

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

**Eighty-Second Session
February 13, 2023**

The Committee on Judiciary was called to order by Chair Brittney Miller at 9 a.m. on Monday, February 13, 2023, in Room 3138 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:

Assemblywoman Brittney Miller, Chair
Assemblywoman Elaine Marzola, Vice Chair
Assemblywoman Shannon Bilbray-Axelrod
Assemblywoman Lesley E. Cohen
Assemblywoman Venicia Considine
Assemblywoman Danielle Gallant
Assemblyman Ken Gray
Assemblywoman Alexis Hansen
Assemblywoman Melissa Hardy
Assemblywoman Selena La Rue Hatch
Assemblywoman Erica Mosca
Assemblywoman Sabra Newby
Assemblyman David Orentlicher
Assemblywoman Shondra Summers-Armstrong
Assemblyman Toby Yurek

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman Steve Yeager, Assembly District No. 9



STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Bradley A. Wilkinson, Committee Counsel
Devon Kajatt, Committee Manager
Traci Dory, Committee Secretary
Ashley Torres, Committee Assistant

OTHERS PRESENT:

Jeff Saling, Executive Director, StartUpNV
Gabriel Di Chiara, Chief Deputy Secretary of State, Office of the Secretary
of State
James Humm, Director of Public Policy and Government Affairs, Office of
Economic Development, Office of the Governor

Chair Miller:

[Roll was taken. Committee rules and protocol were explained.] We have a quorum. These are the first two bills that we are hearing today in the 82nd Session, and we are honored to have our Speaker, Steve Yeager, with us presenting those first two bills. It seems appropriate considering Speaker Yeager has chaired this Committee for the last three sessions. I am honored to be able to give him the opportunity to open our meeting with the first two bill hearings. We are taking the bills out of order, and we will start with Assembly Bill 76 today.

Assembly Bill 76: Revises provisions governing civil actions. (BDR 2-147)

Assemblyman Steve Yeager, Assembly District No. 9:

It is an honor to be in front of this Committee. It feels a little strange not seeing a place for me on this Committee. As Chair Miller mentioned, I had the privilege to chair this Committee for the last three sessions. I know firsthand how important the work that you will do in this Committee is and how emotional and difficult some of the bills can be in front of this Committee. It is my pleasure to present the first two bills of the Assembly Committee on Judiciary to you.

As Chair Miller noted, we will start with Assembly Bill 76. This bill deals with the recovery cost of witness fees. The cost of expert witnesses in the civil lawsuit can obviously be substantial, and as such, it is often a significant factor in the overall cost of litigation. In some cases, the cost may be so high that it can significantly impact the ability of a party to pursue their legal rights. Assembly Bill 76 increases the amount recoverable by the prevailing side in a civil case for the cost of expert witnesses. The last time this amount was increased was in 1989, which I believe, if my math is good, was 34 years ago.

I will take you through just a brief history of this amount that you find in statute. The very first bill that authorized the court to award the prevailing side witness fees was sponsored by the legendary Senator William J. Raggio in 1977, and back then he set the amount of \$250.

That was where we started at the very beginning. It has been increased a couple of times since then; in 1981, the Senate Committee on Government Affairs increased it to \$750. In a four-year time frame, it essentially tripled, from \$250 to \$750. We then waited another eight years. In 1989, a couple of Assemblymen, some of you might recognize the names of, Assemblymen Callister and Porter, did a bill increasing it to \$1,500. We doubled in eight years, and that is where it has been since 1989.

The other provisions of the bill would apply to up to five expert witnesses. There is also a provision that allows a judge to grant above and beyond the statutory amount, but typically there has to be a motion practice to do that. The idea here is to increase that amount because what is happening now, in almost every civil case, is the winning side comes in and asks the court to grant them more than the \$1,500 because the statute allows that, but there has to be all this motion practice that goes with this, which increases cost, time, and the inconvenience of the court. Again, this applies to the winning side of the litigation.

What I am really trying to do is align this number to common practices today. It is very difficult to find an expert witness who will do anything for \$1,500, because you are talking about a case that is going all the way through trial. For example, in a medical malpractice case where you are hiring a physician to be your expert witness, they are not doing anything for \$1,500; maybe \$1,500 an hour. We want to make sure that the folks are able to pursue their case in litigation without this idea that they are not going to be able to recover those costs they need to lay out to actually prosecute that litigation.

Again, this is for the prevailing side: it is not a defense-friendly mechanism, it is not a plaintiff-friendly mechanism; whichever side wins the case would be able to come in and ask for the recovery of those expert witnesses. I am going to leave it at that, and hopefully this is one of the shorter bill presentations you have this session. Chair and Committee members, I would obviously urge your support of A.B. 76. I am happy to answer any questions the Committee might have.

Chair Miller:

Thank you, Speaker Yeager, for that presentation. We do have a few questions from members.

Assemblywoman Mosca:

Is this in line with what other states do?

Assemblyman Yeager:

That is an excellent question, and one that I do not have the answer for at the tip of my tongue. I am going to guess that states are kind of all over the map in terms of what they do, but I did not have a chance to look at that and I appreciate that suggestion.

Assemblyman Gray:

Would this bump in fee cover an expert witness for DNA testing using the expert's independent lab?

