

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

**Eighty-Second Session
February 21, 2023**

The Committee on Judiciary was called to order by Chair Brittney Miller at 8 a.m. on Tuesday, February 21, 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:

None

STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Bradley A. Wilkinson, Committee Counsel



Devon Kajatt, Committee Manager
Connor Schmitz, Committee Secretary
Ashley Torres, Committee Assistant

OTHERS PRESENT:

Stavros S. Anthony, Lieutenant Governor
Francisco V. Aguilar, Secretary of State
Paul J. Moradkhan, Senior Vice President, Government Affairs, Vegas Chamber
Connor Cain, representing Las Vegas Global Economic Alliance; and Nevada Bankers
Association
Jeffrey S. Rogan, Deputy District Attorney, Clark County District Attorney's Office
Stephen Wood, Government Affairs Liaison, Carson City
Warren Hardy, representing the Urban Consortium
Zach Conine, State Treasurer
Tonja Brown, Private Citizen, Carson City, Nevada
Erin M. Houston, Deputy Secretary of State, Securities Division, Office of the Secretary
of State
Cyrus Hojjaty, Private Citizen, Las Vegas, Nevada

Chair Miller:

[Roll was called, and Committee policies were explained.] Today we have three bills that we are hearing, and we will hear them in order of the agenda: [Assembly Bill 14](#), [Assembly Bill 55](#), and [Assembly Bill 67](#). I will open the hearing on [Assembly Bill 14](#), presented by the Lieutenant Governor and the Secretary of State.

[Assembly Bill 14](#): Revises provisions relating to the state business portal. (BDR 7-405)

Stavros S. Anthony, Lieutenant Governor:

I am here to testify in support of [Assembly Bill 14](#). My predecessor, Lisa Cano Burkhead, had requested this bill. After reviewing the bill language and understanding that this bill is needed to ease the burden on small businesses, I am pleased to advance this legislation this session. If passed, the Office of the Secretary of State will serve as a clearing house for general business license applications and renewals. Regulatory authority and licensing revenue streams would remain untouched and under the purview of the counties and municipalities. Should this bill become law, business owners applying for or renewing a general business license will go to the Secretary of State's office or visit its website, submit required information, and pay all necessary fees and licensing.

As many of you are aware, my office oversees the Office of Small Business Advocacy. This office has talked with many small businesses that have expressed the need to make the licensing process less confusing and burdensome. Our hope is that this bill will make the startup process easier for small businesses, while not taking revenue or authority away from local governments. I am very pleased to work with the Secretary of State, Francisco Aguilar, on this legislation. We both share a desire to help small businesses succeed in the state of Nevada.

In addition, I want to very much stress that during this bill process, the Secretary of State and I are committed to having a working group constantly in touch with what we are doing, and that working group would include all of the stakeholders that are involved in this particular bill. That could be cities, counties, chambers of commerce, and anyone that wants to be involved in making sure this process succeeds and helps small businesses but does not impact anything that the cities or counties will be doing. We are committed to making sure they are constantly involved and at the table while we are working through this process.

With that, I would like to turn it over to the Secretary of State, and then I will be happy to answer any questions when you are ready, Madam Chair.

Francisco V. Aguilar, Secretary of State:

I would like to thank the Lieutenant Governor for having me here with him today. I worked with his predecessor on the idea behind this bill and I am excited that he wanted to keep the conversation going. I have said countless times, "No one should have to hire an attorney to start their own business." The goal of this legislation is to streamline the process for business owners and entrepreneurs, even if it makes things a little more complicated for governments. We are here to serve them, not the other way around. In an ideal world, an entrepreneur would be able to go to the Secretary of State's website, begin the process of creating their new corporation or limited liability company (LLC), obtain their state business license, and then immediately be able to pay for their local licenses as well. We know this is more complex than it sounds at first. I am grateful to the representatives of our cities and counties for reaching out to discuss what this process could look like. From what I have heard from small business owners and chambers of commerce around the state, this is a direction we need to move in immediately. As the Lieutenant Governor said, we welcome the participation of local governments, chambers, and business owners in a working group to help us drive the implementation of this bill. It is important to get this done right, especially given SilverFlume's reputation, and I apologize.

Later this week, I will be presenting my office's budget to the Legislature, and a key component of that budget is a \$15 million, one-shot request to dramatically promote the process of fixing SilverFlume and building towards an eventual replacement. The passage of this bill would give us a target to hit, a unifying goal for state and local governments, and in my opinion, it would move us towards a one-stop shop that makes sense for Nevada's future. It is what SilverFlume was intended to be, even if things did not work out along the way. I am confident that given enough time and collaboration, we can come up with a solution that works for business owners, takes pressure off our municipalities while still driving and delivering revenue, and gets us to where we want to be as a state. Just because the Secretary of State's Office suffers from a technology deficit, that does not mean we should not be planning for the future of our small businesses. Our small businesses are our communities, and they are the future of this state.

Chair Miller:

We will now take questions from Committee members.

Assemblywoman Bilbray-Axelrod:

It is nice to see bipartisan legislation coming right out of the gate; I appreciate that. I notice that the bill is going into effect next July, which I am imagining is because you are going to have that working group working on what that is going to look like. Can you tell me exactly the makeup of that working group and how often do you think they are going to meet; what is that going to look like?

Lieutenant Governor Anthony:

That is a great question. We have not actually set that up yet, so we have not talked about how often we are going to be meeting or who will be part of that working group. We just have not gotten that far yet, but we will be meeting on a regular basis.

