they disagree with the outcome, considering they may not be able to file the petition for leave to intervene in the process?

Senator Flores:
I will start by giving everyone some context to where these would apply. Nonemergency medical transportation carrier is the hypothetical I provided; a business that moves someone from point A to point B. I am not talking about an ambulance. This is probably for someone who is being moved to a senior center, taking them to the doctor, or maybe to get groceries. Others include limousine providers, the taxi service in northern Nevada, charter buses, household goods movers, and tow operators. I am not suggesting those industries are not important, and I am not suggesting we do not want to make sure we are doing a tedious and precise investigation of each applicant trying to come into this arena. However, I will say in other states in order to get into these industries, it is the equivalent of just getting a business license. That is how easy it is to get into these areas in other states. I am not suggesting Nevada is identical to every other state. We obviously have additional concerns, namely when it comes to charter buses or limousines because we are serving and protecting a large tourist industry that is very important. I am saying I believe we can address the concern of ensuring we have the best providers out there, the best companies, through the process without a petition for leave to intervene.

Here is why. The NTA will go through their own investigatory process. There is a mandatory background check, they check financials, and they can bring you before a body to be questioned. The way it happens now is once an applicant files, they assign it to one of the three commissioners and they take the lead on it and submit a recommendation. Even that commissioner is getting a recommendation from their own internal legal staff and administrative staff. There are layers of recommendations happening. Even after that, the three-member panel, even with the recommendation from the NTA for approval from their staff, even with the recommendation from the person who is assigned the application, you can go before the commission and two of them can still say no because they have concerns and deny it. There are three times when an application could be denied.

Additionally, in this process there is an opportunity because anytime someone has an application, there is public notice, which is how people find out whether they have an interest in the application. I am not removing that requirement. The application will still be published, so anyone with an interest in that case should—and I want to encourage them to come forward. What I do not want them to do is think they are going to utilize this process to turn it into a fishing expedition or to draw it out so hopefully the small business does not come in and become a competitor.

Because of that, I believe we have enough safeguards in place with public notice and the three layers of review. I believe that concern of protecting the public and the applicant is achieved.

Chair Watts:
Are there any additional questions for the Senator?

Assemblywoman Kasama:
Does this include taxi cabs, Uber, vans who drive seniors to the community center? Are we talking about all applicants?

Senator Flores:
Any business that would go before the NTA is what we are capturing.

Assemblywoman Gallant:
I want to go back to the section where you are trying to put the nine-month limit [section 4, subsection 4]. Are those people from the NTA on the phone or are they here? I am curious as to how long it typically takes. I am thinking nine months is too long. That is a long time for someone who is trying to start a business to be waiting on the sidelines. I would like to see bureaucracy have more limits, so I am glad you included that. I would like to see if we could get an answer to that.

Senator Flores:
We do have someone in Las Vegas.

Chair Watts:
If you could please state and spell your name and address Assemblywoman Gallant's question.

Patricia Erickson, Administrative Attorney, Nevada Transportation Authority:
In answer to six months, that would be incredibly difficult for the NTA to get through an application process. The application applies to everyone, including transportation network companies such as Uber, Lyft, and any other such body. When we talk about the limitation of the time an application can be granted, you have to understand there are numerous phases. First, the application has to be completed. An application for nonemergency medical transportation could be approximately 100 pages in length. We require a financial background. It is just pro forma, which is something that tells us what they think they have, what they think they are going to do. It is important that we do not allow carriers to come into business that will not be able to afford to do the work they are asking. The financial investigation takes a lot of time and is done by people who are invested in doing it the right way.

We also have compliance requirements. One of the compliance requirements is the fingerprinting and criminal history background of any person who is an owner or who will be in a key position. The NTA does not control that background application. We ask the people who are applying to get their fingerprints done. The Department of Public Safety requires the fingerprints to be placed on a specific form. If it is not on the form, it will be rejected. They also require the form to have specific information that must be included, such as birthdate, height, weight, color of eyes, color of hair, place of birth, all those different things. If the applicant does not fill that out appropriately, it is rejected. The Department of Public Safety also has a requirement for how payment is made. If payment is not made in that manner, it is rejected. That is a key part of compliance. I do not think anyone in this body would want people driving their parents or being in control of someone in travel who has a criminal history background we do not know about. We do not deny applications based on background unless it is important. However, it is something I think everyone knows should be done. Again, the NTA does not control that process. The applicant has to do it and then the Department of Public Safety gets the information back to us when they want to. We cannot force them in any way to provide it in a certain amount of time.

