

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-ninth Session  
March 30, 2017**

The Senate Committee on Judiciary was called to order by Chair Tick Segerblom at 1:41 p.m. on Thursday, March 30, 2017, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Tick Segerblom, Chair  
Senator Nicole J. Cannizzaro, Vice Chair  
Senator Don Gustavson  
Senator Michael Roberson  
Senator Becky Harris

**COMMITTEE MEMBERS ABSENT:**

Senator Moises Denis  
Senator Aaron D. Ford

**GUEST LEGISLATORS PRESENT:**

Senator Ben Kieckhefer, Senatorial District No. 16

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Policy Analyst  
Pat Devereux, Committee Secretary

**OTHERS PRESENT:**

Allison Clift-Jennings, CEO, Filament  
Doug Erwin, Economic Development Authority of Western Nevada  
Wendy Stolyarov, Libertarian Party of Nevada  
Roger Palmer, Sergeant, Las Vegas Metropolitan Police Department

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Chuck Callaway, Las Vegas Metropolitan Police Department  
John T. Jones, Jr., Nevada District Attorneys Association  
Michael Hillerby, Mastercard Worldwide  
Robert Roshak, Executive Director, Nevada Sheriffs' and Chiefs' Association

CHAIR SEGERBLOM:

We will open the hearing on Senate Bill (S.B.) 398.

**SENATE BILL 398**: Establishes various provisions relating to the use of blockchain technology. (BDR 59-158)

SENATOR BEN KIECKHEFER (Senatorial District No. 16):

Senate Bill 398 authorizes the use of blockchain technology similar to how other electronic records have been recognized in the *Nevada Revised Statutes* (NRS) when written records are required. The bill will help ensure the State keeps pace with technological advancements and provide a legal framework for people using a blockchain to not do so in a legal gray area.

The bill defines terms related to the use of blockchain technology and prohibits local governments from taxing, licensing and imposing other requirements on its use. Several provisions concern the use of a blockchain in contracts.

Section 10 provides that for the purposes of relevant portions of NRS 719, the Uniform Electronic Transactions Act, blockchain or smart contracts will be deemed electronic records. Section 11 provides that a smart contract or signature cannot be denied legal effect enforceability if it is verified by a blockchain. Evidence of smart contract records or signatures may not be excluded solely because they were created or verified via blockchain. If, by law, signatures or records are required to be written, it is sufficient to use a blockchain to verify signatories' intent to use signatures.

Section 12 provides if a blockchain is used in a transaction between consenting parties that requires a contract or other document in writing, the legal validity of the document may be denied if the blockchain is in a format unavailable to all persons entitled to access. Another NRS chapter calls for posting, displaying or transmitting a record in a specified method; using a blockchain does not satisfy that requirement in lieu of something like public noticing. If someone inhibits a person's ability to store or retrieve information in a blockchain, that information is not enforceable by the inhibitor.

Section 12 also provides that use of blockchain to provide notice or acknowledgment is unsatisfactory in other areas of NRS, such as termination of a public utility contract, foreclosures, evictions, right-to-cure proceedings, cancellation of certain life or medical insurance policies and recall of products that endanger health or safety. A blockchain is insufficient when a document is required to accompany the transport or handling of hazardous or toxic materials.

Section 13 provides local governments cannot impose taxes, fees or other requirements relating to the use of blockchain or smart contracts. Governments also cannot require a license or permit to use those methods. Section 14 makes the bill effective on passage and approval.

Senate Bill 398 is an offshoot of several efforts I worked on in the 2015-2016 Interim to ensure Nevada has an environment welcoming and inclusive of startups. Entrepreneurs have been working on a package of legislation to ensure that, instead of just incentivizing large companies to relocate to the State, we have policies incentivizing them and smaller companies to start and grow here.

CHAIR SEGERBLOM:

Can you explain in layman's terms what blockchain is?

ALLISON CLIFT-JENNINGS (CEO, Filament):

A blockchain is a digitized version of a proceeding similar to an Excel spreadsheet shared among many people. Anyone would know if someone else changes a row in that spreadsheet. A lot of technology changes the way blockchain works, but it is a fundamental way to create or increase trust between parties in transactions across all aspect of industry.

