

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Third Session
April 1, 2005**

The Committee on Commerce and Labor was called to order at 12:15 p.m., on Friday, April 1, 2005. Chairwoman Barbara Buckley presided in Room 4100 of the Legislative Building, Carson City, Nevada, and via simultaneous videoconference, in Room 4401 of the Grant Sawyer State Office Building, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Ms. Barbara Buckley, Chairwoman
Mr. John Ocegüera, Vice Chairman
Ms. Francis Allen
Mr. Bernie Anderson
Mr. Morse Arberry Jr.
Mr. Marcus Conklin
Mrs. Heidi S. Gansert
Ms. Chris Giunchigliani
Mr. Lynn Hettrick
Ms. Kathy McClain
Mr. David Parks
Mr. Richard Perkins
Mr. Bob Seale
Mr. Rod Sherer

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Debbie Smith, Assembly District No. 30,
Washoe County
Assemblywoman Genie Ohrenschall, Assembly District No. 12, Clark
County
Assemblyman Mark Manendo, Assembly District No. 18, Clark County

Assemblyman Jerry Claborn, Assembly District No. 19, Clark County

STAFF MEMBERS PRESENT:

Brenda J. Erdoes, Legislative Counsel
Diane Thornton, Committee Policy Analyst
Russell Guindon, Deputy Fiscal Analyst
Keith Norberg, Deputy Fiscal Analyst
Vanessa Brown, Committee Attaché

OTHERS PRESENT:

Sabra Smith Newby, Legislative Advocate, representing the City of Las Vegas
Renee Diamond, Administrator, Manufactured Housing Division, Nevada Department of Business and Industry
Thelma Clark, Member, American Association for Retired Persons, Nevada
Glen Savage, Environmental Health Director, Clark County Health District
Joe Guild, Attorney-at-Law, representing the Manufactured Housing Community Owners Association
Carl Braun, Board of Directors, Nevada Association of Manufactured Home Owners
Bob Varallo, President, Nevada Association of Manufactured Home Owners, Incorporated, Las Vegas, Nevada
Alex Haartz, Administrator, State Health Division, Nevada Department of Human Resources
George Flint, Private Citizen, Las Vegas, Nevada
Constance Kosuda, Private Citizen, Las Vegas, Nevada
Jan Christensen, Private Citizen, Lake Tahoe, Nevada
Karene Williams, Vice President, Cactus Ridge Home Owners Association
Doris Green, President, Cabana Manufactured Homes Community, Nevada Association of Manufactured Home Owners, Incorporated
Richard Kirlicks, Private Citizen, Carson City, Nevada
Sherry James, Resident, Cabana Manufactured Homes Community; and Member, National Association of Manufactured Homeowners
Marolyn Mann, Executive Director, Manufactured Home Community Owners Association
Teresa Maloney, Owner and Operator, Lucky Lane Mobile Home Park, Reno, Nevada
Chris Palludan, Mobile Home Owner, Fallon, Nevada
Jim Nadeau, Legislative Advocate, representing The Nevada Association of Realtors

Paul Havas, Co-Owner, Sierra Shadows Mobile Home Community, Reno, Nevada

Ray Badger, Nevada Trial Lawyers Association, Carson City, Nevada

Bob Ostrovsky, Legislative Advocate, representing Employers Insurance Company of Nevada

Pilar Weiss, Legislative Advocate, representing Culinary Workers Local 226, Las Vegas, Nevada

Mike Livermore, Claims Supervisor, Alternative Service Concepts, Reno, Nevada

Tom Nelson, President, Nelson Jones and Associates, Reno, Nevada

Don Jayne, Legislative Advocate, representing Nevada Self-Insurers Association

Wayne Carlson, Executive Director, Public Agency Compensation Trust
Redentor Villanueva, Quality Assurance Specialist for Workers' Compensation, Governor's Office

Jim Fry, Deputy Risk Manager, Risk Management Division, Nevada Department of Administration

Gary Cooper, Chief, Self-Insured Workers' Compensation, Division of Insurance, Nevada Department of Business and Industry

Thomas Morley, Political Action Director, Laborers Local 872, Las Vegas, Nevada

Pat Sanderson, Laborers Local 872, Las Vegas, Nevada

Rose McKinney-James, Legislative Advocate, representing Clark County School District, Las Vegas, Nevada