When you are talking about a time frame of completing an application, yes, the NTA can complete that application process if the applicant provides everything that is required. You also have to understand, if someone gets granted an application in six months, nine months, or a year, there will be people who will submit applications that are incomplete and will not provide the documentation the NTA requires in hopes to wait us out to get a criminal background check and/or permit at the end of nine months without having provided anything.

The NTA's focus is the safety of the traveling public. What we do is an application that we believe gives us all the information that the transportation will be done appropriately, in a way that reflects the state of Nevada, and that is safe.

Chair Watts:
In looking at the provisions of the bill in section 3, subsection 9, it states, "shall approve or deny an application filed pursuant to this section within 9 months after the date on which the Authority receives the completed application." Can you speak to your understanding of the term "completed application?" When would you deem it complete based on the language proposed in the bill?

Patricia Erickson:
I believe the word "complete" would have to encompass a review of the different divisions of the NTA. We have an applications manager and a financial team. They would have to look at it to see if all the documentation required is in there. We would then have to make the decision on whether the financial requirements are fulfilled. If everything we need is present, that would be complete. The Authority will do everything the Legislature asks us to do, but we would also have to start a policy of what is complete and giving people a certain amount of time to provide documentation to complete their application. If they do not, it would then have to be rejected. We have not been doing that at the NTA. We try to help them get through the process, but we cannot force people to do what we ask them to do.

Chair Watts:
Thank you for that clarification. Based on that understanding, it sounds like there would be additional work to potentially implement this law, but the clock would essentially start after it had been deemed all those materials the applicant had been supported in getting was provided. If you do have any suggestions on that language to align the intent, we would appreciate any follow-up.

Members, are there any additional questions? [There were none.] We will move on to testimony on S.B. 424 (R1). We will begin with testimony in support. Is there anyone wishing to provide support testimony in Carson City or Las Vegas? [There was no one.] Is there anyone waiting on the phone wishing to provide support testimony?

Dora Martinez, Private Citizen, Reno, Nevada:
On behalf of my members who are utilizing some of the services similar to what Senator Flores is sponsoring, we fully support this commonsense bill. The more guardrails you put, the more protection we have. As you may know, I am blind, and I cannot legally drive, we absolutely support this bill and we thank you so much. May the fourth be with you.

Chair Watts:
And with you as well, Ms. Martinez. Are there any other callers? [There were none.] We will move to testimony in opposition. Is there anyone in Carson City or Las Vegas wishing to provide opposition testimony?

Neal Tomlinson, representing LifeTrans, Inc.:
I am here today representing a company that is licensed by the NTA as a nonemergency medical transportation provider. They are considered contract carriers. I want to start out by

saying I appreciate meeting with Senator Flores, and I understand the concerns he has had and why he brought the bill. There are parts of the bill I agree with, and there is a key part I disagree with. I will get into that very briefly.

I started my career as a regulatory attorney at the Public Utilities Commission of Nevada (PUCN). As I went into private practice a few years after that, I represented many clients in front of the Nevada Transportation Authority for over 20 years; clients from all types of industries. The NTA regulates moving and storage companies, taxi cabs, limousines, charter buses, tour operators, and a whole host of different types of companies. That also includes nonemergency medical transportation, which is a company I represent called LifeTrans, Inc., which is located in North Las Vegas. They provide services as a contract carrier, which means they provide the transportation services only through contracts; not out to the general public. For example, there would not be people calling them to be picked up at certain locations. They only do it through contracts with, for example, insurance companies or health care facilities. That is how they operate.