CHAIR SEGERBLOM:

Why would this be necessary?

MS. CLIFT-JENNINGS:

In many different industries, a lot of trust needs to be established for transactions to happen. An example is auditing of major banks and other regulated industries that require auditing to prove things did or did not happen. Blockchain can enable capabilities to provide trust or establish verification of substantiation of something that happened in the physical world in a way that does not require auditing.

Blockchain technology is as important as the Internet or mobile smart phones because it will change entire industries. It is only about eight or ten years old. Many companies such as major banks, including Visa, Inc.; Citi Corp.; and Wells Fargo & Company, and research groups are using blockchain.

You have my written testimony ([Exhibit C](#)). It is not often that a new technology completely changes the way we interact with each other. As the CEO of a venture-backed, blockchain-based startup headquartered in Reno, I am excited about this new technology and its ability to reduce fraud and bring new trust to existing interactions.

As a native of Reno, I want to see Nevada continue its efforts to be friendly to technology entrepreneurs. Senate Bill 398 will make the State a leader in this revolutionary technology. It helps ensure prospective companies moving to Nevada that its Legislature supports their work in building for the future.

CHAIR SEGERBLOM:

Are we the first state to enact legislation concerning blockchain?

MS. CLIFT-JENNINGS:

Arizona, Hawaii and Vermont legislators are beginning to work on it. The Vermont state government is using blockchain internally.

DOUG ERWIN (Economic Development Authority of Western Nevada):

You have my written testimony ([Exhibit D](#)). I am a technology entrepreneur turned nonprofit executive. I manage the Economic Development Authority of Western Nevada's entrepreneurial program, working with startups and entrepreneurs who are looking to grow their companies.

According to the Kaufman Foundation, startups comprise a significant portion of new net job growth. Startups have many choices of where they establish their headquarters. In order for Nevada to remain competitive, we need to adapt to this rapidly changing environment. Senate Bill 398 is important to the Nevada entrepreneurial community because it clarifies the relationship of blockchain to existing contract law. The bill will help make Nevada a strong choice for new and relocating technology companies considering moving to the area.

SENATOR HARRIS:

Are you talking about a series of complex transactions concerning forensic audits and whether those transactions actually occurred?

MS. CLIFT-JENNINGS:

Yes, in general.

SENATOR HARRIS:

Section 12 of S.B. 398 says parties who do not have access to blockchain would not have a document enforced against them. It lists the term "contract." Are we talking about more than just Excel spreadsheets and multiple transactions, or are we looking at series of contract negotiations capable of using blockchain technology?

MS. CLIFT-JENNINGS:

Yes, we are trying to tie the bills' provisions tightly to NRS 719, the Uniform Electronic Transactions Act. The bill is a new implementation of the intent of NRS 719.

SENATOR HARRIS:

In terms of blockchain's commercial applications such as contracts, commercial and real estate leases, and those types of documents, many provisions state such documents may only be modified by writing. Senate Bill 398 states documents may be modified by blockchain only if NRS allows multiple electronic or written versions. I imagine there will be a phasing out of traditional written contracts. Will there be contract modifications or renewals that began in writing and then ended up using blockchain-type technology? How will this impact existing industries, like law, in Nevada?

MS. CLIFT-JENNINGS:

The intent is we stick to NRS 719 while allowing blockchain to be another means to implement, describe or verify existing contracts. It will extend new technology's implementation of contractual terms according to NRS 719.

SENATOR HARRIS:

If a party resists using blockchain in terms of lease renewal, would he or she rely on a written iteration of that contract? Will we force people who might be technology-resistant to suddenly adopt blockchain?

MS. CLIFT-JENNINGS:

No, we will not. Over time, blockchain can represent paper contracts digitally. The law will allow its use only if all parties agree in certain situations.

SENATOR HARRIS:

What standard of proof must be met to prove you were kept out of a document someone is seeking to enforce against you? In a contractual capacity, if you are trading contracts and are locked out, and then the person had you sign it, how do you prove you did not have access to documents, the account and other things?

SENATOR KIECKHEFER:

I do not know. Thinking in terms of traditional contracts ignores a large part of what blockchain can do with managing things rather than entities or people. Filament is developing technology that increases contract communication between objects and the Internet of things versus between landlords and tenants.