David Broxterman, Administrative Manager, Clark County School District Facilities Division, Las Vegas, Nevada

Madelyn Shipman, Legislative Advocate, representing Southern Nevada Home Builders Association

Steve Stefani, Corporate Counsel, Budget Suites of America, The RT Bigelow Companies

Van Heffner, President and CEO, Nevada Hotel and Lodging Association

Chairwoman Buckley:

[Meeting called to order. Roll called.] First, I want to address A.B. 58. This was a bill that we voted on in our last work session, but in our final motion we did not include the correct effective date, which was to be delayed some to allow implementation of the law change.

Assembly Bill 58: Enacts various provisions relating to industrial insurance. (BDR 53-250)

Assemblyman Ocegüera:

The effective date on the amendment was not correct. It was originally July 1, 2005, but it should be January 1, 2006. That's what was agreed on by all parties.

ASSEMBLYMAN OCEGUERA MOVED TO CHANGE THE EFFECTIVE DATE OF ASSEMBLY BILL 58 FROM JULY 1, 2005, TO JANUARY 1, 2006.

ASSEMBLYMAN HETTRICK SECONDED THE MOTION.

THE MOTION CARRIED. (Mr. Arberry and Mr. Parks were not present for the vote.)

Chairwoman Buckley:

I'll open the hearing on A.B. 343.

Assembly Bill 343: Revises provisions relating to manufactured housing.
(BDR 10-769)

Assemblywoman Chris Giunchigliani, Assembly District No. 9, Clark County:

Over two years ago I got a call from a former constituent who had been having difficulty getting anyone to listen to her about her concerns on the park where she had been a park manager and was a resident. I met with her and did a tour of the park. I found some of the most horrendous conditions that I've ever seen anywhere. There was raw sewage flowing in the homes as well as outside of the homes. There were electrical lines spliced across the park. There were hoses with water that wasn't drinkable or potable being used by the individuals. There was no handicapped access in the public restroom and public shower. I met a bedridden senior citizen who had a hole in the roof, and it was raining that night into her home. There's one masterpiece of the pictures that the code officers took after we finally got the city involved in some of the issues ([Exhibit B](#)).

A. B. 343 is an attempt to streamline and better coordinate what goes on between manufactured housing and local code enforcement officers, including some amendments ([Exhibit C](#)).

The bill establishes, actually, a relocation fund from payments made by the park owners. My suggestion in the amendment is to add "condemned by a local government due to health or safety issues that the park owner would be responsible for paying," so we don't have to go into this whole fee structure or whole new fund. It seemed to me a quicker and easier way, and it made it very clear that in the condemnation case, which this was, that if the entire park was condemned through health and safety, the tenants would be taken care of.

[Assemblywoman Giunchigliani, continued.] The biggest dilemma in many of these older parks is a mixed-use issue, some owned, some rented, some lacking a bill of sale. I appreciate Manufactured Housing working with those individuals who did own their home to make sure that when the park was condemned we could try to move them. So many homes were so old, they were not movable or no other park would accept them because of the age. The amendment ([Exhibit C](#)) is trying to clarify the condemnation procedures making sure some tenant rights are tightened up. I didn't realize tenants were not given rent receipts, so when people were trying to prove that they'd been kicked out, they had no proof they had been paying rent.

The Division of Manufactured Housing only had three inspectors. That's not adequate. For a long time they were contracting with local governments, and then they changed contractors. Local code enforcement officers are the better approach. At Sky View, which is apparent, someone would come out to inspect a mobile home for water, and there was sewage running underneath. They were not supposed to inspect that in this myopic bureaucracy. I'm not here to finger-point. I held a summit with the county and city people to find what can work. We need to act to protect tenants as well as those owners. We need to make sure we have a code enforcement that works and coordinate it better.

We had one suggestion that came from both the county and the city to make this a privileged license to have a business license, not just a straight business license. That would give them a little more teeth. One area I didn't think about adding is they don't have the right to fine. The Manufactured Housing Division can only give a citation. We may want to look at NRS 461A and see if we want to give them the authority that if a park owner continually has nuisances and substandard living conditions, they have the ability to fine them so there are teeth within the law. That is one piece that's missing.