The biggest issue we have with this bill is section 1. The other sections that have the nine-month process, I am in support of that. I think applications do take too long, and I think that should be fixed, so I agree with that part of it. However, section 1, I read it to mean it is only contract carriers who are not allowed to file these petitions to intervene. If that is not the intent, which is what Senator Flores said, then I think that just needs to be redrafted. If it applies to all companies across the board, I still do not think that is the way to go. I will explain that later, but I think that is better than what we have here. The problem we have here is it looks to me like you are trying to isolate contract carriers, such as my client, from being able to do that. I think that is discriminatory to those types of business segments. If you are going to do it, do it for everyone and do it fairly for everyone, but do not single out one segment of an industry for whatever reason. Section 1 is the section we disagree with.

I want to talk a little bit about the process of the petitions for leave to intervene. I do not always like the process. I have been on both sides of them. I have filed applications and I have had interveners. I have also intervened on behalf of other clients. I have seen it work very well and I have seen it work very poorly. The fact is, there are several regulations in place that, if utilized correctly, this process works very well. Those sections are *Nevada Administrative Code* (NAC) 706.3965 through 706.3969. What these regulations say is when an application is filed, it gets assigned to one of the commissioners. They are the hearing officers. The hearing officer has complete control over that case while he is the hearing officer. There are three things he can do with a petition for leave to intervene. Number one, he can deny it. If the petitioner does not show a direct and substantial interest, he can deny the petition the same way the PUCN can do it.

The second thing a hearing officer can do is limit the participation of the intervener. They can say the intervener can intervene, but can only intervene on a specific issue or subject; you are not allowed to do this or do that. The hearing officer can do an order that limits, and that has happened many times over the 20-plus years I have been practicing in front of the NTA, and it works.

The third thing they can do pursuant to these regulations—these are all in place right now and have been in place for many years—is limit the number of interveners. For example, if ten interveners try to come into the case, the hearing officer can say, No, I think we have enough and you all have basically the same issue.

Those three things can be done by the presiding officer to make this process work in the way it was intended. If the hearing officer, for whatever reason, does not choose to do that, then certainly there are issues that could be abused and have been for sure. However, those tools exist and they should be utilized because no one wants that. I do not want that on behalf of any of my clients. When I file an application, I do not want that system to be abused, and likewise, when I intervene, I try not to abuse it as well. But the hearing officer is in charge of it, and he has got to take control of the case and tell the parties what they can and cannot do.

The last thing I want to address is the question about whether there was judicial review. For instance, my client provides service throughout Clark County but is physically located in North Las Vegas—and as I said, they are a contract carrier—if they were not allowed to intervene in a manner they chose to intervene in, they would not be a party to that application and the proceeding. Therefore, they would have no legal standing to challenge for judicial review because they are not a party to the transaction. That is the issue I see.

With respect to the bill, our opposition is only focused on section 1. We think it is discriminatory against a certain type of carrier based on the way it is written, and if in fact that was not the intent, I would suggest it be rewritten to make sure this includes everyone who is regulated at the NTA so we have one rule for all types of carriers and not try to piecemeal some carriers doing one thing that other carriers cannot. It makes no sense that way. We need uniformity in the process.

Those are my comments, and I will continue to work with Senator Flores and appreciate his willingness to work with us.

Chair Watts:
We appreciate your providing that background for us and your commitment to continue to work with the bill sponsor. We will move to Las Vegas. I do ask you to try to keep your remarks brief.

Kimberly Maxson Rushton, representing Livery Operators Association of Las Vegas:
I will not reiterate what Mr. Tomlinson said, but I would like to point out a couple of key points. Specifically, the intervener process is one that is not just specific to the administrative arena, but it is also utilized in both state and federal court. It is available to individuals who are nonparties in order to protect an interest or to raise a concern with the tribunal or the administrative body.

As it applies specifically to the world of commercial transportation, and in particular here in Nevada, I think it is important to note the intervener process is very narrow, and it is narrow because of this esteemed body. Specifically, this body has stated in the Legislative

declaration of purpose under *Nevada Revised Statutes* (NRS) 706.151, that competition may not be used as the basis for denying the application. Looking at the specific regulatory scheme Mr. Tomlinson referenced, it reiterates that again and again.