SENATOR HARRIS:

Certainly, but I also see an application for traditional contracts. I need to know that this is adequately thought-out so if people want to use blockchain for law firms or complex contracts between governments, vendors and that kind of thing, we have a new technology applicable to the paper world we live in. Yes, there will be a transition phase; however, if you reject a contract signed using blockchain and do not want it to be enforced against you, there needs to be a standard of proof that you were locked out of the account or unable to fully participate.

WENDY STOLYAROV (Libertarian Party of Nevada):

You have my written testimony ([Exhibit E](#)). The Libertarian Party of Nevada supports S.B. 398 because the Party opposes all government censorship, regulation, and control of communications media and technology. Don Tapscott, author of *Blockchain Revolution*, said,

The blockchain is basically a distributed database. Think of a giant, global spreadsheet that runs on millions and millions of computers. It's distributed. It's open source, so anyone can ... see what's going on. It's truly peer to peer; it doesn't require powerful intermediaries to authenticate or to settle transactions. ... [The

blockchain is] an immutable, unhackable distributed database of digital assets. This is a platform for truth, and it's a platform for trust. The implications are staggering, not just for the financial-services industry but also right across virtually every aspect of society.

Ensuring free and open access to blockchain will stimulate economic growth and cement northern Nevada's role as a burgeoning center for high-tech innovation. Governments can never keep pace with technological change, and when it tries, inevitably slows the rate of innovation. The past 20 years of online innovation have demonstrated how free markets, unhampered by government control, can fundamentally alter and radically improve the way we live in unimaginable ways. Blockchain is an extremely promising new technology, and it is essential to set boundaries to protect it while it is in its infancy.

CHAIR SEGERBLOM:

We will close the hearing on S.B. 398 and open the hearing on S.B. 362.

**SENATE BILL 362**: Revises provisions relating to racketeering. (BDR 15-966)

SENATOR NICOLE J. CANNIZZARO (Senatorial District No. 6):

Senate Bill 362 an effective tool to combat a growing statewide problem by revising the definition of crimes related to racketeering. *Nevada Revised Statutes* 207.360 lists crimes relating to racketeering. Defendants must engage in at least two crimes on the list within a five-year period. The crimes must share common patterns, intents, results, accomplices, victims and other distinguishing characteristics or be isolated incidents. Racketeering carries a penalty of 5 to 20 years and fines of up to \$25,000.

*Nevada Revised Statutes* 205.463 criminalizes the use of personal identifying information of another individual to fraudulently obtain credit, property or services. The NRS takes into account computer and Internet technology, making it a crime to aid or abet another person in securing personal identifying information. Those crimes carry a penalty of 1 to 20 years and fines of up to \$100,000.

Senate Bill 362 adds to NRS 207.360 three crimes related to racketeering: forgery of a credit or debit card, obtaining and using personal identifying

information of another person, and establishing or possessing a financial forgery laboratory. The bill is based on a case on which I have worked extensively over many years when I was with the Clark County Office of the District Attorney. The original case involved credit card forgery, a crime often seen in the Las Vegas Valley.

A detective and I began to recognize about 11 players operating a financial forgery laboratory ring. Several people bought personal identifying information online from different illegal Websites, including names, social security numbers, credit card and bank account numbers, birthdates, and mothers' maiden names. These are common security questions that must be answered to access credit and other personal information. The information purchasers hired people to whitewash checks or set up forgery laboratories to create new credit cards. The card backs contained encoded information belonging to other people while the fronts had the forgers' names.

The ring also used cash advances in local casinos. People insert credit, debit or bank cards into cash-advance machines, ask for a certain amount and then receive a receipt, which is taken to the cashier's cage. On presentation of an identification card and the card used to conduct the transaction, the money is handed over. Criminals then take receipts to hotel rooms where financial forgery laboratories have been set up, create forged credit cards and cash out money at cashier cages.

Many individuals were part of the identity theft ring to access people's information, steal from them and use casinos as conduits. Those at the top of the ring bought information and created financial forgery laboratories. Other individuals made the fake cards, others tested them in cash-advance machines, others cashed out the money at the cashier cages. The money was split and used to fund the operation and pay wages. The ring members' activities leaked into rental car fraud. Whenever officers and detectives contacted any operations, they were easily broken down and reestablished somewhere else. As patterns developed, it became difficult to charge individuals together, given the makeup of the operation.

