

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

**Eighty-Second Session
April 3, 2023**

The Committee on Judiciary was called to order by Vice Chair Elaine Marzola at 9 a.m. on Monday, April 3, 2023, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, 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:

None



STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Gabriel Di Chiara, Chief Deputy, Office of the Secretary of State
Shauna Bakkedahl, Deputy of Commercial Recordings, Office of the Secretary of State
Paul P. Diflo, Business Portal Administrator, Office of the Secretary of State
Matthew A. Taylor, Vice President, Nevada Registered Agent Association, Inc.
Paul J. Moradkhan, Senior Vice President, Government Affairs, Vegas Chamber
Ashley Cruz, representing Las Vegas Global Economic Alliance
Jeff Saling, Executive Director, StartUpNV
Nick Vander Poel, representing Northern Nevada Development Authority
Zoë Houghton, representing Reno + Sparks Chamber of Commerce
Jim DeGraffenreid, National Committeeman, Nevada Republican Party
Emily Osterberg, Director, Government Affairs, Henderson Chamber of Commerce
Marcie E. Ryba, Executive Director, Department of Indigent Defense Services
Thomas Qualls, Deputy Director, Department of Indigent Defense Services
Peter P. Handy, Deputy Director, Department of Indigent Defense Services
Vinson Guthreau, Executive Director, Nevada Association of Counties
Erica Roth, Government Affairs Liaison, Deputy Public Defender, Washoe County
Public Defender's Office; and representing Clark County Public Defender's
Office
Lisa Rasmussen, representing Nevada Attorneys for Criminal Justice

Vice Chair Marzola:

[Roll was called. Rules and protocol of the Committee were reviewed.] Today we are hearing two bills, Assembly Bill 443 and Assembly Bill 454. I will take them in order and open the hearing on Assembly Bill 433.

Assembly Bill 433: Revises certain fees collected by the Secretary of State. (BDR 7-895)

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

Secretary of State Aguilar wishes he could be here presenting with us today, but he is presently in Henderson getting an inside look at the conduct of the Ward 1 special election, which is also very exciting. Joining me today is Ms. Bakkedahl, our brand-new deputy for commercial recordings, and Mr. Diflo, business portal administrator, who oversees the operation of SilverFlume. I have some quick notes on the Office of the Secretary of State. The Secretary of State's office has eight divisions, but the two that are by far the most visible

are Elections and Commercial Recordings. Our office is the third-largest agency driver of money to the state. In fiscal year 2022 alone, we brought in almost \$250 million in revenue to the State General Fund. The vast majority of those funds came from the Commercial Recordings Division. The vast majority of the funds from the Commercial Recordings Division come from state business licenses. [A PowerPoint presentation was shown but was not provided as an exhibit.]

In the 2009 Legislative Session, the responsibility for the state business license was moved to the Secretary of State from the Department of Taxation. For years Nevada's business friendly corporate law had given us the reputation of the "Delaware of the West," a place where you could safely and economically incorporate your business. Over the years, the Legislature has adjusted many of the fees associated with starting and operating a business in Nevada.

Most recently, in 2015, the business license and renewal fee for domestic and foreign corporations went up from \$200 to \$500. This unquestionably has had an impact on filings in Nevada. We are now the most expensive state in the nation to create a corporation and remain the second-most expensive state to incorporate a limited liability company (LLC). Our largest competitors, Delaware and Wyoming, share Nevada's business-friendly law but have much lower fees. This has seen our market share reduced dramatically over time. As shown on this chart of corporation transaction trends, the reduction in filing for corporations coincides directly with many of those cost increases. We can also see a corresponding increase in LLC filings over time as businesses simply go with the cheaper option. This chart shows the creation of new entities over time, comparing the creation of corporations, LLCs, and non-Title 7 (NT7) sole proprietor entities. Overlaid on this is direct revenue related to the Commercial Recordings Division, but also for the state business license. Even though our overall filings have continued to rise, powered mostly by the increase in LLC filings, the revenue from the state business license has actually stayed pretty flat over time, especially since that increase from the 2015 Legislative Session.

Shauna Bakkedahl, Deputy of Commercial Recordings, Office of the Secretary of State:

In order to regain that lost revenue, Secretary Aguilar is proposing an adjustment to our fee structure that will immediately make Nevada more attractive to businesses. First, we would like to waive the initial fee for business licenses for all for-profit entities, removing much of the barrier to entry. We would also reduce the business license fee for corporate from \$500 to \$200. In order to help compensate for some of these changes, there are a number of filings whose fees would increase by small amounts, including articles of incorporation and organization. We would also remove fees for cancellation, registered agent withdrawals, and dissolution. With fees to dissolve your company, many business owners simply allow the company to enter permanently revoked status instead of dissolving. This has an effect of overcomplicating and skewing any insight into our numbers.

Paul P. Diflo, Business Portal Administrator, Office of the Secretary of State:

In real terms, here is the effect these changes would have on businesses: Currently, it costs at least \$725 for all of the filings required to start a new corporation. Under the new fee

structure, that would be reduced to \$250. It would also make renewing your license cheaper, dropping the cost from \$650 to \$350. The cost for incorporating a new LLC would be reduced from \$425 to \$250 as well. Renewal costs, however, for LLCs would remain the same. Approximately 79 percent of businesses domiciled are "non-employer" businesses. What that means is they have very little infrastructure footprint and very little drain on our state. Attracting entities of this type to Nevada represents the potential for pure revenue without the additional outlay.

Shauna Bakkedahl:

Additionally, that state business license fee can discourage small businesses from incorporating in Nevada at all. Our office regularly gets asked why fees are so steep as small businesses struggle to pay hundreds of dollars in initial and annual fees. The important thing to remember is that if we attract new entities to Nevada on a year-over-year basis, that revenue will compound. New businesses will continue to incorporate in Nevada, thanks to our new friendlier climate, and their annual fees will come into the General Fund.

Gabriel Di Chiara:

Now, for the question I am sure you are waiting to be answered: What would this cost? We pulled the numbers from fiscal year 2022 and modeled these changes for all of those filings. The top line is there would be an immediate net impact for that year, if these changes were made, of \$26.8 million to the General Fund. That comes from a \$30.3 million loss due to the decreasing or removal of fees and \$3.4 million in fee increases and new revenue. It is important to note that these numbers are only for the corporate filing fees. There are other increases in apostilles, expedites, and late fees, which we would expect to have some positive impact, but those are very difficult to model because they do not happen consistently.

Paul Diflo:

In Nevada, corporations have an average lifespan of eight years and LLCs have an average lifespan of six years. Under this new fee structure, those businesses would have an average value to the state of \$2,700 and \$2,000, respectively. If the volume of new entity creation was to increase by approximately 10,000 entities per year, we would see at least \$20 million in revenue over the lifetime of those entities. Again, this will compound as more and more entities move to Nevada on an annual basis. Over time, we expect this to more than make up for any losses by the reduction in the initial filing fees.