As it currently exists, an intervener may not participate in a manner for anticompetitive reasons, they may not unduly delay the application process, and they may not unduly burden it by unnecessary discovery requests or things that would otherwise be interpreted as being disruptive or abusive of the process. Those standards are currently in place, but what is more important is the fact that the entire intervener process is a creature of regulation. It is specific to NAC Chapter 706, and it is one in which I would strongly recommend this body defer to the NTA to address. The regulations pertaining to the intervener process are very old and antiquated, but it is not to say they are not effective. As I stated during my testimony in the Senate and as I represented to Senator Flores, I agree there are areas in which the intervener process can be improved to ensure the concerns he has raised are properly addressed. That should be done in the regulation process when each of the applicable industries otherwise regulated by the NTA have a chance to participate.

For those reasons, I would respectfully object to this and ask that you recognize that the process is one that is governed by regulation, and allow the NTA, which it has recently stated in a workshop, to open a regulatory workshop following the legislative session in order to address the intervener process.

The other thing I would note for your attention is the concern with respect to the nine-month deadline. In addition to being an attorney who currently practices on a regular basis in front of the NTA, I am formerly the chairman of the NTA. I can tell you, no one would like to see the process expedited more so than the staff as well as those individuals who appear before the NTA. The problem with the language as it is currently written is it directly conflicts with the legislative declaration of purpose under NRS 706.151. Again, the Legislature has given the authority to the commissioners to govern commercial transportation in Nevada, and in doing that, they have given them the authority to accept applications, review applications, and make a determination as to an applicant's suitability. The language as it is currently written strips that. It is an automatic approval and we should not have that because it could be at the expense of our fellow Nevadans as well as the millions of tourists who visit here every year. As Ms. Erickson eloquently stated, there are a lot of levels to the application process, and oftentimes even when a completed application is submitted, there is outstanding information it prompts that the NTA needs clarification on. If an applicant is not responsive, that should not work in their favor to allow them to obtain an application in nine months.

Additionally, the criminal background check is one which, with all due respect, the NTA has no control over. They ask the applicants to complete the fingerprint process, they submit it to the FBI through the central repository, and then it can be upwards of six or seven months before they get those fingerprint returns back. It has nothing to do with an intervener, nothing to do with the staff; it is simply part of the process.

I would respectfully submit there is an opportunity to encourage the NTA to process applications faster, there is an opportunity to even put in some guidelines in which they should look at applications and maintain those in an expedited fashion, but the discretion to award or grant an application should be solely within the purview of the Authority and only after they have completed what they believe is the appropriate investigation. As always, I am happy to answer any questions.

Brent Carson, Attorney, Las Vegas, Nevada:
I represent several limousine companies, several nonemergency transportation companies, household goods movers, tow companies, everything that is regulated by the NTA.

I agree with what Ms. Maxson Rushton and Mr. Tomlinson said, so they took a lot of my points. I am not going to double up on what they said. For over 20 years I have been doing this in front of the Nevada Transportation Authority, which began as the PUCN, then the Transportation Services Authority, and now the current Nevada Transportation Authority. What I do know is NRS Chapter 706 and NAC are complicated. They are intertwined. You cannot single out one process, such as the intervention process, and expect it to run congruently. This will cause ripples that will go all the way through NRS Chapter 706 that have not even been contemplated yet by this bill. That begins with the first thing that happens, which is the notice. You give the notice to the public saying if you have an interest in it, what can you do? Right now, we have a process that says we file a public records request, we get a copy of the application, and see what is going on.

The application we receive from the public records request does not contain any financial information, marketing information, and is barely a skeleton of what this person is and what he is trying to accomplish. That is the reason we intervene. As Mr. Tomlinson said, until we are granted an intervention status, we are not a party to any of the application or any of the proceedings to come. Therein lies the problem. If we are not a party, we have no judicial review.