Assemblywoman Newby:

With this integration, I am concerned about the additional requirements at the local level, things like planning and zoning conformance, things like fire inspections, things like license adherence by the business, and not to mention of course, privileged licenses. How is this system, as you define it or conceptualize it, going to incorporate all those aspects, not from just one local jurisdiction, but from 17 counties and however many incorporated cities?

Secretary Aguilar:

That is a great question and that is a conversation I have had with the Henderson Chamber of Commerce and the City of Henderson's representatives, bringing up some of those issues and trying to understand some of the complications of a one-stop shop. I think what it is, too, is an opportunity for business owners to know that this requirement exists. I see it as a positive rather than a negative, in those challenges. It is something for us to have to figure out through the system, especially when you think about our rural counties; a lot of times they do not have these systems and processes to collect these revenue opportunities, and this will only make this business owner or entrepreneur understand that this fee exists and then actually collect it. They do not know how to process it from the very beginning as a business owner. The answer is that we need to determine how to deal with these zoning issues, and it is a good question.

Assemblyman Gray:

Is there going to be any financial burden placed on the local governments, especially the rural counties, to integrate this system into what they are using now?

Secretary Aguilar:

I do not see this; I actually see this being a net benefit to the counties. My goal is to not create additional burden on local governments or an additional cost. I see it as a technology efficiency.

Assemblywoman Hardy:

I can certainly appreciate this. Working with SilverFlume for many, many years with my own business, trying to renew licenses and LLC, and so forth, and even working with someone that was quite familiar with it, it was sometimes challenging. I want to make sure we are understanding what it will be doing. If you are going in and applying for a business license in Henderson or Las Vegas, depending on the type of business, you would be able to see if you

need a Clark County or a city license. That is often the hardest thing, depending on the business: What license do I need to be applying for? Is it correct that they would be able to go to one place, see what they need, apply for it, and pay for it all in one place?

Secretary Aguilar:

Absolutely correct. I am envisioning that you would go to the website, put in your zip code or location of your business, and it would pop up what jurisdictions you have to deal with or what requirements are required of you as a business owner. Then it would lead you directly to those departments without you having to run around to three different locations to figure out what you needed to do to be compliant. I think some of the nuances of understanding zoning issues, safety issues, or fire issues can be dealt with. Look at the way that we file our taxes these days—look at TurboTax. It guides you through every single step and I think it is pretty self-explanatory about how these things would work.

Assemblywoman Summers-Armstrong:

Would you be interested in or open to phasing this project? This is huge and we have had kerfuffles in the past with information technology (IT) projects. It might not be a bad idea to consider starting smaller and then growing this after you have figured out all of the ins and outs.

Secretary Aguilar:

That is exactly our intent. The Lieutenant Governor and I have had that discussion, especially given the current condition of SilverFlume. We have to make sure that SilverFlume is strong, and that base is really able to handle this type of system. Also given some of the conversations with the local governments, they have some great concerns, and I would too if that was my responsibility. We have to have those conversations; we have to work through the issues that Assemblywoman Newby raised in order to make this work properly for both sides of the table.

Assemblywoman Summers-Armstrong:

For clarification, the IT product that you are talking about undergoing, do you have folks inside your organization that have the expertise to work with your contractor who have expertise in coding, software, and designing a program to help you, or are you going to be relying primarily on outside contractors?

Secretary Aguilar:

That is something we have been struggling with to make sure that we have the talent within the Secretary of State's Office, especially within the SilverFlume Nevada business portal division. We do; we have Paul Diflo, who is with us. He is our deputy, and we also have a strong IT team. In addition to that, we have a vendor who has been working with the current system to get it to function on a daily basis. I believe they are on the fourth update, and each of those updates has gone well over the last two months. We are impressed with their work, that they have been able to take a system that has not been able to function and make it function for our business community.

We are also bringing on a third party, Gartner, who will work with us for the implementation. They do well with large system implementations. Coming from the construction industry, with

most of those projects you have what is called an "owner's rep." They hold both the owner, which would be our office, and the IT firm accountable for deliverables and making sure that we are meeting expectations, but also, too, that we are getting what we paid for out of the vendor.

Assemblywoman Cohen:

When I heard your presentation, it made me think of a shopping center that is half in Henderson and half in the county, so this would be helpful for those businesses in that shopping center because some of them do not even know, until they move in, that this is an issue. Can this project be used to also educate the business owners so that they understand those issues that they might have, where it is not just that they come in and register, they get everything they need done, but they are also made aware of where they are supposed to be going in the future and which entities they are supposed to be dealing with?

Lieutenant Governor Anthony:

That is going to be a big part of what my office, the Office of Small Business Advocacy, will do: being out there and educating people about this new process that we are putting together, about where to go. That is going to be a big part of my office's responsibility, to make sure that we educate people that we have a new system. It is easier to use. This is where you go. You can take care of business very quickly. I think that will be a positive.

Chair Miller:

I will now open testimony in support of A.B. 14.