Shauna Bakkedahl:

There are a few additional amendments we will be bringing to this bill in the near future. The first, as previously mentioned, would remove fees for dissolving your entity. Just like we wanted clean voter rolls, we want a clean business entity database. The second change does not have specific language yet, but we are confident that this will also help with closing some of the budget gap. Presently there are statutory barriers preventing agencies like the Department of Taxation from sharing information with the Secretary of State if they come into contact with an entity that is continuing to operate without an active state business license. Since we cannot get around the current privacy statute, it is hard to pinpoint exactly how many entities of this type there are, but we expect the number is in the thousands, if not

tens of thousands. By allowing agencies like the Department of Employment, Training and Rehabilitation and the Department of Taxation to share information with our office, we can likely increase revenue by millions of dollars per year.

Gabriel Di Chiara:

One last note on the final elephant in the room: One other reason why businesses may have chosen not to incorporate in Nevada is the state of our corporate filing system. As Secretary Aguilar would say, It is broken. He is taking this problem seriously. In his budget presentation to the Legislature, he asked for the funds necessary to get us on the right track. This includes a \$15 million one-shot investment for Project Orion, named after Orion Clemens, first Secretary of the Nevada Territory and Mark Twain's brother, which would dramatically overhaul SilverFlume and the filing software on the back end.

Companies do not want to work with Nevada if they cannot navigate our website or software, and that is another important hurdle to overcome. Currently, the system is so dysfunctional that it is difficult to pull the kinds of reports that would be helpful in modeling the effects of this bill, or even to easily answer some of the questions that you may have.

There is also a request for \$6 million on an ongoing biennial basis to improve the information technology (IT) infrastructure of our office. This would be paid for by moving fees for credit card transactions currently paid for by the state to customers. I would like to point out that the highest volume customers for the Commercial Recordings Division are commercial registered agents who do corporate filings in bulk and in scale. They were kind enough to work with us to come up with the proposed fee structure in this bill. When we shared that they may start to see credit card fees in exchange for improvements to the system, they were immediately on board.

I would like to thank the Nevada Registered Agent Association; the Las Vegas, Henderson, and Reno Chambers of Commerce; the Las Vegas Global Economic Alliance; the Small Business Development Center; and all of the business owners, large and small, who advocated to Secretary Aguilar that we need to change. That concludes our presentation. We are ready to answer any questions you may have.

Assemblywoman Mosca:

I know you summarized all the fees and changes. What was some of the thinking behind where you got the numbers?

Gabriel Di Chiara:

There are filings that every entity needs to do every year. Those are annual lists, et cetera, and then there are other filings that only have to be done some of the time that many small businesses do not really encounter because they are not changing their officer lists regularly; they are not restructuring their business or reissuing stocks. While this would be an additional way to raise some revenue from some businesses, it sort of counteracts the reduction in fees that would help all businesses across the board.

Assemblywoman Gallant:

I like the idea about reducing fees for businesses. For somebody who has to file three times a year for three different businesses, it is very expensive. I am curious, can you give us a little history on the fee structure over the last few years? I know when I moved here nine years ago, it was a lot cheaper. Can you give us some background on the fee structures and maybe some reasoning behind why it did increase so that I can understand, on your end, how this is going to sustain moving forward?

Gabriel Di Chiara:

None of us were serving in the Secretary of State's Office at that time. My understanding though is that the increase in the state business license fees in 2015 was part of a broader package of economic improvements that Governor Sandoval and the Legislature determined to make at that time to increase revenue to the General Fund. I do know, in reviewing some of that history in preparation for this presentation, there were a number of folks across the business community who were less than thrilled about the increase in those fees. Again, I think as you look at the numbers and you see the move from corporate entities being created to LLCs and NT7 sole providers, you can see that businesses spoke with their wallets. They just stopped forming corporations in Nevada. We expect, by reducing those fees, we can bring a number of those businesses back. We can provide protections for sole proprietors who maybe should have an LLC or corporation but are simply choosing to go with the cheaper option.

Assemblywoman La Rue Hatch:

I do have to say I am very concerned when we talk about reducing our budget by \$26.8 million every year. We have a surplus this year, but oftentimes we are told we cannot do universal pre-K because we do not have enough money. We cannot do Medicaid reimbursement increases because we do not have enough money. We cannot address class size because we do not have enough money. The idea that we are going to cut even more money is very concerning. I just want to talk a little bit about those numbers that you presented. It looks like we are going down by \$26.8 million. I want to confirm that is annually. Is that correct?

Gabriel Di Chiara:

Those numbers are based on what fiscal year 2022 looked like. As you saw, it can be very difficult to predict. We can see the rise and fall in businesses, obviously, during COVID-19; there was a sharp decline and then an increase. Numbers can be difficult to model. I expect that yes, in the short term, there would be a decrease that would probably be between \$20 million and \$30 million annually. However, we do expect that to be counterbalanced in the long term by many more businesses choosing to incorporate in the state of Nevada. While there would be an initial fiscal hit, like you said, right now, the General Fund is doing pretty well. This would actually build in long-term sustainability as more and more businesses move back to Nevada and are paying into the General Fund on an annual basis instead of choosing to incorporate in states like Wyoming or Delaware.

Assemblywoman La Rue Hatch:

Looking at your estimates—which I would say are rosy estimates—we are going to attract 10,000 businesses in the next year. You said that we would increase by \$20 million over the lifetime of those businesses. What you said is six to eight years. I just do not see how those add up. I am very concerned that this idea of attracting businesses automatically gets us budget money and money to support our communities. I do not know that those necessarily line up, but can you just explain the \$20 million over six to eight years versus the \$26.8 million annually?

Gabriel Di Chiara:

That \$20 million is over the lifetime of those businesses, but it is for one year. Each additional year, as we continue to bring in additional businesses, as they incorporate and live out their lifespan, that \$20 million will compound. The next year there will be more businesses that will bring in \$20 million over their annual life, et cetera; there is some additional balance there. I know it was sort of tacked on at the end, but in looking at this bill, we really did start to look at compliance as well, and how many businesses may be operating without paying their renewal fees for their state business license. We believe that by bringing some of those businesses into compliance that currently are not, that would also add up significantly annually, in the millions of dollars.

Assemblywoman La Rue Hatch:

To confirm, those numbers are based on 10,000 new businesses every single year, is that correct?

Gabriel Di Chiara:

That is correct. I believe you will be hearing from the commercial registered agents. There is volume out there. There are entities that, again, do not have a brick-and-mortar footprint, but they need a state to incorporate. They used to incorporate in Nevada. We hiked our fees way up, and they no longer incorporate here. I absolutely hear where you are coming from, but I do think we had a higher volume of business previously; we moved it away from the state, and if we bring it back in, we believe that business is out there.