Assemblyman Yeager:

I want to make a couple of things clear. First of all, it is only going to apply to civil litigation. There are no fees allowed in a criminal case. If you had a civil case where you needed an expert witness, for example if there was a criminal case based on a sexual assault, maybe out of that comes a civil suit where perhaps the DNA becomes relevant. If you had to hire an expert, either as the defendant or as the plaintiff in that case, this would be eligible to be recovered.

Sometimes costs are required to be awarded and sometimes they are discretionary, depending on the type of case. If you had to hire that expert and retain them, you would have to submit proof to the court what the billings were. Under this statute, the court would have the ability to reimburse the prevailing party for the costs up to \$15,000, which would qualify really any expert witness in your case. I should also note, because I know we do not have all lawyers on the Committee, that an expert witness must be deemed an expert witness by the court; it cannot just be somebody you are bringing into court. There is that protection as well. To answer your question, I think that would apply as long as it is a civil case and not a criminal case.

Assemblywoman Bilbray-Axelrod:

How did you come to the amount of \$15,000?

Assemblyman Yeager:

I looked at the history of the numbers and it looked like it took us about 4 years to triple the number, and then another 8 years to double the number; it has been 34 years. If we doubled every 4 to 8 years, we would be way up around \$30,000, so I scaled that back to \$15,000. Typically speaking, if you go all the way through litigation you get to a verdict, whether it is in front of a jury or a court, and \$15,000 is a pretty good amount in terms of covering most expert witnesses to get you through trial. There are exceptions, of course. If you have an extraordinarily complex civil litigation case, you could have an expert witness that is well over \$15,000. The statute would still allow the court to consider that.

I wanted to try to find that sweet spot where we are not going to have additional motion practice with expert witnesses. I will say that, as always, this is just a starting point for the bill. It is in your hands to decide what the right number is and I am certainly willing to take suggestions or considerations if you think that number is too high or too low. I thought it was a good starting point given it has been 34 years since we have had any increase.

Assemblywoman Cohen:

Do you know why there is such a difference in how we determine attorney's fees through the court and expert fees? For attorney's fees, you have to prove that you went through the case law, how hard the work was, and other factors that you have to go through, and it does not seem like there is a similar requirement for expert witnesses.

Assemblyman Yeager:

I do not know that I have a scientific basis, but just thinking about it, my guess is that most of our district court judges who would be presiding over trials are attorneys. Perhaps it makes sense to have them have a vetting process of how the attorneys did in the case and the court might not be an expert in the field of expert witnesses, so perhaps they are just given the benefit of the doubt. It is a great question and, based on the history that I found with this amount, there really was not much discussion other than we should award the cost to the prevailing party.

Assemblyman Orentlicher:

You said that, in the past, these increases have happened more frequently. Have there been bills in the past 34 years?

Assemblyman Yeager:

We did not find any bills in the past 34 years. I guess it was under the radar; nobody thought about it. It has been brought to my attention more frequently over the last couple of years, from people going to court and saying, "Wow, \$1,500 is not really much in today's world." I am not sure, but it does demonstrate that we are so busy doing other things up here that sometimes maybe the more obvious bills slip under the radar. I hope to rectify that with A.B. 76.

Assemblywoman Marzola:

Is it fair to say that when a doctor is scheduled to appear for trial, he or she may have to close their practice for the day or multiple days?

Assemblyman Yeager:

I think that is definitely true, depending on the circumstance. Anyone who has done these trials, whether it is a doctor, an architect, or real estate agent, it can really be an inconvenience to them to have to be there to testify. Obviously, they are being retained and they get compensated, but there is an impact; especially with some of the cases when you are using a solo practitioner with a very small practice, they really have to be out all day. Those of you who have been in trial know, much like the legislative process, trials are very unpredictable. You will tell them to be there on Monday morning at 8 a.m., and they might not testify until Wednesday morning at 9 a.m. You have got a couple of days there, and we want to make sure that they are compensated for their time. Again, you must prevail in the lawsuit; it has to be a righteous suit in that sense, that the jury or a judge finds in your favor.

Assemblywoman Hansen:

To go off of what my colleague just asked about their losing time from their practice in a medical malpractice case, would it be a fair generalization to say that expert witnesses are testifying all of the time? They are not necessarily a doctor just being called into court.

Assemblyman Yeager:

I would say it greatly depends. There are certainly folks who only do expert witness work. Although, as a practicing attorney, I will tell you that I do not like to hire those kinds of folks

because it is very easy to cross-examine them. You are a hired gun. In my mind, I think the best expert witnesses are ones who are actually practicing. I think that really is more of the trend. I would say in big, national, multimillion-dollar cases, you are going to have firms that just provide expert witness services. Most of the work that I have seen done, particularly in Las Vegas, tends to use practicing physicians. They have a practice on the side, but then also do some expert witness testimony.

If you take, for example, a car accident case, the victim of that car accident is most likely going to go seek medical services, whether it be at the hospital where those doctors are practicing, or whether it be physical therapy or chiropractic. You know that they are those experts who are providing that service, and normally you will have the physician who is actually treating the person come in and talk about what happened in the case. I think the more esoteric the issue gets, the more you are going to find an academic kind of person. By and large, the ones that I have dealt with tend to be practicing physicians as well.

Assemblywoman Summers-Armstrong:

Are these fees reimbursable immediately after verdict, or do we have to wait until there is an appeal or give time for the appeal to happen before the fees are reimbursed?