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

As the state's largest and broadest business organization, the Chamber is in support of A.B. 14. We appreciate the intent of the bill that creates and offers a more streamlined business licensing process, that operates in a business-friendly manner through integration. We view the state and local governments as partners, and we believe that their input will be integral in this process. As an organization that serves small businesses, our members are always seeking systems that will provide greater efficiency and understanding with local and state requirements. Almost 84 percent of the Vegas Chamber members are small businesses, which we define as under a total of 50 employees. Here are some items that businesses are typically looking for with their licensing process: a business licensing system that is secured; a simple process for identifying the forms, registrations, licenses, permits, tax payments, and other filings that they are required to submit; a customer-oriented process; and they want their voices to be heard in the decision-making process. In addition to the proposed policy changes in A.B. 14, the Chamber will also be supporting a separate request by the Secretary of State to overhaul and upgrade SilverFlume to better serve Nevada businesses and entrepreneurs this session.

Connor Cain, representing Las Vegas Global Economic Alliance:

The Las Vegas Global Economic Alliance supports A.B. 14, and thanks the Secretary of State and the Lieutenant Governor for bringing the proposal forward. The Las Vegas Global Economic Alliance believes a conversation to streamline how businesses can acquire a business license enables the state to become more economically competitive, and for that reason finds itself in support of the bill.

Chair Miller:

I will close testimony in support and now open testimony in opposition to A.B. 14.

Jeffrey S. Rogan, Deputy District Attorney, Clark County District Attorney's Office:

I am testifying in limited opposition to A.B. 14. I want to stress limited opposition. Clark County, and specifically our business license and Clark County clerk, we support removing or limiting administrative burdens to businesses so that they can operate more smoothly and obtain their business licenses more efficiently, as well as all their other permits and payment of fees. Our concerns with this bill are limited to two. The first, which you have heard, is technological. SilverFlume is a huge problem for the county. We often have people coming into the county ready and willing to obtain their business license, but they cannot because SilverFlume is down and they cannot obtain their state registration.

Our second concern is definitional. We do not really understand what is meant by "integration." For example, today we heard testimony about integrating zoning processes into this application, but that is not clear from this bill. We need further clarification as to the extent and the understanding of what "integration" means before we can move away from opposition. We are happy to work in this working group that the Secretary of State and Lieutenant Governor are putting together, and we definitely want to be a part of that process. I think we could move away from opposition as long as some of these concerns are addressed.

Stephen Wood, Government Affairs Liaison, Carson City:

We appreciate the intent of A.B. 14 and appreciate the Secretary of State and Lieutenant Governor's Office's work on this. For many of the reasons that were mentioned during the hearing, some of the concerns brought up by the Committee, we also share those concerns and are in opposition to the bill as it is written. We have reached out to the Lieutenant Governor's Office, as well as the Secretary of State, and we look forward to working with them on finding a solution.

Chair Miller:

I will close opposition and open testimony in neutral.

Warren Hardy, representing the Urban Consortium:

I am here representing the Urban Consortium, which is made up of the cities of Reno, Sparks, Las Vegas, and Henderson. I do agree with the Secretary of State that this is a direction we need to move in immediately. As local governments, we compete to be the most business friendly, and this is another step in that direction. I also particularly want to thank the Secretary of State and the Lieutenant Governor for recognizing the challenges we have with SilverFlume. When this legislation first came forward as an option in 2015, the local governments that I represent upgraded their systems and at this point are ready to plug into this type of a system. I will say that we are very grateful to the Secretary of State for their willingness to work with us. They have made it very clear that local governments will be an integral part of this.

We also want to remind the Committee and everyone involved that we really need state agencies to be involved with the upgrade and improvements to SilverFlume, because that is where the

breakdown happens most often, in our experience. I will say that Assemblywoman Newby really hit on some of our issues. Again, we are not opposed to the bill as written, which is why I am here in neutral, but the focus on the issues that Assemblywoman Newby brought up are very important to us. We have two different focuses at the state level and local level. The state-level business licensing focus is on the who; Do you have a license, are you appropriately categorized? Local governments have to concern ourselves with the where and the how. We have to look at if these businesses meet the requirements for zoning, are they special use permits, are they limited licensing—these are all the sorts of things we have to look at. We look forward to working with the working group.

Chair Miller:

I would like to welcome Secretary of State Aguilar and Lieutenant Governor Anthony to make final remarks.

Lieutenant Governor Anthony:

First of all, I would like to thank the Chair and the entire Committee for having us here this morning and listening to our testimony on A.B. 14. I very much appreciate what I heard from the other folks testifying on this bill. I think what we are really trying to do here, if A.B. 14 passes, is to help small businesses open, grow, prosper, put people to work, and we, as a state, want to be a partner with local governments and chambers to help do that. We want to be a part of the solution. Obviously, the big question will be, What can SilverFlume do in the Secretary of State's Office once they start working on it? If I think it can do ten things, maybe it can only be five. Maybe those five are going to help small businesses open and grow and prosper. That is going to be the great experiment, and even though it is obviously in the Secretary of State's Office, I am going to be there with them a hundred percent, making sure that this is successful. We absolutely want to work with businesses and chambers and local governments to make sure that we are part of the solution and that we are not causing more problems.

Secretary Aguilar:

As the Lieutenant Governor said, we are here to work on this together, to bring all the concerned parties to the table, figure out what these issues are, and then figure out what the solution is driving forward for our business community. Our business community, as the Lieutenant Governor said, is critical to the success of our state and we need to be sure that we are there for them and doing what we need to be doing as a government. We do not need to be in their way, we need to be allowing them to be doing what they do well, and that is run their business. I am excited to work with the local governments; I am excited to work with everyone that came to the table today to figure out a solution.