Assemblywoman Considine:

In your presentation, I was sort of stuck on the statement that approximately 79 percent of businesses domiciled in Nevada are non-employer businesses, and this is a large stream of revenue. I am wondering why? Is it only the cost? What other benefits does a corporation or an entity have to be domiciled in Nevada when there are no employees, there is no actual business, there is nothing? I can see from what you said, from your point of view, it is: Hey, these people or these entities are outside the state but they are just paying us to be incorporated. What type of businesses or entities are they? Do we know what they are? What type of responsibilities do we have towards them or towards knowledge of them?

Gabriel Di Chiara:

I am wondering if one of the folks from Nevada Registered Agent Association, Inc. can come up and answer that question more effectively than me.

Matthew A. Taylor, Vice President, Nevada Registered Agent Association, Inc.:

To answer Assemblywoman Considine's question, 79 percent of the businesses that are starting, not just in Nevada, but nationwide, are not employer businesses, which means that they are usually just working for themselves. We would traditionally market those as self-employed individuals. That can be anything from Uber drivers to people who are programming or doing editing on fiber. The evolution of the marketplace is that it is no longer people going through to develop a business plan, create a business from scratch, open up a location, hire employees, and go through all of this. It is really as people are working from home; Nevada has seen a big increase in trying to attract businesses or employees who are working for other states, other employers in other states, to try and come here, which is why we have seen such an uptick in real estate, such an uptick in the moneys that are being spent on services, which is really where Nevada benefits. It is not so much hammering on the filing fees but the money being spent here in Nevada—with Nevada vendors, with Nevada employers—and helping to support those local businesses, which has a snowball effect in helping to increase the revenue spent here in Nevada and diversify our economy.

Assemblywoman Considine:

Are you saying there is a correlation between the 79 percent of businesses that are mostly self-employed, live in another state, do not have any employees, and are filing here, but then later open up a business here? My second question is: you mentioned an Uber driver—let us say there is an Uber driver in Missouri who is opening an entity and wants to file the business license here, simply because it is cheaper. Or are there any other reasons outside of cost? What is the responsibility from our state and our folks for anyone who just licenses here?

Matthew Taylor:

It is not so much that an Uber driver from Missouri is looking to incorporate here. Understanding how people start a business, the entrepreneurial mindset, oftentimes people form a corporation or an LLC because they want to start reserving the name; they want to start getting their domains; and they want to start getting their licenses. They start incurring expenses oftentimes before they open doors or even earn any money. When they are looking for locations to be able to do that one- or two-year period, when they are comparing where it is going to be cost effective to start the business, that is going to be something where price becomes a very strong issue.

The responsibility that we have as a state is to help them get recorded, to help them get in there. If we do not catch them at the beginning when they are in that dreaming stage, when they are in that startup stage, we do not have the benefit of having them later on in life when the business has grown, when they start to hire their first employee. I want to also be clear, when we refer to non-employer businesses, that is referring to the fact that they do not have an employee other than themselves. The average income for a sole proprietor who is a non-employer business, just themselves, is about \$26,000 a year. The income average for someone who is a non-employer business, who is a corporation or an LLC, still only has an income of about \$51,000 to \$52,000 a year. These are not high-net-worth individuals. These are people who are looking at pursuing the dream. Sometimes they are starting a side business or wanting to quit their jobs. Sometimes they have been displaced, especially as our

economy looks at places where employment is a bit scary, as people are no longer going to office workplaces and maybe they have the option to work for more than one employer or more than one customer. This is the business. This is where everything is evolving. Dining rooms are closing down from restaurants; everything is focused on deliveries. Everything is going toward independent contractors.

If we do not change how we market this, then it puts us at a disadvantage to other states. I know that California and Colorado are both offering free incorporation or \$1 incorporation services. We have offices in Cheyenne, Wyoming. We have seen double digit gains in new filings every year over year since 2015, when we were involved heavily in that discussion as well.

To answer the other question also, that was part of the gross receipts tax or the commerce tax program, that they looked at fee structures, in addition to creating the commerce tax in 2015. I was heavily involved in this building; I think I slept in the building most of that session.

Assemblywoman Considine:

I appreciate that; I am learning a lot about this. In this context, we want to go lower because other states are higher. We want to capture these entities when they are at the beginning. Is there an unintended consequence when we bring them in for them to get started, but then another state goes lower? When they are just about to get started, they are going to go to the other state that is lower. Then we have this race to the bottom on fees that might not have the outcome of having employees and things like that.

Matthew Taylor:

There is a stickability factor that happens with corporations, LLCs, and any business owner. It is easy to do the planning before you are starting everything. The tendency with businesses is, as they start to grow, as they start to find some model of success, it is very difficult to go back and focus on things that are not making you money. It is not the nature of businesses to go back when things are starting to go well; they are not going to go back and try to change their structure, their location, or change how they operate the business, when they are trying to focus on running the business.

You have to remember that the majority of people who start businesses are not experts in running a business. They are experts in plumbing. They are experts in landscaping. They are experts in buying and selling products or whatever the myriad of types of businesses that are out there. If we do not capture them in front, that is also a risk. What we are trying to do is capture more businesses that are currently sole proprietors and have no legal protection for the owners of the business. They have no separation of liability. One of the downsides of seeing this huge trend in LLCs over subchapter S corporations, which are designed for those self-employed small businesses, is they do not get a lot of the tax breaks. They are still taxed as sole proprietors, as self-employed individuals. They are taking the LLC because it is a cheaper option, or they are staying sole proprietors because it is the cheaper option. It is difficult, if not impossible, to go back and completely restructure your business just as you

are starting to make money. That is what we are looking for, to try and get in at the ground floor and help those businesses to be structured properly so they are able to grow into the structure.

Gabriel Di Chiara:

The other thing that we have here in Nevada is, we have very friendly business law. We already have statutes on the books that make businesses want to stay here. Currently the barriers to entry are those costs and those fees. That is why a state like Wyoming, for example, that has been able to shift their statute to be more business-friendly over time, and also come in at those lower fees, has started to draw business away from us. The statute we have on the books is already very friendly to folks who are looking to start those businesses.

Assemblywoman Summers-Armstrong:

I am just going to stay in the lane that I know, and I am going to talk to you about your \$6 million ask for an improvement to your office's information technology (IT). I just read an article over the weekend that the State, that the Governor, has decided to abandon Systems Applications and Products in Date Processing (SAP). How is that going to affect what you are doing? Is your IT upgrade tied into the SAP launch that did not launch?