Assemblyman Yeager:

In terms of process, typically what would happen is you get a jury verdict or a judge verdict and then the prevailing side files a motion asking for their costs and fees, and it would happen there. The judge can issue those whether or not the case gets appealed. If the case gets appealed, typically the actual collecting of the costs and fees is going to be on hold. There is some time there because it is going to take time to put that paperwork together for the prevailing party to get their own attorney's fees application together with the factors that Assemblywoman Cohen described, and then get all the bills from the experts. I would love to tell you shortly thereafter, but in the world of litigation, I think sometimes that can take a while. There may have been a notice of appeal actually filed, but the district court or whatever court has jurisdiction can still decide the fees and costs issue before it goes to a higher court on appeal.

Chair Miller:

That will be the end of our questions. I will open it up for testimony in support of A.B. 76. [There was none.] Is there anyone wishing to speak in opposition of A.B. 76? [There was no one.] Would anyone like to testify in neutral of A.B. 76? [There was no one.]

With that, I will ask the Speaker if he would like to make any final comments on the bill.

Assemblyman Yeager:

I want to thank the Committee for your thoughtful consideration and for your questions. As always, I am happy to continue discussing the bill if you have questions after this morning's hearing. We ask for a positive outcome in A.B. 76.

Chair Miller:

I will go ahead and close the hearing on A.B. 76 and open the hearing on Assembly Bill 75.

Assembly Bill 75: Exempts certain offers or sales of securities from registration requirements for securities. (BDR 7-145)

Assemblyman Steve Yeager, Assembly District No. 9:

I am here with Jeff Saling. He is going to help me present Assembly Bill 75, which creates a new class of intrastate, meaning only in Nevada, investor known as the "Nevada certified investor." The bill also exempts from registration requirements certain offers or securities sales.

Let me give you a little bit of background on A.B. 75. It revises Nevada's blue-sky laws. The term "blue-sky law" was popularized by Supreme Court Justice Joseph McKenna in 1917, when he referred to speculative schemes that have no more basis than so many feet of blue sky. He elaborated that these laws are meant to stop the sale of stock and fly-by-night concerns, visionary oil wells, distant gold mines, and other like fraudulent exploitations. The blue-sky laws here in Nevada were written in the 1990s, and they limit who may invest in certain private investments within the state. The purpose, which was a very good one, was to ensure that the investor had the knowledge and expertise to participate in these offerings, while protecting others without the expertise from the risk of losing their investment. Nevada's laws are hardwired to specific federal law and regulatory language related to the Securities and Exchange Commission's (SEC) federal accredited investor. Although these federal laws and regulations have changed, Nevada's laws have not.

This bill would provide a much-needed update to Nevada's blue-sky laws. Now, there is always a balance between allowing folks to invest and consumer protection. I am not sure we have landed in the right place on this bill quite yet, but here we are in week two of the session, and I just wanted to let this Committee know that I appreciate your hearing this bill. I think there is probably still some work to be done, as you will hear from other folks today, but you cannot get the ball rolling until you have the hearing. We are here for that, and to discuss the actual bill is Jeff Saling, who is the real expert on this topic. He and I have been working on this issue for a couple of years now and he is the cofounder and executive director of StartUpNV, which I think some of you may have heard of. It is a nonprofit statewide business incubator and accelerator. I am going to turn it over to Mr. Saling, who will take you through the nuts and bolts of the bill, and then with your permission, Madam Chair, we will try our best to answer any questions the Committee has.

Jeff Saling, Executive Director, StartUpNV:

The way that most investment works is that a founder is going to ask investors for money, and they generally go through the process that you see on this diagram [page 2, [Exhibit C](#)]: starting with an idea, validating the concept, developing a beta and minimum viable product, launching the product, going out to the market, generating revenue, and so on and so forth. Under the bubbles, you will see where the money is expected to come from as they get through each of these stages, whether or not they actually have a company that is making

money yet. Assembly Bill 75 focuses on the red area in this graph, from concept validation through market validation. That is where the investors that would be investing under the scenario proposed in A.B. 75 would be focused.

With that as context, I will go into some of the data [page 3, [Exhibit C](#)]. At the moment, the thing that governs whether you can invest in these private companies or not is whether you are an accredited investor. It is a little bit of a misleading term because accredited seems like you take a test or something, and there is a financial test, but there is no actual knowledge test that you have to pass to be an accredited investor: you have to have a million dollars of net worth outside of your principal residence, or you can be earning \$200,000 on W-2 income, or if you are a couple, \$300,000. As you might imagine, it is a fairly limited part of our population.

According to research that I did, about 9 percent of the country's population falls into this category. In Nevada, in addition to our being one of the smallest-population states in the country, less than 4 percent of our population actually falls into this category, so not a lot of us are able to make these kinds of investments. It is limited to people who are already of means. You hear this phrase, the rich get richer; it is actually true in this case because only people who already have means can invest in these early-stage companies and get the kinds of larger returns that come with them, because it is risky. They do not all come with them. It is not a guarantee. When you do have a good investment go through, you do get better returns. The people who already have means tend to be the ones to get access to these deals and make money from these deals.

Now, the idea here was, "Hey, we need to protect the people who do not have the means who are not as sophisticated." I think that is admirable to want to do that, but I think we ended up with some unintended consequences here, where the folks who would like to do this are prevented specifically from doing it and our businesses, because there are fewer of us that are able to do this, tend to be starved of capital at this very critical juncture of forming their business. If you look at some of the other research that is been done in the market, whether it is by the Angel Capital Association or the Ewing Marion Kauffman Foundation—or there are a number of financial institutions out there that do studies in this area—about 80 percent of private capital that gets invested in these early-stage businesses comes from within 37 miles of wherever it is that the business is located.