I also want to thank everybody for recognizing the challenges we have with SilverFlume. We are working every day to ensure that system works and unfortunately, sometimes it does not, but we are coming to you with a solution soon. We are excited about it because with the functionality of SilverFlume as it should be, we will be able to do great things for our businesses and our state. I look forward to answering any more questions in the future.

Chair Miller:

It has been an honor to have you both here presenting, especially together. With that, I will now close the hearing on A.B. 14. The next bill on our agenda is Assembly Bill 55, presented by State Treasurer Zach Conine and Deputy Treasurer for Unclaimed Property Danielle Anthony.

Assembly Bill 55: Revises provisions related to unclaimed property. (BDR 10-360)

Zach Conine, State Treasurer:

It is my pleasure to be here to present to you Assembly Bill 55. Broadly, A.B. 55 makes various changes to Nevada's unclaimed property laws, which follow national best practices, and which will help us modernize and align our governing statutes here in Nevada. Our team has put together a conceptual amendment [Exhibit C] which has been provided as an exhibit on the Nevada Electronic Legislative Information System (NELIS), and we will work with the Legislative Counsel Bureau for the final language.

As a little bit of background, pursuant to *Nevada Revises Statutes* (NRS) Chapter 120A, the Office of the State Treasurer administers Nevada's unclaimed property program. In this role, the Office takes custody of lost or abandoned property from individual and business holders and works to reunite it with its rightful owner. When the property cannot be reunited with the rightful owner, it is held in perpetuity by the State. When you have a moment, I would encourage everyone to search for themselves on our website. It takes just a minute to search, and that is something for you all to look forward to.

For scope, last fiscal year, our office processed and approved 37,290 claims, which resulted in the return of \$42 million. On the holder's side, last fiscal year, holders reported and remitted over \$83 million in unclaimed property to our office. Since I took office in January 2019, we have returned more than \$188 million in unclaimed property, a record for any four-year period in state history, and it is not close.

I will now walk through the bill. Sections 2, 4, 6, 14, and 15 of the bill make necessary cleanup changes, such as ensuring continuity in definitions and updating references to other sections that are being changed. Section 7 of the bill makes various changes to the section of our statute that outlines what kinds of property needs to be reported and when that reporting must happen. These changes are technical in nature and are designed to help clarify many of the more nuanced questions that we arise in our holder and audit working groups related to specific industries, such as insurance, retirement, and pre-need funeral services contracts. Section 8 of the bill clarifies the presumed abandoned date for gift certificates and removes a piece of existing statute that makes the owner's last known address for gift certificates the State Treasurer's Office in Carson City. This has created a different standard amongst property types, and we would like to ensure they are all properly aligned and reported in the same manner.

Section 9 makes updates as to how and what a holder of unclaimed property should report to our office. Sections 10 and 11 replace requirements that our office purchase printouts. We have found that earned media receives a much greater response than publishing ads in the newspaper. We have also adopted an active return model, seeking out Nevadans to return their unclaimed

property as opposed to requiring them to come to us. The updated language still requires the Treasurer's Office to provide notice in the form of a press release and through the publishing of a public notice, both of which we believe fulfill the spirit of the existing requirements without mandating the expenditure of advertising dollars. I would note that while this update does not mandate the purchase of advertisements, it does allow the option, if the office chooses to; for example, targeted digital ads, geofenced ads at events such as career fairs, and other things.

Section 12 allows the office to accept property prior to it being deemed in statute, if the office believes it to be in the best interest of the state. This happens most often when a business dissolves or is going through a bankruptcy period. There is a period of time after the property is deemed lost before it can be handed over to the office, and sometimes that is not in the best interest of Nevadans. Section 13 updates existing law to allow our office the opportunity to seek records from other state and local agencies that would otherwise be deemed confidential.

For a bit of background, this is the largest piece of the bill; when the pandemic began, our office began looking for ways we could assist Nevadans who were hardest hit and were struggling. We teamed up with the Department of Employment, Training and Rehabilitation to use our unemployment insurance claimant list to cross-reference our unclaimed property database to determine if we were holding an unclaimed property for unemployment insurance (UI) claimants. We were able to find more than \$10.2 million in unclaimed property owed to individuals who had filed for unemployment. We were able to return over \$2.3 million of it. However, that statute did not allow us to just send folks checks. We had to contact them and then get them to reach out to our office even though we had databases matching their names, birthdates, social security numbers, and addresses.

To remedy this, in 2021, our office ran Senate Bill 71 of the 81st Session, which was passed and signed by Governor Sisolak. Senate Bill 71 of the 81st Session allows the Treasurer's Office to initiate a claim on a property owner's behalf, allowing for a greater level of efficiency when returning unclaimed property. When we began seeking out additional opportunities to expand these initiatives, we quickly ran into another issue, as is the nature of government. Much of the information held by state and local agencies are, rightfully so, deemed confidential.

This section of the bill gives the Treasurer's Office the ability to receive these records, despite their confidential nature to the public. For instance, imagine if we could automatically match individuals who held a teaching license in Nevada with their unclaimed property; individuals who had filed for Supplemental Nutrition Assistance Program (SNAP) benefits or Women, Infants and Children (WIC) benefits with their unclaimed property; individuals who were receiving payments from the opioid settlements with their unclaimed property. This will speed up the process of returning that money to Nevadans, and since it is Nevadans, we think that is important.