Gabriel Di Chiara:

No, it is not. Our office also read the same articles over the weekend, and we are presently figuring out how that works for an agency like ours. Secretary Aguilar wishes he were here, but he came into office and brought me on board as well. Since January, we have been looking very closely at the infrastructure, especially the IT infrastructure of the Secretary of State's Office, and we believe there are some deficiencies. While we think there are definite opportunities for growth, there are places where the state may have contracts with vendors who are doing similar things to what the Secretary of State's Office does and we can jump onto those contracts, but it will still take staff time and money to make those investments.

We know that, given several headlines over the last few years, any state agency that says, We sure would love to overhaul our IT systems, should be studied carefully, and I think rightly so. I can say that we are doing our due diligence to make sure that whatever asks we make of this body, whatever asks we make of the Board of Examiners and, frankly, of the taxpayers of the state, we are doing that in good faith. We firmly believe that by investing in this office, we can provide a better product for not just our high-volume business owners, but for small business owners as well.

Navigating SilverFlume is complicated, but it is not just navigating SilverFlume, it is calling our office and sitting on hold for 45 minutes before you talk to somebody. It is the lack of a dedicated modernized phone system that our customer service team does not have. It is the lack of advanced project management and communication software to be able to provide small business owners the information they need, the number of times that a phone call or an email ends up in my inbox because somebody has called three or four times over the last two weeks and they do not have an answer. It is frustrating, but I know our staff is frustrated too.

We know there are solutions out there. Those solutions require more modern, more advanced technology. It takes funds to get to that place. That is where those asks are coming from.

Assemblywoman Summers-Armstrong:

I am going to speak from a place of personal knowledge. It took us two years in my previous job to go through a whole IT process of reconfiguring a capital improvement program, tracking and then integrating that tracking into an agenda process. It is always more than you expect. It always takes more time, and it always takes more money. We have heard consistently throughout this session that the state is low on staff. When you are doing a project that you want to do, you have to have experienced IT people on your team to look after your project. That means you are going to have to hire somebody and pay them benefits. Taking \$28 million out of your pocket to possibly, maybe, hopefully get 10,000 maybe, possibly, hopefully new people—I am not sure that is wise. I can understand there might be some room to make some adjustments, but to take this much money, I think, could be considered a little bit shortsighted. This is going to be a grave undertaking, and it has failed in other departments within the State. I think that it might not be wise to do that.

By the way, we live in Nevada. There is a reason people incorporate in Wyoming; they do not live there though. We want opportunities for the people in Nevada to start businesses, to grow businesses, to live here, to bring their children here, to grow their families here, to buy a home here, and to hire people here. I am concerned about running the risk of giving up income for people who are not going to be invested in the beautiful state of Nevada.

Gabriel Di Chiara:

I will say again, on a very regular basis, we get phone calls and emails from people who want to start small businesses, who want to become independent contractors, but they also want some protections for themselves. They find out they have to pay hundreds of dollars up front and that presents a barrier to them that this bill would help alleviate. Also, these funds go directly to the State General Fund; they do not come to our office. My understanding is that the Secretary of State's Office has had pretty static funding over time, but as our technology needs have increased, as the world has changed and modernized, the Secretary of State's Office has not seen that continued investment.

I agree with you completely. We need staff who are working on this and are looking out for the future of this office and the future of Nevadans. There have been a number of planning sessions and there are a number of immediate changes that we believe we could institute; it is just a question of having the resources. That is why our office is seeking that dedicated funding so we can better serve the businesses here that want to do business and live in Nevada.

Assemblyman Gray:

If you go through with this and the fees are cut, how are you going to capitalize on getting that message out to the business communities that may be looking for places to incorporate? Are you going to do a multistate advertising campaign or anything along those lines? If so, have you decided on or thought about any kind of a budget for that?

Gabriel Di Chiara:

We have. We have asked for additional funding for advertising in our agency's budget as it relates to this. We believe there are a number of entities that want more businesses to move into Nevada, from chambers of commerce to commercial registered agents that would do a significant amount of that outreach for us. We believe that if we were to make these changes and make it easier to form here, the word of mouth would be pretty significant.

Assemblyman Orentlicher:

I am having some trouble putting everything together. Help me make sure I am understanding it. Your concern is that these incorporation fees are quite high; LLC fees are lower, and it looks like the decrease in corporations is similar to the increase in LLCs, which makes me think we are not getting fewer new businesses, they are just choosing LLC. The answer to that could be to raise LLC fees. Maybe the corporate form is a better form in some ways and you would rather they be corporations. The person who has a great idea and wants to start their business, to move to Wyoming is going to cost a lot of money. I do not see how these fees discourage their businesses.

Gabriel Di Chiara:

On the second part of your question regarding why entities may be choosing Wyoming, I will defer to Mr. Taylor. I will say that part of this bill would be waiving that initial business license fee for LLCs and corporations. We would hope to see increases in corporations without a corresponding decrease in LLCs as we make it easier for people to form LLCs as well. In terms of why businesses may be choosing Wyoming, I defer to Mr. Taylor.

Matthew Taylor:

I want to be really clear that our goal is not necessarily to try to draw all of these businesses from outside of the state. We have a very large population of startup businesses that currently just cannot afford the protection of forming a corporation or an LLC. This is not an issue that we are trying to bring in masses of self-employed individuals from other states, but to try and protect the self-employed individuals who are here in this state; to help get them structure and to help protect the public so they have a formal business structure that they can find, that they have commercial registered agents, that they have representation, and they are working within the system instead of working on the side. This gets them to take their business more seriously, it gets them to commit to their business more seriously, and it also gets them that increased reputation or image for their businesses. This is about getting them into that structure, getting them into the fee structure, which yes, over the lifetime will be higher, but also gets them the ability to afford to be able to have those protections and start off properly with their business.

As far as where the money comes for promoting this, I personally spent over 25 years in this industry. We are not a huge company; we have three employees. I have spent my entire adult life helping people start businesses and helping educate them on how to protect themselves from their businesses. My businesses are not huge multistate, multinational companies; they are those small, mom-and-pop, startup business owners who lost their job, replaced their job, are looking for retirement income, or looking for a second income. It may be a single-income home trying to get to a double-income home without risking the income of their spouse or partner and without risking their home. This is how we support the people who are trying to diversify their income and are not looking to other people for their economic future but investing in themselves and investing in their communities. That is why I am still in this.

This is not trying to recruit businesses from other states, but that is a benefit. That is traditionally where we marketed, but that market has changed, and we have not been successful right now as a state in changing along with this market. When companies have no physical base of operations, they have more latitude in being able to decide where they want to call home and where they want to structure their business. Oftentimes they do relocate to where their business is. I have an office in Cheyenne, Wyoming. I have a second place, but my home has been Nevada, in Carson City, since 1995. This is where I live and this is where I am still passionate. Trust me, no one wants to physically move to Wyoming. It is cold; it is miserable. I just had to walk to work a couple of weeks ago because the truck would not start in 10 degrees below zero weather, but they are catering to that independent streak, that independent spirit, which really resonates with entrepreneurs.