Local investors, bottom line, are the ones that invest in these businesses. Our businesses, because of the SEC rules that we have to follow, are at a disadvantage. Assembly Bill 75 allows more locals to invest, and it still has some of those relevant protections that you see in the accredited investor rules. The Nevada certified investors would allow Nevadans with above Nevada's median W-2 income or Nevadans who operate a business with gross sales above \$200,000 to invest as long as they are investing less than 10 percent of their net worth. That is the protection that we are trying to seek that is similar to the protection that you see in the accredited investor rule.

This grows the investor base within Nevada for all kinds of Nevada-based projects, whether it is a local business, a local high-growth startup, or a private project like investing in somebody's book or a movie or some other art project that this could be relevant to, or a real estate investment. It creates these investable projects that Nevadans can invest in under these criteria for stages later on, when some of the other larger interstate investors can come in and make investments in these projects that have now gotten some success because we Nevadans have been able to invest in them. On top of that, it does seek to address that wealth creation gap that we see with the accredited investor rule, where people that are not of means are prohibited from investing in some of these big upside projects.

I have two examples. The first one is a local business example [page 5, [Exhibit C](#)]. I picked the dry cleaner as an example, and that might be a personal bias because after COVID-19, the dry cleaner in my neighborhood closed and no one has replaced them. I would love to see somebody invest in a dry cleaner in my neighborhood. These businesses tend to do \$250,000 a year of revenue, and this particular owner said, "All right, I am going to value my business at \$300,000. I am going to need \$60,000 in startup capital, which is 20 percent of the value of this \$300,000 business." Under this rule, this founder, this entrepreneur, could sell 60,000 shares and raise \$60,000 for a dollar apiece. Now, of course, some people are going to invest more than others. Two hundred and fifty or so people would invest in this deal. The founder operates the business for five years, making a 20 percent profit, or about \$50,000 a year. Then, after five years sells the business for a half a million dollars.

Now, the investors in this particular deal are probably people in the neighborhood, like me, who would be interested in supporting this founder in the business. Assuming that the business is making profit, it would make about \$.83 in profit over the five years, and then \$1.67 for every dollar invested when the business sells for half a million dollars. Ultimately in this deal, every dollar invested returns \$2.50. The founder does not have to go out and get a loan. Maybe they did not have the ability to get a loan, which is the case for a lot of these local small businesses; the entrepreneurs just do not have the credit wherewithal to get a loan. They incur no debt. Local investors probably get a discount. If the founder is smart, they might say, "Hey, invest in my business and not only will you own part of it, but I will give you a little discount as well." That is a fairly common example. It is not going to give the investors a huge upside, but it will put some Nevada money to work in Nevada in our local environment.

The larger returns tend to come from these venture style of businesses. In my second example [page 6], we have a couple of hotshot grads from the University of Nevada, Reno (UNR) and the University of Nevada, Las Vegas (UNLV) team up, a computer scientist grad and a business person. They require \$250,000 to get started, and that is going to take them through the first two years of their business. Again, this is a very common problem that I see in our world, where it is hard to get that first money in the door when you do not really have a product yet. They have said that this \$250,000 is going to buy 20 percent of the company. They also decided to sell their shares at \$1 per share. Now, they could be doing it at \$5 a share, \$10 a share, but the math still works the same way. They are going to raise it from Nevada certified investors, or a bunch of them, to raise this \$250,000.

Because they are successful, they go on to raise three additional rounds at succeeding valuations. They are higher, which makes the original investment worth more money over time because the value of the company, as it gets more investment, grows and grows. They get diluted along the way because people are buying part of the company and they are not retaining the same amount, but the total value of the company continues to grow.

They sell over time 13.3 percent at a \$7.5 million valuation, 16.7 percent at a \$30 million valuation, 20 percent later at a \$75 million valuation, eventually selling the company seven years later for \$100 million. I know I am flying through these numbers and it all sounds like a lot, but this is kind of a common scenario. Most startups, these kinds of startups, get acquired in about seven or eight years. This is a pretty common path for it, if it works.

Now, for the investors in this particular case, the founders, the original starters of the business, by selling all these pieces of their business at these different times, end up retaining about 30 percent of the company and they make about \$30 million, which is awesome for them. The Nevada certified investors who originally put up that \$250,000 at the beginning now have an investment that is worth \$10 million, which is where that really large wealth creation comes from, in this scenario. For every dollar invested by those newly established pre-seed investors, the ones that are allowed under A.B. 75, every dollar makes \$40 back. Those are the two scenarios that that this bill would allow, and lots of others.

The point is we want to be able to put more money to work by Nevadans for Nevadans within our state—we cannot go outside of the state, but within the state—by allowing people who want to make that investment, who are above the median wage, or who are sophisticated enough to operate a business of \$200,000 a year or more and they are investing less than 10 percent of their net worth, we will give them a chance to invest in some of these other local businesses that make the Main Street businesses, as in my first example, successful; or, take a chance on the one that is a little bit of a higher flyer and perhaps make some wealth for themselves and the founders and lots of other folks in Nevada.

Chair Miller:

There are a number of questions from the Committee members.