Identity theft has become a highly marketable trade. Senate Bill 362 includes crimes currently in NRS 207.360 to crack down on identity-theft rings. In my case, we charged individuals with more than 74 counts of various forgeries and credit card schemes and shut down the largest identity-theft ring operating in



Las Vegas casinos for about 2 years. The bill will be a tool to allow law enforcers to get at individuals conducting large-scale identity theft. These are not merely people trying to get extra money by forging checks or who find friends' credit cards and try to use them.

According to a broad study, identity-theft incidences increased 16 percent in 2016 over 2015. Two million more victims were impacted, and the amount fraudsters took increased from \$15 billion to \$16 billion.

The Federal Trade Commission reported that in 2016, identity theft was second in the top category of complaints the agency received. From 2014 to 2015, those complaints rose by more than 47 percent. According to the 2015 Consumer Sentinel Network Data Book, Nevada ranked fifth in fraud and other complaints, with 24,194 complaints, or 137 complaints per 100,000 people. Nevada ranks 19th in identity-theft complaints, with 3,613, or 125 complaints per 100,000 people.

When compared with other large metropolitan areas, Las Vegas is 12th for fraud and other consumer complaints in the Nation, with 10,816 complaints, or 523 complaints per 100,000 people. In identity theft, Las Vegas ranks 87th out of 377 large metropolitan areas, with 2,768 complaints, or 130 complaints per 100,000 people.

Looking at Nevada complaints related to identity theft by type of crime, credit card fraud engendered 819 complaints, or 23 percent of the overall number. It was ranked second behind government documents or benefits fraud. Attempted identity theft engendered 169 complaints, or 5 percent of all complaints. Credit card fraud engendered 424 complaints, or 2 percent of all complaints.

Identify-theft fraud is an increasing problem in Nevada because of our large casino industry. Victims may have their entire life savings wiped out because their information has been stolen. In my aforementioned case, there were thousands of victims who had lost from \$500 to \$5,000, sometimes on a recurring basis. In addition to including new crimes under racketeering, prosecutors still have to prove there is a criminal enterprise or syndicate and individuals are operating together to commit those crimes.

CHAIR SEGERBLOM:

Must racketeering involve at least two crimes listed in the bill?

SENATOR CANNIZZARO:

Yes, in order to charge someone with racketeering, each individual involved in the process must have committed the crimes within a five-year period. Prosecutors must also prove the existence of a criminal syndicate or enterprise. If individuals are operating in concert, and you removed one of them, the enterprise would continue to operate. The bill's intent is not to just add crimes for the sake of adding crimes.

CHAIR SEGERBLOM:

If a couple of people committed a robbery five years ago, and then five years later created a financial fraud laboratory, is that racketeering?

SENATOR CANNIZZARO:

Not necessarily. You would still have to prove the robbery and laboratory are somehow related and the crimes were being committed to benefit the syndicate or enterprise. If someone were charged in 2013 with robbery and then charged with running a financial forgery laboratory in 2017, prosecutors could not charge him or her with racketeering. Prosecutors would still have to prove other individuals were working in unison and a criminal syndicate or enterprise existed.

ROGER PALMER (Sergeant, Las Vegas Metropolitan Police Department):

When criminal syndicates are hit here and all across the Nation, the racketeering aspect allows law enforcers to dig deeper into them. Senate Bill 362 will allow us to target syndicates. With the limitation of not including "Obtaining and using personal identifying information of another" or establishing a financial forgery laboratory, syndicates commonly target Las Vegas tourists, businesses and residents. That limitation prevents us from targeting other syndicate members.

One group installs a skimming device, another group creates credit cards and another group will cash out the cards. Although all three groups are working for the syndicate, Las Vegas Metropolitan Police Department (LVMPD) is sometimes unable to target the entire group because of our limited racketeering provisions in NRS.

CHUCK CALLAWAY (Las Vegas Metropolitan Police Department):

The LVMPD supports S.B. 362. The LVMPD recovered more than 100 skimming devices and recently had a case involving more than 60 people operating a forgery laboratory. Often victims do not even know their personal information

has been stolen until several days or a week later when they realize money has been skimmed from their accounts. Even Legislators have been victims of this crime, as recently as last week.