The Legislature that came before you, before me, and before everyone here in this room created the Nevada Administrative Procedure Act, which is Chapter 233B. It says you have to be a party to have standing to file the petition for judicial review. As Mr. Tomlinson said, we should go back to the beginning. *Nevada Revised Statutes* 706.151 is the legislative declaration for the NTA. One of the directives set forth in there is to foster sound economic conditions. That applies not only to new applicants but also to the current regulated entities that are practicing and transporting the general public in Las Vegas and Reno. These companies have invested hundreds of thousands of dollars to get to the main goal of NRS Chapter 706, which is to protect the traveling public. That is it. We are a state of tourism. Everything has to run correctly. If you get a bad ride and something happens, your driver is driving drunk or on drugs, that reflects badly. That is the reason this was created.

Back in the 1960s and 1970s, we have all heard about the taxi wars. That is the reason the Taxicab Authority came through, because they had to put regulations on the taxicab drivers and the companies coming in to make sure everything was operating safely.

Back to section 1 of the bill on the interventions, Ms. Maxson Rushton said it is a creature of regulations. That is true. The decision to allow an intervener is not taken lightly by the hearing officer or the NTA. In fact, it is a two-step process—

Chair Watts:
Sir, I very much appreciate your remarks. I would encourage you to send full written remarks. I appreciate you skipped some of your testimony, but if you could begin to wrap up, we would appreciate it.

Brent Carson:
The intervention process is not taken lightly at the NTA. It is two steps. First, the hearing officer has to either admit or allow or deny the petition for leave to intervene, then it goes before the full Authority. As mentioned earlier, the full Authority are three appointees by the Governor. That is their job to decide this. They make the hard decisions. We are asking about a privileged license to operate to transport our tourism industry.

Chair Watts:
If there is anyone else in Carson City or Las Vegas wishing to provide testimony in opposition, please come forward.

Alan Waxler, Owner/Operator, AWG Ambassador, Las Vegas, Nevada:
We have state authority. We have unlimited authority. We have one of the eight unlimited licenses in the state of Nevada. I oppose this vehemently. I am a believer in not fixing something that is not broken. There is a process to get into this arena. It is definitely not an easy process, but it is there for a purpose. There are people who are traveling here. Nowhere on the planet earth do more people have money in their pockets than in Las Vegas. The last thing we want to have happen is the wrong people moving people, having someone take someone else out to the desert and roll them for their money. It is a problem. I love that this organization makes sure everyone is held accountable, that people are safe, and they have done their due diligence. A lot of drivers we have had over the years—I mean a lot of people—have larceny in their heart. We do not stand for it. We have had people who worked for us who stole. It is not unusual for someone to walk up to a driver and say, Here is $20, can you take me down the street? We do not allow it. We find out, we have cameras in every vehicle, we see what we need to see when we want to see it. Certainly things can always be changed for the better, but to eliminate the process or change it this late in the game, I think it is not in the best interest of the industry and it is not in the best interest of the traveling public. I will answer any questions as an operator.

I will tell you, a lot of times when you intervene—I have been intervened on and I have intervened—it allows a deeper dive into the background, some things that will not come up on a criminal report. How about character behavior and doing things that would not be

deemed appropriate. Drivers who steal decide they can get a job somewhere else. They come out in front of the Authority. The Authority does not know they stole from me. I know you want me to keep it short, so I will stop right there.

Thomas Davis, Owner, Reno Medical Transport LLC:
Reno Medical Transport is doing business as GMTCare Reno. I was the last nonemergency company approved. We were approved in April 2022. We filed our application in 2019. It was a long period of time. However, we had three interveners: REMSA, the ambulance company in Reno; Central Lyon County Fire Protection District; and Carson City. At the time we applied for our license, there were no nonemergency transport companies licensed in northern Nevada. There were a few municipalities that were conducting these types of transports. What this intervening process did for us is it helped us for educational purposes. It allowed me to meet with my interveners, explain, educate, discuss how we did our processes, and safety above all. The process worked on our behalf. It helped us with the hearing officer allowing us to get started because I knew it was a great need there. It also allowed the NTA to oversee us. We were actually able to start immediately. We had financial fitness and we worked with the interveners. I now meet with them on a regular basis to go over things and make sure we are following the process. I definitely oppose this bill.

Chair Watts:
Seeing no one else in Carson City or Las Vegas, is there anyone waiting on the phone to provide opposition testimony? [There was no one.] We will move to neutral testimony. Is there anyone in Carson City, Las Vegas, or on the phone wishing to provide neutral testimony? [There was no one.] Are there any closing remarks?