Assemblyman Orentlicher:

I see the argument of getting them started, not making it too high a cost to get started, by reducing the fees. Although again, I am not sure we are losing businesses. It is just switching from corporations to LLCs. Maybe you could even out the fees, make them lower to start, but make sure the renewal fees are high enough—after the first or second year—so we are cost neutral; get them started but not continue the break over time with renewal fees, so we make sure we do not lose \$26 million. Can we do it that way?

Gabriel Di Chiara:

We are very open to having a conversation about making adjustments here and what this could look like. I will say that the other thing that is not modeled here is that, as Mr. Taylor was saying, this serves the economy: Uber drivers, DoorDash, Postmates, et cetera. There was also a pretty rapid growth in those industries over these specific years. It is very possible that there is some shifting from corporations to LLCs, but there also could have been a whole new wave of LLCs from essentially a new service-based industry developing. It can be hard to isolate just one cause.

Assemblywoman Cohen:

My question has to do with the lifespan. The first part is reserving the name and kind of ramping up. Is that part of the averages that you have provided us, the eight years and the six years? The second part of my question is, and you kind of touched on this a bit, but if we

can get a little more information about after the end of the lifespan. Do we know how many people are just opening up a new business, closing up shop and getting regular jobs, leaving the state, switching to something else, switching to a whole new business, calling their business a different name, reopening under a different name, that type of thing?

Matthew Taylor:

It is a little bit of all of that; there are a number of reasons. If I spoke from personal experience, I personally have three brands that are active that we market under. I have a travel blog, which is another company that my wife and I are trying to get up and running, but it is a couple of years now because life took over. I know that my public speaking business took a little bit of a hit during COVID-19 because no one was having public events. Do entrepreneurs start the next business if one of them fails? Absolutely. In a perfect world, they build it, they sell it, and they use that fund to start the next project. Sometimes the business fails. The corporation and LLC allow that entrepreneur to have a chance at surviving and not getting completely devastated and losing everything along with the business. The term "limited liability" as it applies to corporations or LLCs just means that your risk is limited to what is in the business, not your personal assets, not your spouse's income, not your home; those things can be isolated and protected from the business. It puts them in a position where they have a better shot at being able to start over again. Sometimes they go back to other jobs; sometimes they retire. Sometimes, unfortunately, they die and the businesses do not really survive that transition to the next generation. In 25 years, I have seen a lot of all of it. I hope that answers the question.

Assemblywoman Cohen:

Do we have any type of set records? I appreciate Mr. Taylor's information, but do we have any records beyond anecdotal information about this?

Paul Diflo:

We got the data on the six years and the eight years directly from the SilverFlume application. We could identify when the articles were formed and when they have dissolved. Not all companies dissolve, because we charge a fee to dissolve a company. While we have some of that data, it is not going to be that accurate. That is part of what we are asking for in Project Orion: to be able to implement true business analytics systems where we can pull this useful data.

Gabriel Di Chiara:

To Mr. Diflo's point, there is a lot more data out there that we are just not capturing as a state right now. In conversations with the Department of Business and Industry, the Department of Taxation, and the chambers, we want to gather more data so that we can be more effective in answering those questions. Unfortunately, we do not have those right now.

Assemblyman Yurek:

In hearing at least what sounds like part of your argument is some lost revenue due to businesses that are choosing to operate outside of the system the way they should because of the burden that these initial fees are costing, it reminds me a lot of the paradox that I first

encountered in law school where, by reducing the taxation rate, you can actually increase revenue because people are more willing to participate in a system that they believe is fair and can afford. Have you done some research or do you have an idea of how much revenue will be made up or offset or was the offset included in the numbers that you projected here through increased participation and by reducing or waiving some of these initial fees will help mitigate what I think is being communicated here today?

Gabriel Di Chiara:

We are working on that model. We do not have it right now. Because there are a lot of factors here, it can be difficult to judge exactly how many new businesses this will bring out, how many of those LLCs will shift to corporations, or how many NT7s will shift to LLCs or corporations, for example. We hope to have numbers soon, and we can get them back to this body. A lot of this is just putting Nevada back on the map again. In doing the research for this, I will not name names—and again, no disrespect to Mr. Taylor and his business—but I can tell you that there are a number of commercial registered agents in Wyoming who use Nevada's high fees as a marketing point. They make sure to tell people how expensive it is to start a business here. We are hoping this would also counteract some of those talking points.

Assemblyman Gray:

This seems like a great way to support small businesses and attract them to Nevada and get the burden of big government off their back. I really did not like the increase in fees in the other areas. Is there a way to just keep those static so we can compare apples to apples and oranges to oranges going forward? Maybe looking at those, if you need to increase those fees down the road.

Gabriel Di Chiara:

We would be happy to provide those numbers as well. In conversations with commercial registered agents and other businesses, this was a compromise they were willing to have. They understood that the hit to the State General Fund would be significant. They wanted to see how we could compensate in other ways. For example, saving someone \$300 a year, they might be more comfortable paying an additional \$25 or \$50 for their annual list. Again, we are very open to adjusting these numbers, but this is the proposal that we wanted to bring to the table.

Vice Chair Marzola:

As a small business owner, I am always happy to pay less when it comes time to renew my license. Not only that, I think anything we can do in a positive way to attract new businesses to our state is very, very important; also, for the businesses that are already here, setting them up for success so they are able to afford these fees. I appreciate it. At this time, we do not have any additional questions. I am going to open up for testimony in support of Assembly Bill 433. Is there anyone in Carson City wishing to testify in support?

Matthew Taylor:

Obviously, we are in support of Assembly Bill 433, presented by the Secretary of State. To answer a couple of questions—since we have already spoken quite a bit about it—we did do

a price elasticity study in 2015. The Nevada Registered Agent Association, Inc. hired a team of economists to predict what effect the fee increases would have in 2015, when this was proposed as part of the commerce tax. As far as the statistics we are using for what the trends are in business, the size of the business, and the non-employer trends, we used the Department of Commerce trends and filings of the U.S. Census data for that. We look at national trends, not so much that are specific here in Nevada, because there are resources that are a little bit more easily available to understand and universally accepted, so we know what market we are competing with on a national scale.

Paul J. Moradkhan, Senior Vice President, Government Affairs, Vegas Chamber:

The Chamber is in support of A.B. 433. We do appreciate the Secretary of State for bringing the bill forward. We are in support for two reasons. One, it allows Nevada to continue to be competitive at the national level. As you have heard from the Secretary of State's Office, this is a potential additional revenue in the long term, in a very competitive market at the national level. When you are talking about licensing throughout the country, Nevada has always been considered to be a standard of competitiveness on this. In the last several years, we have seen a decline in that for a variety of reasons, and fees do play a factor in that. Also, we do believe, and it has been discussed by the Committee members, this is a bill that will support small businesses in our community, those that have employees in our state and local communities, of course, too. As you know, small businesses are the backbone of our economy and most of them struggle the first three years of financing, as many of you know. We believe this price reduction would be helpful to them.