This is a criminal enterprise worth millions of dollars, which are often funneled out of the Country. It has been reported these crimes fund terrorism. Especially in this Committee, we often hear about collateral consequences and how offenders are impacted. In this area, there are categorical consequences for victims. Bank accounts may be completely depleted, financial hardships are created and credit is damaged for home buying or selling. Victims may have arrest warrants issued for them because thieves using their identities commit crimes. The unaware victim does not show up in court after a warrant intended for the identity thief has been issued.

JOHN T. JONES, JR. (Nevada District Attorneys Association):  
The Nevada District Attorneys Association supports S.B. 362.

MICHAEL HILLERBY (Mastercard Worldwide):  
Mastercard Worldwide wholeheartedly supports S.B. 362 because credit card fraud is expensive. In 2014, it totaled \$16 billion worldwide, with the United States a primary target because of the technology used and wide access to and use of credit and debit cards and other electronic payment methods. Mastercard's fraud unit works with the International Criminal Police Organization, the Secret Service, FBI and law enforcement around the world. There have been recent changes in federal law allowing more coordination between private entities and law enforcement. Since 2014, Mastercard has invested more than \$1 billion in security, technology and personnel partnerships.

SENATOR GUSTAVSON:  
What can citizens do to protect themselves against these types of crimes?

MR. CALLAWAY:  
It is unadvisable to use a debit card at gas pumps or other easy targets for skimming devices. If you do, set up a separate bank account with small amounts for gas purchases. Credit cards are better for those types of transactions because you have reimbursement protection. If you are buying gas and anything looks odd about the swiping device, wiggle it and see if it comes out. Do not use that pump and report it to the station owner or law enforcement.

Thieves will install cameras overlooking where you type in your personal identification number (PIN). Then thieves just have to walk past you with a device that steals your card's magnetic capabilities. Be aware of who is around you or of devices that simply do not look right. Check your bank account often and use programs like LifeLock, Inc., which send instant alerts if a strange transaction has been made on your account.

SENATOR GUSTAVSON:

Is there not some type of security device for wallets?

MR. CALLAWAY:

Devices claim they protect your wallet cards from being skimmed or having the magnetic information stolen, but I do not know how effective they are.

MR. HILLERBY:

Think about when you use the debit network because it has a different set of rules than credit cards. Once you enter your PIN, if someone has access to it, there is a different set of controls and customer liability issues. Gas pump brands have universal keys. A disgruntled employee could leave with that key. Skimming is not very sophisticated or difficult to do.

Security is changing because of card chip technology, which uses dynamic versus static identification. It essentially creates a one-time use number rather than transmitting PINs or card numbers. If someone steals your card number, it would not be useful again. Examine your card statements, and ask your bank about added security. If you travel internationally or to someplace you do not normally go, let your card company know. Often fraud-detection algorithms will question those charges. Obtain a prepaid card for your child in college or for when you travel to someplace with high theft.

ROBERT ROSHAK (Executive Director, Nevada Sheriffs' and Chiefs' Association):

The Nevada Sheriffs' and Chiefs' Association supports S.B. 362 for all of the reasons given. It would be a great help.

SENATOR CANNIZZARO:

Senate Bill 362 will help target individuals committing wide-scale financial fraud.

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CHAIR SEGERBLOM:

We will close the hearing on S.B. 362. Seeing no more business before the Senate Committee on Judiciary, this meeting is adjourned at 2:36 p.m.

RESPECTFULLY SUBMITTED:

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Pat Devereux,  
Committee Secretary

APPROVED BY:

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Senator Tick Segerblom, Chair

DATE: \_\_\_\_\_

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit / # of pages</b>		<b>Witness / Entity</b>	<b>Description</b>
	A	1		Agenda
	B	6		Attendance Roster
SB 398	C	1	Allison Clift-Jennings / Filament	Written testimony
SB 398	D	1	Doug Erwin / Economic Development Authority of Western Nevada	Written testimony
SB 398	E	1	Wendy Stolyarov / Libertarian Party of Nevada	Written testimony