Assemblywoman Cohen:

In section 5, subsection 22, paragraph (c), when you are determining the net worth of the investor, is there anything about what the net worth has to be based on? If we are talking about someone who has got a big investment in cryptocurrency or something that could be volatile, are we looking that at all, or is it just if they say they have got the net worth then we say okay?

Jeff Saling:

Net worth is determined by the individual who is making the investment. Under the way it is done with the SEC, it depends on how the entrepreneur is raising the money; there are two different requirements. If they are raising it privately through a network, it is sort of on the honor of the investors stating that they are indeed accredited, and I imagined it would work

the same here. If you do go out and publicly advertise the investment, then you raise under a different standard where a third party must determine whether or not you are accredited or in this case, "certified."

I would imagine that we might end up in the same situation, where if it is a publicly advertised thing, you might want to have somebody verify. A lot of times that comes from a letter from either your attorney, certified public accountant, or financial professional that would say, "Yes, Jeff Saling is a certified investor, in this case." Sometimes you have to prove it. You turn in your bank account statements and your other things that show your assets, a credit statement that shows your liabilities, and you can prove whether or not you are above the threshold.

Assemblyman Yeager:

I did want to point out that we did not go through the bill section by section. Section 3 of the bill talks about the "Administrator," which refers to the Administrator of the Securities Division of the Office of the Secretary of State. It also talks about the development of regulations, and I would expect some of those more technical questions would be left to the regulatory process to figure out exactly how this is going to work, because that is a very legitimate question. We are still working through some of that. I think you are going to hear from the Office of the Secretary of State about some concerns and thoughts that they have on how that process would work.

I think rather than get too prescriptive in the bill, we hope that through the regulatory process we can have those workshops where people come forward and there is a real vetting process from interested parties. I think some of that would hopefully be in the regulation because there has to be some guidance for folks raising this money. We cannot just have them doing whatever they want. To the extent that that is helpful, there would be that second part. As many of you know, after the bill passes, a lot of times you go to the regulatory process, and the bill really cannot be enacted until that process takes place. We would expect the same here with A.B. 75.

Assemblywoman Considine:

I appreciate that you are trying to find a balance between opening up to more investors so that they can get more involved, but also attempting to keep the consumer protection. My question is, the way I am reading this, at the time of the sale both parties need to be Nevada residents—Nevada certified investors. Is there a time frame, after the time of the sale, that both parties need to be Nevada residents, or does that go away right after the sale? I am thinking about businesses bought out of state and things along those lines.

Jeff Saling:

I think some of that detail will be in part of the regulation that is established. Initially, I think that we can say everybody has to be a resident and the business has to be a Nevada business. There is a definition out there that the Governor's Office of Economic Development uses for what a Nevada business is because they have to do that a lot in their area: what happens

when people move. I think we will leave up to the regulators to say what that period of time is or whether it is one moment in time, somewhere on that continuum.

Assemblyman Gray:

I am a little concerned about the consumer protections. Who is going to be responsible for enforcement of the regulations? That always seems to be the portion that is lacking. I have a real concern about that.

Assemblyman Yeager:

I think the Secretary of State is going to weigh in, as well. First of all, the way that I see it, this is a tough balancing act, right? We certainly want to protect people from fly-by-night investments and losing their savings. At the same time, hopefully you see the merit in some of these startup companies really benefitting from local capital. There is an opportunity for Nevadans to invest in a way that we have not. There will be bad actors no matter what we do. We have some securities laws on the books that are largely prosecuted by the Office of the Attorney General (OAG), so there is that mechanism there.

In terms of the Secretary of State's role, I will defer to them because I do not want to misstate. I know they have a lot of expertise and oversight in this area. I believe there is a working relationship with the OAG, who normally would prosecute securities fraud. Now, I would love to say we are not going to be in that situation but I live in the real world. I will leave it to law enforcement to be able to look into that if we did have those. I do think there are laws on the books, that is your typical fraud or securities fraud, that would cover bad actors in this case and allow them to be prosecuted.

Jeff Saling:

I am "plus-oneing" Assemblyman Yeager's statement.

Assemblywoman Newby:

I applaud the desire to connect Nevadans with capital to Nevadans who are starting up businesses. That said, it only works if Nevadans with capital know about the process, or the possibility, and Nevadans with an idea for a startup know about the possibility of connecting to the capital. How do you conceive of this being publicized so that people can actually access the program?

Jeff Saling:

This is what we do at StartUpNV. We are in contact with 1,200 to 1,500 entrepreneurs every year. We run programs, mainly in Las Vegas and Reno, but also in the rural communities as well, to tell them about different types of training and other sorts of things that are to their advantage. We connect them with other people that are following the current SEC rules with regard to capital. There are ways that this is done under the current method of operating with the SEC accredited investor rule and it would work no differently in this case: you tell the community about it, provide some tools for them to do the work, and then it would happen.

I could imagine that our organization would be leading, and I can also imagine groups like the Small Business Development Centers or SCORE and others who engage with the entrepreneurs around our state. Once they are made aware of it, they come in contact with just as many, if not more, entrepreneurs around our state as we do; making that same case to the people in the ecosystem who would want to invest is done similarly. That is how I would see it working.