I also want to touch on the compounding effect of fees. In the Chamber, we view the state business licensing as more of a registration fee. You still have to pay your local licensing fees to operate. It is very common for a local business, for example, a landscaping company, to have to give the state his license fee, the Clark County fee, the fee for the City of Las Vegas, Henderson, or North Las Vegas. These are compounding effects. We are not as affordable as some folks may perceive at times; it is expensive to start a new business in our community. That is one of the reasons we are supporting this. We support the bill; we believe it will allow for competitiveness at the national level but also support our small business entrepreneurs, your constituents, your neighbors. We very much appreciate the Secretary of State for bringing this bill forward today.

Ashley Cruz, representing Las Vegas Global Economic Alliance:

Las Vegas Global Economic Alliance (LVGEA) is the nonprofit entity responsible for convening the greater Vegas area and working with partners to attract new and diverse business and industry to the greater Vegas region. It is also the state-identified regional development authority for southern Nevada. Reimagining how the Nevada business license process works can play a pivotal role in enhancing Nevada's economic competitiveness. Las Vegas Global Economic Alliance appreciates the Secretary of State for bringing this proposal forward. The LVGEA board believes this effort could go a long way in boosting our economic diversification and serve as a support mechanism to attract diverse industry and entrepreneurs. For these reasons, the LVGEA strongly encourages your support.

Jeff Saling, Executive Director, StartUpNV:

StartUpNV is a statewide nonprofit startup incubator and accelerator. Thank you for hearing me out today. One of the activities in which we engage with entrepreneurs is company formations as they come to us to incubate their businesses, hundreds every year. Many, I would even say most, of the startups that we deal with form their entities in other states, mostly in Delaware, and more and more in Wyoming because the fees are lower. On top of that, they make it easier with the technology they have deployed for businesses to form in those states. Many have things like an application programming interface into registered agents that others can use to form their businesses there.

Assembly Bill 433 will encourage our Nevada companies to form in Nevada by lowering the initial costs and ongoing fees. It will help with compliance in keeping our state information current over the years as they are encouraged to continue to keep their records up to date with the state. Since 2021, separately from our nonprofit, our organization has organized 12 for-profit, private investor syndicates and funds to invest in Nevada startups. To make these investments, we form a fund or special purpose vehicle which is really just a company that is formed to make a group of investments or a specific investment. Like the startup companies our nonprofit helps, we look for the least costly and lowest-effort method for forming these companies.

Assembly Bill 433 will help our investor groups, as well, to choose Nevada over Delaware or another state. On top of all that, the bill will likely make Nevada see more formations and fees from out-of-state formations as companies and investors in other states see the economic advantages added to our otherwise friendly business environment. These businesses, these business formations, and the services related to them should be a boon to our state's economy and our general reputation for being business friendly. Nevada's current formation and annual fees are higher than almost all other states, and we need to fix that. Assembly Bill 433 does that. I also want to add that fixing SilverFlume will make everybody's life easier, including folks forming from out of state and within the state. Thanks for listening to me. You have my support on A.B. 433, and I would appreciate your support as well.

Nick Vander Poel, representing Northern Nevada Development Authority:

First, I appreciate the Secretary of State bringing forth A.B. 433. Second, I will echo the remarks made by the Vegas Chamber and my colleague who is representing the Las Vegas Global Economic Alliance. One point I want to make on the marketing side of things: I know the Northern Nevada Development Authority and the others in the state make it a point to market the attractiveness of Nevada. The marketing kind of sells itself. When businesses are looking at coming to Nevada, obviously, it is a selling point to the attractiveness. On the point of Wyoming, I can attest to my colleagues who work in Wyoming; Wyoming is on fire right now. Obviously, this is a competitive edge for Nevada to stay in that market. I appreciate the time, I appreciate the Secretary of State, and I appreciate your support.

Zoë Houghton, representing Reno + Sparks Chamber of Commerce:

We are here in support of A.B. 433. I would like to ditto previous comments, especially the supporting of small businesses and entrepreneurs that this bill will do.

Vice Chair Marzola:

Is there anyone else here in Carson City wishing to testify in support? I do not see anyone; is there anyone on the phone?

Jim DeGraffenreid, National Committeeman, Nevada Republican Party:

I am testifying in support of A.B. 433 on behalf of the Nevada Republican Party. In 2015, the Legislature more than doubled the business license filing fee from \$200 to \$500 as part of a wide-ranging bill that ended up discouraging business activity in our state. As was detailed in the presentation, this had the expected effect of greatly reducing business activity in the state as businesses chose to incorporate in other states, after we became one of the more expensive states in which to incorporate.

I have owned and operated a small business in Nevada for over 20 years. As my business grew, I incorporated it. Because of the nature of my business, I could not choose to incorporate in Delaware or Wyoming. When the state nearly tripled the licensing costs, my only choice was to dissolve the corporation and reestablish as a noncorporate entity. This reduced my protections as a business owner, but I joined thousands of other small businesses that chose to not allow the State of Nevada to exploit this unreasonable expense from me every year. In my case, the state received reduced revenue; in the case of businesses that have the option to relocate out of state, the state lost a hundred percent of their license revenue.

The bill sponsor is correct that this bill will, in the long run, increase revenue in the state as Nevada again becomes a competitive state in which to incorporate. There is a short-term, immediate reduction; but as Nevada currently has a budget surplus, this is an ideal time to make a short-term investment in long-term sustainability.

Our last governor dealt a fatal blow to thousands of small businesses in our state by forcing them to close their doors. Large corporations are not affected by the business license fee because it does not matter to them. It is the small businesses that are the backbone of the Nevada economy that will benefit from this bill. All Nevadans benefit from a strong Nevada economy. As more Nevadans are able to start businesses in this state, jobs are created and the lives of Nevada families will be better. We thank the Secretary of State's Office for bringing forward this proposal to right a terrible wrong that was done to small business owners in 2015, and we urge your support for A.B. 433.

Emily Osterberg, Director, Government Affairs, Henderson Chamber of Commerce:

The Henderson Chamber of Commerce has over 1,800 members, most of which are small businesses. We believe A.B. 433 would be very beneficial to the business community. By waiving the business license fee for a new business in their first year, A.B. 433 makes it easier for new businesses in Nevada to open. In addition, the business license process can be

confusing, especially for small businesses that do not always have the manpower to navigate what is needed to be in compliance. Streamlining the cost and process of renewing the license eases their burden. Assembly Bill 433 would help new businesses throughout the state to open and, more importantly, to stay open. We want to thank the Secretary of State for bringing this bill forward, and we urge you to support A.B. 433.