Chairwoman Buckley:

It's hard to believe that people are living in such conditions. They're conditions of third-world countries. It's hard to believe that they're right off Las Vegas Boulevard. Could you clarify the original provisions of A.B. 343? Are all of them still in? Can you clarify how this fits with your amendments?

Assemblywoman Giunchigliani:

Sections 5 through 7 come out in their entirety. I would add to NRS 118B sections 117, 180, and 183, "or if condemned by a local government for health or safety reasons." That's in lieu of creating the fund. I added in a reference in Section 12. We have three different sections that really deal with manufactured homes, so I linked the condemnation issue back to NRS 461 because that's where they really define what a substandard condition is. I want to clarify utility purposes for the Health Division. They have no say over electrical types, but they do over the water, septic systems, and sanitation. That was the proper verbiage to use for that. The rest is just cleanup.

Chairwoman Buckley:

In the last part, with regard to changing the business license to a privilege license, I wonder what the impact of that would be, because most mobile home parks don't have the same issues that Sky View did. Would that put a burden on a good park? What additional remedies would it really provide to the residents?

Assemblywoman Giunchigliani:

This issue was that it gave them a little bit more teeth when they renewed their license if it was upgraded to a privilege upon renewal. There could be some segregation. There are still several parks that have not been looked at that are in the same condition as Sky View. I was trying to figure out how to get the Division to proactively go out and do a review to help them find ways to repair. I'd rather repair than have a park condemned, because those are people's homes. They may not be the best in the world, but they should be up to a standard. When code enforcement goes out I would rather see us be proactive. I'd like to find a way not to just go in and tear down those with similar problems. I'm hoping this will help good park owners get their places back up to standard.

One difference in here is with fire alarms. They are not required for owner-occupied. We wanted to make them have fire alarms, but not the new upgraded ones that go with the new code if they're in the older homes. It's very important because three of these trailers did burn down before everyone was moved out of them. It was very scary. There was a grandmother who was raising her four or five grandchildren in the park and they had to move her out. It was a very sad state of affairs. Luckily, most park owners are not handling it in this way, but we do have a whole line down Las Vegas Boulevard, and some of those areas really do need to be upgraded.

Sabra Smith Newby, Legislative Advocate, representing the City of Las Vegas:

I can attest to the conditions that Assemblywoman Giunchigliani spoke about. The City is in support of this measure. It was a devastating experience to go into the Sky View Mobile Home Park and see the conditions there. It was a failure of government. Our code enforcement officers respond on a complaint basis. We do not have the staffing to be able go out and proactively enforce codes where we have no complaints. When we got to the site we were empowered to do the outside of the mobile homes and the grounds, but not the inside, so there was a break in responsibility there. Even though this bill does impose some inspection responsibilities on the City of Las Vegas, we feel it is something we would do anyway and we have been called to do anyway. We are in support of this bill.

Renee Diamond, Administrator, Manufactured Housing Division, Nevada Department of Business and Industry:

I provided written testimony with our exceptions to some of the language in the bill ([Exhibit D](#)). I've communicated that to Ms. Giunchigliani. I do support the concept of the bill. I did listen carefully to your comments that it is only a small minority of the parks where we have these conditions and where we have these kinds of owners. Statutorily, it is correct that our responsibility lies with the actual home, and the local jurisdictions do have the infrastructure of the park. When a park is being constructed, we approve plans, but in these older parks, no one in our agency has looked at plans in years because some of them are decades old. The idea here is getting the agencies to be more communicative, to understand each other's lines of authority, and then to talk more often when there are problems. We only have three inspectors statewide who do installation inspections for safety in connection to utilities. We do not go back to parks except upon complaint of a resident or a park owner to look at those connections.

In the case of Sky View, the owner had stretched regular plug-in cords from homes to other sources of power. I don't know how you legislate people to be better than they are. The owner who wants to be an outlaw will be an outlaw. Our job then is to make sure people aren't hurt in that process. I agree that folks need these parks for affordable living, particularly in southern Nevada. The idea of making them better is the point that we should all work toward. The Division is always ready to cooperate.

Assemblyman Sherer:

From the pictures ([Exhibit B](#)), I noticed there are stickers all over the windows. Are they a fee that the mobile home has to pay each year and get a new sticker?