Assemblyman Yeager:

I think one thing we are sometimes not very good at, as elected officials, is talking about the bills that we passed during session. For new folks, you know, you get to day 120 and you are tired and you just want to go home and relax. We do not always have that secondary mission, which is to publicize the good things we do in this building. I think every one of us, certainly in this Committee and in this building, has a network of people. My hope would be, in addition to the great work that Mr. Saling is doing and our other organizations are doing, we remember that we are close to the communities we serve. We have a role in getting the word out as well. I think there will be a lot of questions about it, but through Mr. Saling's organization or someone else's organization, hopefully, there will be a central hub or a website that will talk about how this works. I hope that we will have a role in not just promoting this bill, if it were to pass, but all of the other good things we do that a lot of our constituents do not know about because we are bombarded with information all the time. Just a plug to not overlook your own ability to get the word out in your communities—whether it is your newsletters, your email distributions, your town halls—so we can all have a part in that.

Assemblywoman La Rue Hatch:

My question has to do with the qualifications for becoming one of these certified investors. In the presentation there is a lot of positivity about the benefits for the investors and for the business. If this is so great, then why do we need the income protections? Why can it not be that you just cannot invest more than 10 percent of your income?

Jeff Saling:

I was following the pattern that had been established by the SEC over time. You could also make an argument about what if somebody could pass a test and display knowledge about this thing, that they are capable of doing this, no matter what percentage of their income or what percentage of their net worth. I think those are all things that could be on the table. I think if you look at the Angel Capital Association, which is a sort of lobbying group and a group that is doing this on a national basis, their big attempt with the SEC has been to do exactly that: to make this a knowledge test, not a financial test. As the details of this get worked out, those are all possibilities. However, initially it was to follow the same pattern that had been somewhat successful over the time it has been in place, use that same thinking, because it is easier to start with something you already know than to try to do something completely different from what we have done out there.

Assemblywoman Gallant:

I think this concept is fascinating, but I am trying to wrap my head around it. I am wondering if this is like EquityZen and that concept, but just statewide. Would you also be thinking about creating an EquityZen-like website so that these companies would be somewhat checked out, and then also the ownership of these investments would be logged by a third party?

Jeff Saling:

I was just checking out that particular thing. I assumed it was a crowdfunding site. There are a lot of these out here. I imagined that something like this might come out of it, and the Regulation Crowdfunding (Reg CF) ways that people can do this on a national basis are interesting. When they were established in 2012 as another method for founders to raise capital, everybody was very excited about it. It has turned out to be somewhat successful, but it still takes tens of thousands of dollars and a lot of extra work for people to put their business up on one of these crowdfunding sites.

I would imagine that we could do something like that here in Nevada after we have gotten a little bit of experience behind it. There might be something like this that pops up, just to make the paperwork easier. There are a lot of things that could happen. If you have got 250 investors, there are a couple of different ways to make it easier for both the investors and the founders to manage those things, like putting them into a limited liability company, or some other way. I would imagine that, depending on how the regulation is finally settled out, we may follow some of the Reg CF-like things for our intrastate state investing as well, but I did not want to be too prescriptive about it.

Assemblywoman Mosca:

Do you know if it is public, the accredited investor population that currently exists in our state, and if it includes the diversity of those investors?

Jeff Saling:

It is not public. Many accredited investors hide the fact that they are an accredited investor, because I can tell you from being kind of public about my status, you get a lot of calls and a lot of contacts from people who want you to invest in their company. It is hard to figure out exactly how many of us there are. Some of the statistics that I quoted were the best I could find. A lot of it comes from the Internal Revenue Service and some other people; they cannot tell you who, but they can give you general information.

In terms of the diversity issue, we run a program at StartUpNV called AngelNV, where we are looking at accredited investors and trying to create more investors in Nevada. We work really hard to be inclusive in that and we have managed to do so. There are national figures that say that, for example, women make up about 2 or 3 percent of all of the venture capital that is deployed in the United States. They are making up a growing percentage of the actual investors in the group, but I do not believe that they have broken past about 5 or 6 percent of all of the investors in the group. In our group, I am proud to say that women make up about 23 percent. I wanted half, but everybody says that 23 percent is a lot better than the national

average. The same is true for people of color. We outrank the national averages on those things, but we are still a long way from being done.

I think all of those things, if the investors and the founders work on them, I think you are going to see that happen. For example, we are working closely in the City of Las Vegas with some members of the Urban Chamber of Commerce, to try to make sure that we are being inclusive. We want people to feel comfortable, both as founders asking for investments and as investors making investments in their community and with other people in the community who are doing the same thing. I think it will improve if we do this.

Chair Miller:

Mr. Saling, in a Legislature that is 60 percent female, we may appreciate 60 percent as well.

Jeff Saling:

Thank you. It is still frustrating as well as others, outsiders, tell us that we are doing with the 23-percent-and-growing number, that it is not at least 50 percent. Every year it gets a little bit better.

Assemblywoman Hansen:

I am trying to understand the oversight. Nationally it is the SEC, right? On the state level, would the regulatory body be the Secretary of State's Office? I am intrigued. I always like when we can get more local. I feel there is more control, more oversight. I just happened to have a little bit of free time to watch a documentary, which will not happen after this weekend, and it was the Bernie Madoff documentary; as I said, no affiliation. What I came away with and why this is timely, it seemed like there was a lot of breakdown with the federal oversight, with the SEC—a lot of things falling through the cracks with banking, all of that. To me, this makes this more intriguing because we would have more local control. If you we are to see this through to fruition, would the oversight body be tightly dialed in by the Secretary of State's Office?