Sections 3 and 5 will be removed through the proposed amendment [[Exhibit C](#)]. Section 16 repeals an existing section of NRS Chapter 120 that defers any question of law to the Uniform Unclaimed Property Act. We are seeking to repeal this for two reasons: first, the Uniform Unclaimed Property Act, the specific uniform law which is cited, has since been updated and

will likely be updated again in the future, thus the statutory reference is outdated. More importantly, there are sections of uniform law, both the current and previous ones, that are incongruent with Nevada's legal framework, and are thus in conflict.

This concludes our presentation, and we are happy to take any questions.

Chair Miller:

Members, do we have any questions?

Assemblywoman Newby:

In section 3, I noticed in the conceptual amendment that it is scheduled to be struck regarding "loyalty cards." Can you give us a little background on why?

Treasurer Conine:

We appreciate our relationships with the business community. We are always happy when groups like the Vegas Chamber reach out and express concerns that they have with the bill. In this case, and I will let them speak for themselves, the concept of a loyalty card was so nebulous, when we look at the differences between a casino loyalty card, or a McDonald's loyalty card, Starbucks loyalty card—they all have different values. Generally, within the terms of service of those agreements, those loyalty points from a cash value are worth almost nothing. Turning them over to the State, we believe, it would not really accomplish what we were going for, which is turning over items of value to then be returned to Nevadans; it would result in a bunch of 17-cent accounts, because I no longer have access to my points at Starbucks.

Assemblywoman Mosca:

My question is on section 13, which lists last known address. Have you all discussed what would happen if the last known address is not correct anymore?

Treasurer Conine:

We deal with this quite a bit, where someone is requesting money but has moved addresses. Our team has a relatively robust process through which we make sure that the money is going to the right place. In the case where we would be actively sending a check, one of the benefits that we have being in the State Treasury, is we know where all payments are going to anyone receiving a payment by the State. Generally, if someone moves addresses and is receiving some kind of social service, or they have a license, they update that address, so we will have the most recent information.

Assemblywoman Considine:

I was glad to hear that you are looking at connecting social services with people that might have unclaimed money. Have you considered that there might be a small amount of money for someone who is applying for social services but that small amount of money might kick them off of social services, and how those two conflicts could be resolved?

Treasurer Conine:

We have not considered that directly, but we work in similar circumstances with both the individual development account (IDA) program and the Achieving a Better Life Experience (ABLE) account program, and we are conscious as to that. I think that is a really good flag and one that we would have to think through. Functionally, if these dollars are from a paycheck or something else, they have already theoretically been accounted for on that individual's tax situation; if it was a paycheck that was lost or a deposit or something else, that does not count as income. For the most part, they should be alright on that front. On the asset side, that is where we want to make sure we are working with those groups to perhaps put a flag on the amount of money and reach out to them to make sure that they either have an IDA or an ABLE account or some other way to take in those funds without causing them a kerfuffle.

Assemblywoman Gallant:

One of the things that I saw during the pandemic was a lot of fraud going on with the unemployment checks. Personally, what I was seeing was a lot of my tenants having their mailboxes broken into. It was sort of like an organized ring where these groups would target vulnerable people, take their unemployment check, and almost move into their house, and there was nothing that they could do. How are you going to handle situations like that?

Treasurer Conine:

Unfortunately, like many other state agencies, we receive fraudulent attempts in unclaimed property, which our team sifts through and makes sure that the money is going to where it needs to be. A lot of unclaimed property is owed to our elder population; our elder population is more likely to be the victim of identity fraud, so we have tools in place to get that done. It is a real problem and it is something that we would have to keep an eye out for, just like we do now.

Chair Miller:

I do not see any additional questions. I will now open testimony in support of A.B. 55. [There was no one.] Is there anyone that wishes to testify in opposition to A.B. 55? [There was no one.] Is there anyone that wishes to speak in neutral to A.B. 55?

Tonja Brown, Private Citizen, Carson City, Nevada:

In section 9, subsection 10, it says, "If the property presumed abandoned is in the form of stocks, equity, retirement accounts or virtual currency and the property is valued at \$1,000 or more, the holder of the property shall send the written notice required by subsection 9 in the form of certified mail." What it does not include is oil royalties. Oil royalties will go back for decades, generations, and be deposited into the unclaimed properties. Boy, you get a nice little surprise when you get several thousand dollars. A lot of this is inherited and broken out into the families, so I think oil royalties should be included in subsection 10, because I do know of others that do have oil royalties and they have not been contacted.

Like I said, we have had this in my husband's family for decades. They sold property, retained the mineral rights back in the 1950s, and lived off of the oil royalties for many years. When the grandmother died, the mother and the children got to split the royalties. It does amount to quite a bit of money, at times, but it is stuck in the unclaimed properties. There are times when the

company will change its name and you have no way of knowing. We have direct deposit, but that is not where the major money comes from; it goes into the unclaimed properties. Then it is a surprise when you have several thousand dollars as your share. I would like to see that added to it.

Connor Cain, representing Nevada Bankers Association:

We appreciate the Treasurer's team working with us and other stakeholders to tailor the revised Uniform Unclaimed Property Act in Nevada's legal framework as the Treasurer mentioned. We are committed to continue working with him and his office.

Chair Miller:

I will close testimony on A.B. 55 and invite Treasurer Conine to make any final remarks.

Treasurer Conine:

I appreciate the opportunity to present this bill to the Committee. I would also like to let you all know that seven of you have unclaimed property, for a total value of \$4,275. I am happy to go through the individuals, but some of you are doing quite well. For anyone else, the website to search is www.claimitnevada.org.