Renee Diamond:

Those are generally tax stickers, although the Division of Manufactured Housing places an installation seal when the home is moved in initially. After that, each year, these homes are taxed as personal property. They get a seal and it's put on the window to denote payment.

Assemblywoman Debbie Smith, Assembly District No. 30, Washoe County:

I have a large number of mobile homes and manufactured homes in my district. A great number of them are not in a park and are on individual pieces of property. I'm very interested in this legislation and I have been working with Assemblywoman Giunchigliani on this inspection issue. Looking at Section 12, I'll give you one example. I had a constituent call me a few months ago concerned about a property from which a mobile home had been moved and they were worried about the safety of the children in the neighborhood. Because of all of the interagency problems, this wasn't resolved until about two weeks ago. When it was finally inspected, we found there was actually an illegal room that had been dug out and built under this manufactured home and there was access to it once part of the mobile home had been moved. It was a large room that had been lined with railroad ties. No one knew it was there and it was dangerous.

I have had numerous complaints in my district about the inspection issues and the jurisdiction between local government and the Division and how those are sorted out. It's a frustration for the consumer. I am interested in seeing this bill progress and if we can make the inspection process a little cleaner.

Assemblyman Ocegueda:

I'd like to echo those comments. I worked on several fires at Sky View and it was such a dangerous situation. We couldn't do anything to shut the place down even though we knew it was a deplorable situation. There were opportunities for residents and for us to get hurt as well, going there and fighting a few major three-alarm fires.

Thelma Clark, Member, American Association for Retired Persons, Nevada:

On line 17 on the second page, there are problems out there besides electricity. I wondered if there are master meter parks with propane gas, natural gas, and water, and if you would consider including those. I was in Sparks about three weeks ago and saw a mobile home park with master meter propane that was in terrible condition. The way they hooked up the propane was illegal, and the person who delivered the propane could only see his big tank that serviced the whole park was connected properly. He said he had no authority to go and check the individual homes and how they were hooked up. That's one of my concerns. I support this bill. It's a wonderful bill. I got involved with Sky View

when the city attorney called me and asked if I would I educate him on mobile home issues.

Chairwoman Buckley:

I'll ask Ms. Giunchigliani to work with you as she refines the bill. We'll ask to get a full integrated copy from Legal for the whole Committee to review. Then we'll schedule it for work session and have the amendments out in advance so if anybody wanted to submit to the Committee members any comments after it was worked up, they could.

Glen Savage, Environmental Health Director, Clark County Health District:

The Health District is in favor of this bill. We applaud Assemblywoman Giunchigliani and her efforts to get the governments together and protect our community. I was out there with her and attended the summit. I understand the issues at hand at Sky View and other mobile home parks. I would ask that the Committee consider a change in giving the Health District an opportunity to seek some enforcement through our administrative hearing process.

Currently, in the situation with Sky View, we had issues with solid waste and raw sewage. We did take different routes in enforcement with those situations of health and solid waste issues. One issue with solid waste and raw sewage we did take to our Administrative Hearing Officer to find some quick remedies against the owners and operators of that mobile home park. We have done so in other avenues in other mobile home parks in our community.

I'd like you to consider allowing the Health District to seek enforcement through our administrative hearing process with other health issues. We need to have a strong and quick enforcement system to try to prevent these issues from happening. Our hearing process has been able to do that in the past. I would offer that for consideration. We are very much in favor of this bill.

Assemblyman Anderson:

Often, several different agencies respond to problems like this. There's no communication between one group and another, and as a result, these problems continue to escalate over time until they get to the point where raw sewage is out and you can no longer ignore it because the safety of the entire community is at risk. How will we get you to do what needs to be done if you've had the ability to do it in the past and didn't?

Glen Savage:

We have taken more of an aggressive role in these inspections over the last two years. Before that, I can't really answer to what we did or didn't do. We have worked with the different fire departments, building inspectors, the State

Manufactured Housing Division. We do multi-agency inspections. We've found that those have been very successful and we're going to continue doing those.

Chairwoman Buckley:

It seems that when agencies are just looking at what's in their purview, they miss the obvious. It seems ironic that we have to pass a law to say if you smell gas or see raw sewage, report it and let the proper agency know. If we need to pass a law to do that, I'm sure we're ready to do that.