Assemblyman Yeager:

I think there are certainly some lessons to be learned from not just the Bernie Madoff situation, but a lot of other ones in history. That is our vision, that the Secretary of State would be the regulatory authority. Obviously, we are still in conversations with them; it is the second week of session, so I do not want to pretend we have that all ironed out yet in terms of what it would look like. We are having very productive discussions to talk about how this might work from a regulatory oversight perspective. The secondary part of that is making sure our Secretary of State's Office would have the resources necessary to do anything that we are asking them to do. This is indeed how I envision it, sort of the SEC in the state being the Securities Division of the Secretary of State's Office. Then, of course, the enforcement arm would be the OAG, if we had to go that direction.

Assemblywoman Hardy:

I am always interested in where the ideas for bills come from. Have you had people, whether it is the startups or the individuals, say, "Oh, I would really like to invest, but I cannot

because I do not make these qualifications," or maybe companies that have people that would like to invest but cannot? If you could just give a little information of where the idea for the bill came from.

Assemblyman Yeager:

This actually came to me as part of the tech caucus that we formed a number of years ago. One of the activities we did was to come up to northern Nevada, and we heard presentations from the Economic Development Authority of Western Nevada. I believe that is where I met Mr. Saling. He talked about some of the challenges in terms of startups and venture capital, and so that connected the two of us. I will hand it over to him to talk about. I am sure he had all kinds of potential business folks asking for changes to the law, but he is the one who really brought it to us by way of the tech caucus.

Jeff Saling:

To your point, because we are in touch with so many entrepreneurs who are always asking how they can raise money, what is the right way to raise money? We tell them what the rules are as of right now. We are on the other side too, with the AngelNV program that I was just describing. Probably at least 20 percent of the people who want to enroll in AngelNV, when we ask the question, are you an accredited investor, the answer is no, and their head goes down. I would like to be able to be involved with the group and be an investor in one of these. This year, we had 103 companies apply to the group to get an investment. We will probably end up with 50, 60, or 70 total angel investors, accredited investors, who are putting \$5,000 into a fund that is going to go on and be invested in a local startup.

We see them all the time through our pitch days that we hold every other Wednesday. We have rooms full of people looking at these startups, many of whom are just there to watch, because it is like watching *Shark Tank*. They see a cool idea and they would like to invest, but they are not an accredited investor. If you, as an entrepreneur, take money from somebody who is not an accredited investor, the accredited investor might get in a little bit of trouble. However, the entrepreneur is the one really taking a big risk, because then there could be a lawsuit later, you did not follow the law, and then the whole deal could get unwound.

As an example, there was a woman who was presenting a couple of weeks ago and had some sort of patented glue that helped put lash extensions on. I have to tell you that I know nothing about this, right? This woman who owns this business and who does these lash extension things was so passionate. Most of the women in the room who were watching this presentation were also very passionate about it. There were at least four or five women in the room who wanted to join our group and be an investor right then. A bunch of them could not because they were not accredited investors. Now, I have no idea whether or not this is ultimately going to be a big thing, this patented lash glue with blue light stuff. I could tell by the reaction in the room that this was something kind of cool, based in Las Vegas but could go worldwide. There were a bunch of people who wanted to be investors in her company and they could not be. If this particular standard was in place, all of them could have invested; not just be customers, but actually be an investor in the company.

Assemblyman Orentlicher:

I have always wanted to take advantage of these kinds of investments. I read about it and think, boy, that would be great if I could do this. I also have the sense that you want to do more than one that you know. This seems to allow just one. I would love to invest in your fund because if I invest in your fund, I know you are going to spread it over a lot of investments, and then I get the benefit of a diverse portfolio. Is that a way to do this to make sure people really get the diversification that is advisable?

Jeff Saling:

Yes, that is certainly possible under this provision or this law. There would be no reason that a fund that was a Nevada-based fund for Nevada-based investors that are investing in Nevada-based companies could not form and happen. Frankly, if this was possible, I would have a lot of interest in it. We are already doing something like that with the funds that I work with, but we have to follow all the SEC rules, so the number of investors are limited. Following the SEC rules, we are also not limited to having only investors in Nevada to invest in this thing. We do attract investors from outside the state.

If we did form a fund like this, we would have to be much more careful about making sure all the people in it were from Nevada so that we were not breaking any national laws, and all the businesses that were in it were Nevada businesses; all of which is possible. You would get that diversification that you are talking about. As an individual investor, you can also do that yourself, right? You might pick the lash business that I talked about, the dry-cleaning business, and the whiz kids from UNR and UNLV; maybe you put a little bit of money in all of those things, as long as you are staying within your 10 percent; all of those things would be legal. You could self-diversify, but I do believe that if this bill got passed with whatever sensible oversight and everything else that we decided it needs, we would have a fund that does exactly those kinds of things that you were talking about—Nevadans investing in Nevada companies. And you buy into the fund for a few hundred or thousand dollars, and you are getting a tiny little piece of maybe 20 or 30 companies; which by venture capital standards is sort of the rule of thumb—you want to be invested in at least 20, closer to 40, that are safe for your portfolio. Because out of those 20 or 40, companies, there are going to be at least a couple of big winners. There are going to be a bunch of losers, and there are going to be a whole bunch that are in the middle. When you invest in more companies, you get safety that way.