Senator Flores:
I want to make it abundantly clear: we are not changing the fact that there is a three-member commission. We are not changing the fact that there has to be a background check. We are not changing the fact that there are financials. What I am fixing is the fishing expedition that occurs. Whoever comes in first will always have the upper hand because they are going to consistently file these petitions to intervene to keep competition from coming into their space. That is the bottom line. If what we truly cared about was safety, then we would talk about that. We would say we need a more detailed background check if that is what they really cared about. The bottom line is folks are trying to keep people from coming into their territory. I do not blame business for wanting to keep a bigger chunk of territory. Of course, it is business; it is competition. However, it is anti-Nevada, it is anti-American, and it is anti-capitalism for us to continue.

I do appreciate the folks who spoke in opposition, particularly the attorneys and Mr. Tomlinson because I know they operate in this space. I really do appreciate their working with me. I am comfortable in operating and changing this language to address the concerns of safety if that is what it boils down to. However, I am not okay with our

continuing down this path where there is a government system meant specifically to prolong and keep business from coming in. I am willing to work with the opposition on anything else if they want to add some extra parameters.

I also want to remind folks the nine-month hard stop does not require approval. If the application is incomplete for a long time, the NTA could deny it. There is nothing stopping them from doing that. If someone is not bringing in their background check, the NTA will deny it of course. But it is in the best interest of the small business to provide everything. They are the ones trying to open the business. They are investing thousands of dollars—maybe even more—purchasing things, they have folks on the payroll. They are waiting. The entire incentive is on the folks who are applying to comply. This idea that there are going to be a lot of people, just because they are bored, submitting a piece of paper with their name on it to try to get an application is nonsense. Folks are investing a lot of money, sometimes their entire savings. They are trying to come into a space and consistently get pushed out because this process, in my opinion, is intended to keep people in who are protecting their businesses. It has been misutilized.

I appreciate your time and your patience. I will continue to work with whomever, but if you agree we cannot continue down this path, I would appreciate your supporting this bill and we move it out of here.

Chair Watts:
I will note, dreams pass in time. A lot of time has passed in this Committee. I will close the hearing on S.B. 424 (R1). We do have one last item on our agenda, which is public comment. Is there anyone wishing to make public comment, either in person or over the phone? [There was no one.] Our next meeting will be Tuesday, May 9, 2023, at 12:30 p.m. Hopefully, it will go faster than this one. This meeting is adjourned [at 3:39 p.m.].

RESPECTFULLY SUBMITTED:

____
Dylan Small
Recording Secretary

____
Lori McCleary
Transcribing Secretary

APPROVED BY:

____
Assemblyman Howard Watts, Chair

DATE: __________________________________

EXHIBITS

Exhibit A is the Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is a proposed amendment to Senate Bill 349 (1st Reprint), submitted and presented by Maggie Salas Crespo, Deputy Secretary for Southern Nevada, Office of the Secretary of State.

Exhibit D is a proposed amendment to Senate Bill 293 (1st Reprint), submitted by Senator Fabian Doñate, Senate District No. 10, and presented by Mark J. Krueger, Chief Deputy Attorney General, Consumer Counsel, Bureau of Consumer Protection, Office of the Attorney General.

Exhibit E is written testimony submitted by Mathilda Guerrero, representing Battle Born Progress, in support of Senate Bill 293 (1st Reprint).

Exhibit F is written testimony submitted by Brian Johnston, Co-Founder, Mentis Corporation, Larkspur, California, and Christopher Trocola, Co-Founder, Mentis Corporation, Larkspur, California, in opposition to Senate Bill 293 (1st Reprint).

Exhibit G is written testimony dated May 4, 2023, submitted by Solar Energy Industries Association, in opposition to Senate Bill 293 (1st Reprint).

Exhibit H is written testimony submitted by Katherine Wyszkowski, representing Sunnova Energy International, Inc.; and authored by Meghan Nutting, Executive Vice President, Government and Regulatory Affairs, Sunnova Energy International, Inc., in opposition to Senate Bill 293 (1st Reprint).