Joe Guild, Legislative Advocate, representing the Manufactured Housing Community Owners Association:

We are in support of the laudable efforts of Assemblywoman Giunchigliani on this bill and especially now having a quick review of the proposed amendments I think we can work with her. The organization I represent through its Executive Director, Marolyn Mann, immediately was engaged in the situation and helped to set up meetings with other parks that have similar problems with various agencies in southern Nevada. Also, fulfilling the pledge to Ms. Giunchigliani, in April the Park Owners Association is going to conduct a continuing education class for managers to further the continuing education requirement that's in NRS 118B, concentrated solely on NRS chapters 461A and 489, which are the relevant chapters for health and safety standards.

Carl Braun, Board of Directors, Nevada Association of Manufactured Home Owners:

I'm in support of the intent of this legislation; however, I do have some questions. It addresses utilities such as electrical, water, or sewage. I'm under the impression that there are already laws in place to govern these utilities. Another portion of this bill directs attention to rented manufactured homes and rentals not under the jurisdiction of NRS 118B. That would be in 118A. Also, inspections of homes are a concern on some kind of basis and I don't know of any such requirement for other private homes.

Chairwoman Buckley:

We'll ask Assemblywoman Giunchigliani to work with you, Mr. Varallo, and anyone else from the Association as we look at a final product.

Bob Varallo, President, Nevada Association of Manufactured Home Owners, Incorporated, Las Vegas, Nevada:

We do support this bill, but I have several comments. On page 2 of the bill, Section 2, paragraph 2, it says, "In preparing the checklist, the Division may consult with any public or private entity, including, without limitation, the Nevada Association of Manufactured Home Owners, Incorporated." This has been taken by someone who had read this and publishes a publication from

northern Nevada to indicate that he felt the Nevada Association was deeply involved with this. I thank the Assemblywoman for including this in the bill. At no time were we involved in initiation or originating this bill. We weren't involved in the wording of this bill, nor did we have any input into the bill itself.

NRS 118A protects only apartment renters, and when an individual moves into a mobile home park and is a renter, they are protected by the provisions of 118B. Likewise, anyone who moves into a mobile home park and owns that home in that community and leases the land is presently protected by our Bill of Rights, NRS 118B.

Chairwoman Buckley:

We'll include you on the list of folks to work on the final language of the bill.

Alex Haartz, Administrator, State Health Division, Nevada Department of Human Resources:

[Read from [Exhibit E](#).] With regard to Section 13 based upon Ms. Giunchigliani's proposed amendments ([Exhibit C](#)) to clarify utilities to reflect newly septic water sanitation, that's within our periphery and we have no objection.

Chairwoman Buckley:

I'll close the public hearing on A.B. 343 and I'll open the hearing on A.B. 216.

Assembly Bill 216: Requires landlord to reduce rent for certain older persons who are tenants of manufactured home parks. (BDR 10-201)

Assemblywoman Genie Ohrenschall, Assembly District No. 12, Clark County:

Existing law establishes the rights and obligations of landlords and tenants of certain manufactured home parks as has been explained in Chapter 118B of NRS [*Nevada Revised Statutes*.] The Manufactured Housing Division of the Department of Business and Industry has the responsibility of administering the laws and regulation governing those parks.

My bill requires a landlord of the manufactured park operated for profit to reduce the rent of tenants who meet certain eligibility requirements and who request the rent reduction. To be eligible for the rent reduction, the tenant must be at least 55 years of age, be the resident and registered owner of the manufactured home, have resided in the same park for at least five years, and have a household adjusted yearly gross income of less than \$40,000. The

maximum amount of rent the landlord may charge the tenant is determined using an incremental scale based on the tenant's adjusted yearly gross income.

[Assemblywoman Ohrenschall, continued.] A.B. 216 establishes procedures for the tenant to request the rent reduction and for the landlord to object to the request if the landlord feels the tenant does not qualify, is not properly eligible, or is making these requests in bad faith. The Manufactured Housing Division will be given the responsibility of resolving disputes over whether the tenant is eligible for rent reduction. The landlord and the tenant each have a right to request a hearing to challenge the decision of the Manufactured Housing Division.