Chair Miller:

Treasurer Conine, does that include my unclaimed property that I applied for? I believe it was \$17.

Treasurer Conine:

Chair, it does, but there is actually a little bit more unclaimed property for you; you should check again.

Chair Miller:

I will, because I am still waiting for my \$17.

Treasurer Conine:

Perfect, we will lump them together for you.

Chair Miller:

With that, I will close the hearing on A.B. 55. The last bill for the day is Assembly Bill 67, which will be presented by Secretary of State Aguilar.

**Assembly Bill 67: Creates the Fund for the Compensation of Victims of Securities Fraud.
(BDR 7-415)**

Francisco V. Aguilar, Secretary of State:

I am joined by Deputy Secretary of Securities Erin Houston. We are here today to give you a brief overview of the Office of the Secretary of State and its role in the business community in Nevada [page 1, Exhibit D]. The Office of the Secretary of State is one of the original constitutional offices established in the *Nevada Constitution*. It is responsible for maintaining

the official records of the acts of the Legislature and the Executive Branch. Over time, additional duties have been developed. Some are well-known, such as being Chief Officer of Elections, and registrar of business entity filings. Some are less known, such as the administration and enforcement of the Uniform Securities Act, our role in administering the notary chapter, Nevada Lockbox program, document preparation services, domestic partnerships, and the business portal.

The Office of the Secretary of State is officially organized into eight divisions [page 3]: Securities; Commercial Recordings; Elections; Notary; Special Projects, which includes managing Document Preparation Services, Domestic Partnerships, and Nevada Lockbox; Nevada Business Portal; Executive Administration; and Operations Division. Additionally, as part of the elections taskforce, we work closely with many other law enforcement agencies at the federal, state, and county levels. Our offices are located in Carson City and in North Las Vegas. As I mentioned, I have a great deputy with me here today, Erin Houston, who will finish the rest of our presentation.

Erin M. Houston, Deputy Secretary of State, Securities Division, Office of the Secretary of State:

We are here today to talk about the Securities Division and its responsibilities [page 4]. *Nevada Revised Statutes* (NRS) Chapter 90 is the Nevada Securities Act, which is where Nevada has adopted and codified the Uniform Securities Act, which is a version that has been adopted in all 50 states. The Nevada commodities act [Commodity Exchange Act] is found in NRS Chapter 91. That is utilized a lot less frequently—most of what we deal with is in NRS Chapter 90.

The main function of the Nevada Securities Act [page 5, [Exhibit D](#)] is to protect Nevada investors by licensing the professionals who recommend investment products, who provide advice about which investment products to buy, and to register the investment products themselves in order to provide a mechanism for the everyday investor to learn more about the company into which they are investing. *Nevada Revised Statutes* 90.570 and 90.590 also prohibit fraud in connection with the sale of a security. Every violation of NRS Chapter 90 is a category B felony.

The Securities Division is made up of three main sections [page 6]. The registration and licensing team handles applications for licensing from broker dealers, investment advisors, and for licensing of the securities themselves. Many securities that are sold in Nevada are exempt from licensing based on a federal exemption scheme. However, there are lots of securities that are considered intrastate offerings, and those can be sold to anyone at any income level. The securities registration process is very straightforward.

The second division is our examination section [page 7]. That division is responsible for conducting inspections of Nevada-based broker-dealer branch offices and Nevada-based investment advisor firms. We have six full-time employees and one part-time employee on our examination team.

Our third division is the criminal investigations section [page 8]. We have seven Peace Officers' Standards and Training (POST)-certified peace officers who investigate criminal violations of NRS Chapter 90, which is most often fraudulent offerings. Unfortunately, the most common area where we see fraud is in unregistered securities, known as "private placements." Here is an example of a common scenario: an individual with a very low net worth is enticed to invest in a new startup with a promise of a high rate of interest as a return. Unfortunately, the offer itself was premised on false statements or misleading information. When the investment fails, the individual is completely out of luck in terms of recouping their money. When that happens, our investigations recommend a charge of securities fraud against the bad actor. Those cases are prosecuted by the Office of the Attorney General, in conjunction with our investigation. When those cases result in a guilty verdict, restitution is often included as part of the overall sentence for the guilty party.

This brings us to Assembly Bill 67, which proposes to establish a victims restitution fund for victims of securities fraud [page 11, [Exhibit D](#)]. The *Nevada Constitution* provides for restitution to victims of a crime. However, many guilty parties in securities cases have no money left in which to make their victims whole. Assembly Bill 67 aims to fill that gap by creating a fund of monies received as penalties from administrative orders arising from violations of NRS Chapter 90, which is the Uniform Securities Act. Nevada residents who are victims of securities fraud and for whom an award of restitution has been made in a criminal adjudication can then apply for a small amount of recompense from the restitution fund. Most victims of securities fraud receive very little or no money back from their original investment.

Secretary Aguilar:

The main reason we are proposing this legislation is that it provides a way for Nevada residents to obtain desperately needed relief after losing what often is a significant chunk of their savings to someone who has defrauded them. Often victims of securities fraud are in the most vulnerable communities, especially our senior communities and other adults who live on fixed incomes. Due to bad actors, they can lose their life savings. This bill aims to help get them back on their feet. Most of the time, there is no money left for the victim after the fraudster has taken their money. Even if the victim successfully sues in civil court, there is no money left to satisfy the victim's judgment.