Chair Miller:

We will move into testimony in support for A.B. 75. [There was none.] I will open it up for testimony in opposition. [There was none.] Is there anyone that would like to testify in neutral for A.B. 75?

Gabriel Di Chiara, Chief Deputy Secretary of State, Office of the Secretary of State:

I would like to thank everyone for their attention to detail on securities regulations. Our office is testifying in neutral on this bill. The Secretary of State's Office is the front line for small businesses through our commercial recording division and SilverFlume. It is a priority for Secretary Aguilar to give homegrown, Nevada-based businesses the tools they need to

improve our community and grow our state's economy. To this end, the Secretary of State absolutely agrees with Speaker Yeager and Mr. Saling. The Secretary of State's Office has many other functions as well, including the regulation and enforcement of securities statute as per *Nevada Revised Statutes* Chapter 90. Our deputy secretary for securities is required to be an attorney admitted to the State Bar of Nevada, and the enforcement arm of this division is staffed by Peace Officers' Standards and Training-certified law enforcement officers. For example, last fiscal year we brought in over \$400,000 as part of enforcement actions related to securities fraud. This is something we take very seriously.

There are two main concerns we have relating to this bill, although we believe there are straightforward solutions. The first issue is related to the amount of capital that any certified investor could invest into this class of securities. As drafted, there does not seem to be a cap on how much any individual or household could invest. If the cap was clarified to be 10 percent of the income in this class of investment, we would find that much more comfortable. This would present someone from investing 10 percent in company A, 10 percent in company B, et cetera, and they may end up losing everything. The other concern is around registration of the issuer. The text, as written, would exempt issuers from registering with our office if they sold securities to this new lower threshold of investor. Registration with our office provides investors the opportunity to review the financial health of a company before choosing to invest. It also increases transparency about the overall structure and quality of the investment opportunity. There is a disproportionate amount of fraud in private placement offerings, the kind of securities we are discussing here. A significant number of the cases our office investigates—[Chair ended testimony because of time limit].

Chair Miller:

Your two minutes are up. I also welcome you to submit any additional comments to the Committee. I am certain that the bill sponsors are welcome to any further conversations, which we are very thankful for.

James Humm, Director of Public Policy and Government Affairs, Office of Economic Development, Office of the Governor:

Thank you for this opportunity to testify in neutral on A.B. 75. As the bill is written, we are happy to work with the deputy of securities and the definition of a Nevada business. We are here in neutral today, though, because we would like the opportunity to work with the Speaker and the bill sponsors to discuss the language in section 3, the intent of our office's involvement in the expectations required from our agency to properly carry out the administration of the bill. Seems like everybody is very excited to work together on this, and we would like to offer our assistance as well if there is any clarification, or if the Secretary of State or Speaker Yeager needs any assistance.

Chair Miller:

Thank you. Is there anyone else that would like to testify in neutral? [There was no one.] I will go ahead and close testimony on Assembly Bill 75. Mr. Speaker, would you like to provide any final comments?

Assemblyman Yeager:

I am grateful that the Secretary of State did clarify that they have enforcement authority here as well. I apologize for that misstatement on the record. I think we still have some work to do here. That makes sense. We are in the second week of session, but I think the intent is clear and that intent is to allow more Nevadans to invest and to reap some of the benefits of being able to invest in Nevada companies, and of course those companies would have the capital they need to start their businesses.

I want to thank this Committee because you made some good suggestions. Although we never know how bills are going to play out, my hope would be that we are able to launch this, and every session thereafter we are back at the table. If it is not I, it is somebody else saying, "Maybe we can do something else here." Maybe we can do some of the suggestions that were referenced in this Committee to allow the pooling of finances together. Before we get there, we have to take step one. We are not quite at step one yet, but you have my commitment that I will continue to work hard with those who are interested in the bill and with Committee members to make sure that we have it in a place where this Committee feels good about processing it.

Thank you, Madam Chair, for your time, and thank you to Mr. Saling, as well; he has really been passionate about this, and if you have not been to one of their pitch competitions, I greatly recommended it. I think you will be inspired by the talent that we have here in the state.

[[Exhibit D](#) was submitted but not discussed and will become part of the record.]

Chair Miller:

Thank you so much for that. With that, I will go ahead and close the hearing on Assembly Bill 75. Our final order of business on the agenda is public comment.

[Public comment was heard.]

I will go ahead and close public comment, and with that just to let the members know that the rest of the week we will have a mix of bills and presentations, and then this will wrap up our presentations for the session. Proceeding the next week, it will just be all bills, a lot of bills. With that, thank you again for your attention and your fantastic questions today in our hearings. I will go ahead and close this meeting, and I will see you all back at 8 a.m. tomorrow morning. This meeting is adjourned [at 10:26 a.m.].

RESPECTFULLY SUBMITTED:

Traci Dory
Recording Secretary

RESPECTFULLY SUBMITTED:

Connor Schmitz
Transcribing Secretary

APPROVED BY:

Assemblywoman Brittney Miller, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a copy of a PowerPoint presentation titled "Assembly Bill 75 – 2023, Nevada Certified Investor," presented by Jeff Saling, Executive Director, StartUpNV.

[Exhibit D](#) is a letter dated February 10, 2023, submitted by Aviva Gordon, Chair, Legislative Committee, Henderson Chamber of Commerce; and Emily Osterberg, Director of Government Affairs, Henderson Chamber of Commerce, in support of [Assembly Bill 75](#).