A.B. 216 gives the landlord the right to apply to the Division for permission to increase the amount of rent he may charge the tenants receiving the rent reduction. The Division must authorize the rent increase if it is necessary to assure a fair and reasonable return on the investment of the landlord. This bill is the first one that incorporates the concept of a fair and reasonable return on the landlord's investment and economic necessity. This bill creates civil remedies for violations of the provisions governing rent reductions. The civil remedies are in addition to the administrative fines and civil penalties that may be imposed for violations existing under Chapter 118B of NRS.

Under existing law, a landlord must give tenants a copy of the statutes governing manufactured home parks and a statement informing the tenants that they're entitled to certain rights under Nevada law. This is the Bill of Rights referred to earlier on testimony on another bill. A landlord must also post a sign containing the statement of rights in a conspicuous place in the manufactured home park. This bill requires the statement of rights and the sign posted by the landlord to inform the tenants that they may be entitled to a rent reduction under the provisions of the bill. This is important because the bill provides that a tenant, even if he's eligible, will not get a rent reduction if he does not actively apply to get it. This bill provides that the landlord is also prohibited from taking any retaliatory action against the tenant who exercises his right to request a rent reduction under the provisions of the bill.

Many of the residents of manufactured home parks in Nevada, particularly in southern Nevada, are elderly persons. Many are single because their spouses have died. Most rely on Social Security to pay their living expenses. They have worked hard all of their lives and were told that manufactured home living was a good investment. They bought manufactured homes and had them placed in parks where the lot rents ranged originally from \$150 to \$180 per month. I know some tenants who moved into parks where the lot rent was only \$50 per month, so they felt that forever, no matter what happened, they would be able

to at least keep a roof over their heads. They never thought about increases in the lot rent, and when it started, it kept on going.

[Assemblywoman Ohrenschall, continued.] Along with house payments of \$300 to \$500 a month for the unit, if you had \$150 space rent, you had an affordable housing situation. In the last several years, though, residents have seen lot rents escalate. Most rents have increased almost \$75 a year, to the point where in some parks the rents are over \$500 a month. That's just for the lot rent. We have to remember that quite often the resident is also making payments on the unit he is purchasing, so he's making two payments at the same time. The payment he's making on the unit is not usually shown in any of the statistics, so we don't get a really clear picture of the financial stress that is put on the resident of the park.

It's important to note that residents are only renting the space where a manufactured home is parked. Sometimes the residents don't fully realize that they're only renting land in spite of all current efforts to educate them. Owning the land underneath the unit is what gives power in determining what use is made of the land.

People ask if the park is being unreasonable, why don't the tenants just move? It's not that easy. It can cost up to \$8,000 or \$10,000 to move a manufactured home, if it is not too old to be moved at all, an unreasonable amount for persons on fixed retirement income.

A.B. 216 attempts to address this critical problem in for-profit mobile home parks to reduce rents for certain low-income seniors. The bill takes into account there are some parks that are "luxury parks." This bill is looking at people who need a break just to survive. The bill gives the Manufactured Housing Division the authority to settle disputes involving eligibility in rent reduction.

Section 6 creates a schedule of rents based on income. Under this bill, rent is limited to \$300 monthly if the tenant's adjusted gross income is less than \$20,000 annually. The rent is \$350 monthly if the tenant's adjusted gross income yearly is \$20,000 or more, but less than \$30,000 annually. The rent is \$400 monthly if the tenant's adjusted yearly gross income is \$30,000 or more, but less than \$40,000 annually. If the adjusted gross income is over \$40,000, there is no limitation on what the park can charge. Assemblyman Mark Manendo is a co-sponsor and has a great deal of knowledge of mobile home parks, because he too represents many parks that are caught in similar situations.

Chairwoman Buckley:

I too represent a lot of mobile home parks, and the folks I see when I walk door to door don't mind paying rent increases; they expect it. They do mind the exorbitant rent increases and the fact that they own their own homes and only rent the dirt and are still paying more than apartment rentals or a house payment. They're caught because they're on a fixed income.

Assemblyman Mark Manendo, Assembly District No. 18, Clark County:

This is not a new issue. We've been doing this for several sessions. We're trying to come up with a different plan to try to reach our seniors, who are the most vulnerable and need the most assistance. I represent constituents who support this bill.