Erin Houston:

This legislation is based on a 2021 North American Securities Administrators Association (NASAA) model rule [page 14]. The North American Securities Administrators Association considered feedback from state securities regulators; trade associations representing broker-dealers and investment advisors; and bar associations representing attorneys for public investors. Assembly Bill 67 proposes to divert a fractional amount of revenue that presently goes to the General Fund, pursuant to NRS 90.800, to a separate fund held for victims of securities fraud. In the past, the Securities Division has received close to \$200,000 per year through enforcement actions alone. Only victims who have been awarded restitution as set forth in NRS 90.640 could apply for relief from the fund. Under A.B. 67, applicants who have been awarded restitution for a criminal conviction can apply for repayment through monies collected through this fund up to a

maximum of \$25,000. Of note, up until a few years ago, the revenue in consideration today was maintained within the Securities Division to be used by the Securities Division.

Secretary Aguilar:

Before we finish, I want to point out that the revenue from the enforcement actions is a very small percentage of the revenue earned from the Securities Division. Ms. Houston does a great job with her team. The Securities Division has brought in over \$30 million each year for the last three fiscal years: in fiscal year 2022, over \$35 million. I hope that the Committee will support the measure and I am happy to answer any questions.

Chair Miller:

We will now take questions from the Committee members.

Assemblywoman Considine:

I want to make sure that I am clear in my understanding that someone harmed can apply for the lesser of \$25,000 or 25 percent of the restitution awarded by the court. Then, the next step would be that the State of Nevada has subrogation rights and they can then go after that bad actor for the remaining restitution; does that money then go back into this fund, it does not go to the original person?

Erin Houston:

It should be going directly to the State. If the fund has already paid out funds of \$25,000, which is the maximum, and then the State is able to then recoup those monies, that will then go directly to the State General Fund.

Assemblywoman Considine:

Somebody in this situation would have the choice to apply to either get the \$25,000 or up to 25 percent of the restitution to get their money quicker and less expensively than if they took the time to get their own attorney to fight to get the balance of that restitution. Is that right?

Erin Houston:

That is correct. What may also happen is that there might be a civil judgment and they are able to satisfy that judgment through collection efforts down the line. Again, that money will go to the General Fund if the State is able to recoup it, or if the victim receives funds themselves, then they could be required to repay the victims restitution fund.

Assemblywoman Mosca:

Along a similar line, you had mentioned when presenting about the application, in section 3, subsection 2, it also says, "The administrator or his or her designee shall review all applications." Can you talk about what you think the application will be like, and why it is an administrator designee versus a board?

Erin Houston:

That language is from the NASAA model rule. It could be changed if that is deemed appropriate or in the best interest of the State of Nevada. I will say that the reason it is drafted the way that it

is, is because the administrator is usually the person at the top of the Securities Division who is most familiar with the facts and facets of each case as they came through and may have the best understanding of the possibility of future repayment to victims or payments efforts in the past.

Assemblywoman Marzola:

Can you tell me what that fractional amount is [page 15, [Exhibit D](#)]?

Erin Houston:

The fractional amount is whatever the Securities Division is able to recover through enforcement actions, which, through the last three years, has averaged \$200,000 a year. We say "fractional" because it is such a tiny amount of what the Securities Division brings in overall through registration and licensing fees, the bulk of which is from broker-dealer sales representatives who are registering in the state. The \$200,000 is something that is fluid and will change every year based on enforcement actions, based on the way that the bill is drafted now.

Assemblywoman Marzola:

My second question is, how did you come up with the \$25,000 maximum?

Erin Houston:

That is suggested language from the NASAA model rule, which we agreed with for the reason that we believe \$25,000 is a fair, significant portion that will help everyday investors get back on their feet, although it will not deplete the fund overall. We are trying to spread the wealth, as it were. We believe that is a number that represents that effort well.

Assemblywoman Hardy:

I am glad to see legislation coming forward like this. As you mentioned in your presentation, a lot of these victims are seniors or vulnerable and get caught up in things and spend their life's savings. Do you have any idea of an estimate on how many people this could help? And, pertaining to seniors, how do you plan on letting them know about this?

Erin Houston:

As to the first question, it is difficult to put a number on how many people may be able to avail themselves of this fund. I would say, on average, 20 to 30 people a year are victims. We receive an average of six to seven complaints every single month. Those do not all result in a criminal conviction or even an enforcement action, so parsing through those numbers, I would say two to three per month. Keep in mind that there is a criminal conviction component as part of this, so in terms of how often this goes all through and we get a conviction through the criminal court, that part also involves the Office of the Attorney General, as they prosecute our cases for the most part. Sometimes the district attorney does as well, depending on what county we are in.

For the second question, we do plan on engaging in a significant amount of outreach. To that end, we also are in the trenches with the individuals who are the victims of securities fraud. It is my opinion and hope that we would be able to work with them directly as they are moving through the process.

Assemblywoman Summers-Armstrong:

I have two questions. The first is on section 3, and it says that the administrator may weigh in. So, the administrator is going to be the arbiter of how these applications are received. Is there an appeal, and to whom? My second question is if someone is applying for these funds, does there have to be a criminal conviction first before they are eligible to receive these funds?