Vice Chair Marzola:

Is there anyone in Carson City wishing to provide testimony in opposition to A.B. 433? Seeing no one, is there anyone on the phone? Hearing no one, I will move on to neutral testimony. Is there anyone in Carson City wishing to testify in the neutral position to Assembly Bill 433? I do not see anyone; is there anyone on the phone? Hearing no one, would the sponsor like to give some final remarks?

Gabriel Di Chiara:

Thank you very much, Madam Vice Chair. Thank you, members of the Committee. I know there are a number of questions around what this could potentially look like and who would benefit. Our office will do our best to get those numbers to you as soon as we can. Again, we are very open for conversation on this bill.

Vice Chair Marzola:

I will now close the hearing on A.B. 433 and open the hearing on Assembly Bill 454.

**Assembly Bill 454: Revises provisions relating to legal services for indigent defendants.
(BDR 14-1067)**

Marcie E. Ryba, Executive Director, Department of Indigent Defense Services:

With me today are Mr. Handy and Mr. Qualls, my deputy directors. I am going a little bit back in history to help you understand why we are bringing this bill. We have to go to about 60 years ago, when the U.S. Supreme Court held in *Gideon v. Wainwright* that when an individual is charged with a crime, an attorney has to be provided to them by the state. Sixty years later, we are bringing this bill to you because we believe it helps support the counties that are providing those attorneys by providing the funding necessary to help cover any sort of increased expenses.

Looking back, even though *Gideon v. Wainwright* held that an attorney needed to be provided, what happened in the state of Nevada is, counties that had a population of over 100,000—Washoe County and Clark County—had to form offices of public defender. All the rural counties were allowed to either form their own offices or opt in to the Nevada State Public Defender. At the time, the funding structure was that the majority of the cost fell on the state, and a small portion fell on the counties. Over time, that funding structure flipped, where counties were required to pick up about 75 percent of the costs and the state would cover 25 percent of the costs. A lot of the rural counties felt that they could do it in a less expensive manner. Rather than opting in to the Nevada State Public Defender, they decided to contract with individual attorneys to cover these indigent defense services cases.

In 2018, the American Civil Liberties Union (ACLU) did bring a lawsuit against the State of Nevada, which is *Davis v. Nevada*, also referred to as the *Davis* case, wherein they said that the State of Nevada was not protecting our citizens' Sixth Amendment rights because the counties were not providing adequate services to those individuals who were charged with a crime.

In 2019, this Legislature created the Department of Indigent Defense Services, and with that Department was the Board on Indigent Defense Services. They did require our Board to create minimum standards that each county had to comply with in providing indigent defense services. They also promised that any extra expenses could be picked up by the state by giving the Board on Indigent Defense Services the authority to create a maximum contribution formula. That formula looks at how much the county spent in fiscal years 2018 and 2019 on an average, plus inflation will be the cap that our counties will pay for indigent defense services. Anything over and above that would fall on the state. That authority to create the maximum contribution formula is already contained within law in *Nevada Revised Statutes* (NRS) 180.320.

Assembly Bill 454 provides a statute to clearly say that any of those expenses that are over and above the maximum contribution formula are a state expense. It provides the funding structure for it. Those funds to provide reimbursement to our rural counties will be placed in the Department of Indigent Defense Services budget. If, for some unforeseeable reason, additional funds are needed that were not set aside so that these counties can comply with the Sixth Amendment and provide those minimum standards, the Department can come before the Interim Finance Committee and request additional funding from the Reserve for Statutory Contingency Account so that we can make those counties whole.

The next section of this bill allows our Board on Indigent Defense Services to set the hourly rate that is paid for our indigent defense services providers. The current rate is \$100 per hour for a regular case and \$125 per hour for a death penalty case. That amount has not been changed since 2003 and is part of the reason we are in a constitutional crisis where there is a shortage of indigent defense providers. You just cannot provide these services at \$100 per hour. This would allow our Board on Indigent Defense Services to look at what the market rate should be and allow the Board to react quickly to amend that hourly rate so that we can ensure that our Nevada citizens are provided with counsel when necessary as we are required to do with the Sixth Amendment. With that, we could answer any questions that this Committee may have.

[Assemblywoman Miller arrived but did not assume the Chair.]

Assemblywoman Cohen:

Can you tell us a little bit about what happens if someone does not get the constitutionally required standards for defense, especially in a death penalty case, as far as if there are appeals and how long that can take—I mean appeals based on the standard of defense that they received?

Thomas Qualls, Deputy Director, Department of Indigent Defense Services:

This is kind of a broad answer, but some of the potentialities there are that it is always a mistake to not provide a constitutionally adequate process at the beginning, because what very often happens is, it ends up costing exponentially more in the long haul in the context of post-conviction habeas corpus and ineffective assistance of counsel claims that can go on for a long time. You file a habeas corpus claim at the district court, and if you do not get relief there, it goes up to the state supreme court and could even go into the federal courts, particularly in the context of a death penalty case. It does apply across the board if there are not constitutionally adequate processes in the beginning. It is the equivalent of being penny-wise and pound-foolish.

Assemblywoman Hardy:

I want to make sure I understand the process of how the payments are made. It is the responsibility of the county, and there is a cap. It would then go to the state, and then it goes to the Reserve for Statutory Contingency Account. Is that how it goes?

Marcie Ryba:

This fiscal year we do not have funding in our account to reimburse the rural counties. Funding was set aside in the Statutory Contingency Account for those *Davis* cases. I believe there will be a supplemental appropriation bill of about \$2 million for us to be able to reimburse those rural counties. What the process is at this point, we work with the counties to develop their plans for the provision of indigent defense services to make sure they are complying with the minimum standards, and we help them develop their budgets. We take that budget to our Board on Indigent Defense Services for their approval. We look at how much their maximum contribution is and how much they are budgeting. We prepare that in our request for funding to be placed into our budget or into the appropriate budget for reimbursement.

As counties are spending those funds, if they intend to ask for reimbursement—not all counties have asked for reimbursement—every quarter, they provide us a fiscal status report, so we know how much they have been spending on a quarterly basis. Once they meet that maximum contribution, we prepare a work program to get that funding requested. Hopefully in the future we will have those funds in our budget and we will be able to immediately reimburse those counties. At this point, it is on a reimbursement method where we pay them back at the end. It should be noted that in this past fiscal year, every county that requested reimbursement was reimbursed by the state 100 percent for every expense that was over their maximum contribution formula.

Assemblywoman Newby:

What are the rates that are currently being paid for these services in the non-*Davis* counties, Washoe County and Clark County? Also, in section 2, subsection 4, where you adopt the hourly rates through your Board, are there any checks and balances on that for state purposes? It kind of seems like we are giving them the power to set the rates without really knowing how much all that is going to cost—kind of handing over a blank check, so to speak.