Erin Houston:

In terms of an appeal process, there is not one established within the statute itself, although that is something that could be addressed in the administrative code process. There is mention of promulgating rules to make this program efficient and effective, and that is something we could consider for the administrative rule. In terms of who that would be appealed to, I would have to get back to you with the answer. The second part of the question, the way that the rule is drafted now, there is no requirement for a criminal conviction. It can be restitution as ordered from the Securities Division pursuant to NRS 90.640. Although, I think the spirit of the fund is to allow for restitution through criminal convictions.

Chair Miller:

That being said, can it also be through a civil judgment? We have heard both terms during the presentation. We are trying to figure out what justifies or authenticates the reasoning for the actual award. Is it just a criminal conviction and/or a civil judgment?

Erin Houston:

Yes, exactly. Pursuant to NRS 90.640, it allows for restitution to be determined through a criminal action, civil action, or through an administrative action from the Securities Division as well.

Chair Miller:

With that, I know there have been a number of questions. If there has been a civil, criminal, or administrative judgment, that will determine that the victim qualifies for an award; but then it also said, up to 25 percent and for a certain judgment. How then will the office determine how much to award out to each individual? I appreciate that you are following national standards for up to \$25,000 and the reasoning behind that and I heard something about a percent. Once this is publicized, there may be more than 6 or 7 per month; perhaps up to 30 victims a month will come forward. What will be your process for determining how much and whom to award?

Erin Houston:

That will be difficult, of course. The intention is to award the maximum amount for each victim until the fund is depleted. I know other states have gone back to their legislatures and attempted to change the funding source or to increase the amount that they could divert into this fund, but the intent is to award the maximum to each victim until the fund is depleted.

Chair Miller:

When you say "depleted," do you mean that month or for the biennial cycle? Is it just when it is gone, it is gone?

Erin Houston:

Correct. Since these are based on enforcement action funds, we do not have a definitive funding source that guarantees that there will be a certain amount of monies available, or revenue that is put into that fund, at any given time. We also do not want to get into the practice of engaging in enforcement actions for the purpose of funding the fund. It really would be first come, first served; providing recompense to the maximum amount available, which will not always be \$25,000. It is 25 percent or \$25,000, up to a maximum of \$25,000. If somebody invests only \$10,000 and they have a small civil judgment and we are able to help in a small way, then hopefully we will see some applications with those numbers as well. We do hope to use up the monies in the fund as frequently as we can.

Chair Miller:

I appreciate your respect for not trying to just generate more fees by applying more convictions in these fee/income situations.

Assemblywoman Cohen:

Often in legislation, we see a paragraph that states an administrator can seek gifts or grants, that type of that thing, and I am somewhat surprised to see that this is not in here. Is that something that was purposefully left out, or is that something you would be willing to add?

Secretary Aguilar:

Definitely an option, especially with a lot of our brokerage houses' presence in Nevada. They see this is an issue, and to build credibility with their investor groups or with the investor community, I think that this is a great idea.

Chair Miller:

We will now move into testimony in support of A.B. 67.

Cyrus Hojjaty, Private Citizen, Las Vegas, Nevada:

I am very glad this bill has been brought forward. The fact that there is just so much criminality in the securities industries; deception, lies, especially on Wall Street. This is a good step forward. I really learned a lot how it targets seniors and I think it is very important, even though I am 30 years old, and I have 12 or more years investing in the stock market, I really wish you guys can do more—also about home loans—considering we had a horrible crisis about 15 years ago. That is very important. There is just so many scams and rip-offs in the financial industry. We would like to thank all of you for bringing this bill forward and thank you, Assemblywoman Considine, regarding this issue.

Chair Miller:

I will now open testimony in opposition to A.B. 67. [There was none.] I will now open testimony in neutral for A.B. 67. [There was none.]

Chair Miller:

Secretary Aguilar, you may now make your final remarks.

Secretary Aguilar:

This is pretty important, especially when we talk about the investments of our community members. These investments are supposed to provide for these individuals for the future so that they can live a life that is comfortable. They have worked hard for this money, and for somebody to come by and take it from them is unacceptable, and we need to stand up and give these people an opportunity to have restitution. Deputy Houston is an incredible advocate for our investor community. I am grateful to have her on the team; she has been one of the most fascinating areas within state government that I have found given the work that they do, and they do it quietly.

Erin Houston:

Thank you for your time this morning. I hope you will consider adopting this bill.

Chair Miller:

We will now close the hearing on A.B. 67. The final agenda item is public comment. [Public comment rules were explained. Public comment was heard.]

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

Chair Miller:

Thank you, everyone, for today. With that, we have finished our business and will again convene tomorrow at 8 a.m. This meeting is adjourned [at 9:23 a.m.].

RESPECTFULLY SUBMITTED:

Connor Schmitz
Committee Secretary

APPROVED BY:

Assemblywoman Brittney Miller, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a proposed amendment to [Assembly Bill 55](#), presented by Stavros S. Anthony, Lieutenant Governor and Francisco V. Aguilar, Secretary of State.

[Exhibit D](#) is a copy of a PowerPoint presentation titled "Nevada Secretary of State, Francisco V. Aguilar, Assembly Bill 67," dated February 21, 2023, presented by Francisco V. Aguilar, Secretary of State and Emily M. Houston, Deputy Secretary of State, Securities Division, Office of the Secretary of State.

[Exhibit E](#) is a letter dated February 21, 2023, submitted by Aviva Gordon, Chair, Legislative Committee, Henderson Chamber of Commerce and Emily Osterberg, Director, Government Affairs, Henderson Chamber of Commerce, in support of [Assembly Bill 14](#).