Marcie Ryba:

As to how much Washoe and Clark Counties are paying, we are seeing a huge fluctuation. Washoe County is in a critical shortage for indigent defense providers. In some cases, they are paying \$250 an hour for appointed work. Generally, it could be \$200 or it could be \$150. It depends on the availability of counsel, the complexity of the case, and the call of the county management as to what they are paying on that hourly basis. We are working with the rural counties on a county-by-county basis to encourage them to adopt a higher rate which is marketable and competitive with our urban counties. It is just as important to have an attorney in those rural courts as it is to have them in the urban courts. Our rural counties have been very reactive to that, but there is a lot of increased work because the board of county commissioners has to adopt that hourly rate, which calls for an agenda, a meeting, and testimony on whether or not it is appropriate. If the Board on Indigent Defense Services has the authority to set that hourly rate, it would help so that there is a uniform rate across the rural counties.

In order to assure that it is not a blank check, we have a couple of requirements. First of all, there is the *Davis* stipulated consent judgment as well as our regulations which require that appointed or contracted indigent defense counsel must be paid at the same rate that our district attorneys are paid, looking at the fact that the district attorneys have overhead expenses covered. We want to look at the caseloads and the experience that each of them have.

We have completed a data study to determine what hourly rate we would need to be able to pay to match what our district attorneys are paid. In Churchill County, the data analysts determined that the rate would be \$202 to match what a district attorney is taking home on an hourly basis. What we look for in performing those studies is looking at what counties are paying for their district attorneys and have a fair and on par rate for indigent defense providers.

Peter P. Handy, Deputy Director, Department of Indigent Defense Services:

I would also note that any of these proposed rates by the Board would still need to go through the regulatory promulgation process. There will be a workshop, there will be a small business impact survey, and statements taken. Any fiscal noting would occur during the regulatory process. Estimated fiscal amounts should be known by the time this has gone through the Legislative Counsel Bureau review and is ready to be promulgated and codified.

Tom Qualls:

With every budget cycle as well, these increased hourly costs will be incorporated into each county's budget, and then we will incorporate them into our budget and our ask to be put into the Department's budget for reimbursement. Hopefully, it will not be a big surprise to the State.

Vice Chair Marzola:

I do not believe we have any additional questions. I will move to testimony in support of Assembly Bill 454. Is there anyone here in Carson City wishing to testify in support?

Vinson Guthreau, Executive Director, Nevada Association of Counties:

Our membership consists of all 17 of Nevada's counties. I am here today to speak in support of A.B. 454. As you know and has been mentioned, all of Nevada's counties provide indigent defense or public defender services. It is delivered in a hybrid partnership with the state while ultimately being a state mandate to provide those services. Basically, we are in support because it helps clarify where the funding would be coming from to pay those costs in indigent defense, and we appreciate the flexibility on hiring counsel. It has become an issue especially in our smaller counties, but it is not limited to them. As you heard, Washoe County has serious deficiencies. We are supportive of this bill.

Erica Roth, Government Affairs Liaison, Deputy Public Defender, Washoe County Public Defender's Office; and representing Clark County Public Defender's Office:

Justice Black said in the majority opinion in *Gideon v. Wainwright*, that the right to one charged with a crime to counsel may not be deemed fundamental and essential to fair trials in some countries, but it is in ours. From the very beginning, our state and national constitutions and laws have laid great emphasis on procedural and substantive safeguards designed to ensure fair trials before impartial tribunals in which every defendant stands equal before the law. This noble ideal cannot be realized if the poor man charged with a crime has to face his accusers without a lawyer to assist him. I want to commend Ms. Ryba for all of her work in the Department of Indigent Defense Services. They have made great strides, and I am very proud to be a colleague of hers.

Indigent defense in the rural counties is not equivalent to that in our bigger counties. It is very important that this Legislature makes a commitment to funding the Department and funding attorneys in the rural counties to ensure that every person in this state, no matter what county you live in, no matter how much money you make, that when you are facing your accuser, you are standing before a judge equally as somebody else. I do urge the passage of this bill. It makes sense both practically and fiscally.

Vice Chair Marzola:

Is there anyone else in Carson City wishing to testify in support? I do not see anyone; is there anyone on the phone?

Lisa Rasmussen, representing Nevada Attorneys for Criminal Justice:

I am testifying in support of this bill. There are many of us like me within the membership of Nevada Attorneys for Criminal Justice (NACJ) who have for years, over two decades, in fact, been working these cases where we are appointed and we represent indigent defendants. I want to give you some numbers so you can conceptualize why the Department of Indigent Defense Services is having issues getting people at the current hourly rates. The rates, as indicated, have been this way since 2003. In federal cases, the current rate is \$164 an hour. That is the rate we get paid on appointed federal cases. For a death penalty case in federal court, it is \$210 an hour. Our current rates of \$100 and \$125 are inadequate, but they are also quite antiquated. I looked at Transparent Nevada to give you some idea; that data only goes back to 2007. When I look at public defenders between 2007 and 2021 who have the same

job, their salaries went from \$100,000 year to \$150,000 a year. It is a 50 percent increase. The same thing with the district attorneys who prosecute the cases—some of their salaries went from \$107,000 in 2007 to \$168,000 in 2022. Some who have leadership roles went from \$122,000 to \$173,000; substantial increases for our counterparts who are doing the same work in the court as we are.

As I am sure the Committee understands, all of our expenses over 20 years have increased, including the staff that we hire. We are no longer hiring receptionists at \$12 an hour; those days are gone. Our malpractice insurance that we are required to carry to take these cases has doubled, as has every other kind of insurance and overhead that you might imagine. The reason the Department is finding it necessary to increase fees to pay additional fees for attorneys to take these cases is because it is not feasible for us to take them at the current rates. I am asking you on behalf of NACJ to please support this bill and forward it.

Vice Chair Marzola:

Is there anyone else on the phone in support? Hearing no one, is there anyone in Carson City wishing to testify in opposition? I do not see anyone. Is there anyone on the phone? Hearing no one, is there anyone in Carson City wishing to provide testimony in neutral? Seeing no one, is there anyone on the phone? Hearing no one, are there any final remarks? I am being waved off on final remarks. I will now close the hearing on Assembly Bill 454.

I will open up time for public comment. Is there anyone in Carson City wishing to provide public comment? I do not see anyone; is there anyone on the phone? [There was no one.] Our next meeting will be held on Tuesday, April 4, at 8 a.m. That concludes our meeting today, and this meeting is adjourned [at 10:28 a.m.].

RESPECTFULLY SUBMITTED:

Garrett Tamagni
Recording Secretary

Nancy Davis
Transcribing Secretary

APPROVED BY:

Assemblywoman Brittney Miller, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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