George Flint, Private Citizen, Las Vegas, Nevada:

My wife and I are 29-year residents in a rental mobile home park. NRS 118B has done a lot for us, as have Renee Diamond and the Legislature.

I have a short story to share. It involved a couple who received three rent increases in a year and a half. They moved into the park based upon a pretty tight budget. After three rent increases in 18 months, this couple was down to \$37 a month left in their budget. Each month they bought \$37 worth of macaroni and cheese, and for several years, that's what they lived on. Those kind of things happen, not to the George Flints who make over \$40,000 a year, but to those people who do move in during their later years and who have budget constraints upon them.

118B allows those of us who work in mobile home parks, if we're frustrated and confused, to sit down with our owner. Several years ago I was asked to get our owner to sit down with us. We got the necessary 25 percent signatures and the committee of five and we went before our landlord, who lived in Olympia, Washington. He sat down and listened to us with a chip on his shoulder for three hours while we told him what I've shared with you through the years. When it was all over with, he thanked us for our time and said, "Mr. Flint, please be aware of the fact that you will have a \$600-a-year rent increase, starting in three months. I don't mind meeting with you and the rest of the people in the park, but every time you call me into a meeting, you can expect a \$50-a-month, \$600-a-year rent increase." We didn't have Ms. Diamond with us in those days, or she would have probably helped us over that hurdle.

We are better off today, and I'm thanking this Committee for the hard work that you've done in making our lives better.

Assemblywoman Ohrenschall:

I distributed a statement ([Exhibit F](#)) by Steve Ray, Vice President of the Tahoe Shores Homeowners Association in Stateline, Nevada. He outlines the problems with rent increases that he has run into at his mobile home park. He describes another problem, protecting the renters from a unilateral decision to simply dissolve the park when a good offer for the real estate comes in.

Constance Kosuda, Private Citizen, Las Vegas, Nevada:

I live in the Cabana Park. I'm here as a retired trial lawyer and a member of the American Psychiatric Association Alliance. For over 20 years, I've represented many elderly and disabled people and people on fixed incomes. They believe it is a disgrace not to be able to pay their bills. Nevada is one of the retirement capitals of the world, and Nevada has one of the highest senior citizen suicide rates in the country. I wish to point out for those of us who are on fixed incomes, which can sometimes be less than \$1,000 a month, that rent increases when one already owns one's home can be devastating and make life impossible. We approve of this measure. My only request would be that the five-year period be reduced, because in five years in some parks it will be a free-for-all and rentals will be increased unconscionably.

Jan Christensen, Private Citizen, Lake Tahoe, Nevada:

I live at Tahoe Shores Mobile Home Community. Regarding the letter from Mr. Ray ([Exhibit F](#)), I will read part of the letter, so you're aware. "Out of a total of 155 home sites, the 68 surviving homeowners have banded together in an association dedicated to defending those least able to defend themselves," which are our seniors. "In 2002, we achieved some measure of success at the county level with a request for an ordinance that would review such outrageous increases." Our increases in the last four years have been 48 percent total, which is unconscionable. "The Commission did not pass the proposal for an ordinance, but it did force the park owners to adopt a program whereby our low-income seniors, aged 55 or over, may now apply to receive either a 3 percent increase or no increase, depending upon their individual income versus housing cost. We believe the no-increase threshold was set too high, as it requires housing costs exceed 50 percent of income, or 15 to 20 percent more than most people pay for their housing costs, but that is the nature of the deal struck to which we were not privy."

There are some members of our community here today. These residents live in constant fear that they will soon be unable to pay their space rent, or worse, the owner may be able to close the community and render all of us homeless. I beg you to help the seniors of Nevada and pass this bill so they can live their golden years without the stress of not knowing how high their rents will rise the older they get. Let's treat our elders the same way most other countries do.

Let's support them, make life easier for them, and, most of all, give them the respect they deserve.

Chairwoman Buckley:

I have met Mr. Ray and recall all the testimony in the beginning of this. I continue to be concerned about what's happening up there.

Karene Williams, Vice President, Cactus Ridge Home Owners Association, Las Vegas, Nevada:

Cactus Ridge is an over-55 community where the average age of residents exceeds 70 years. Many of our residents are low income, and some already receive rent assistance from the Manufactured Housing Division of the Department of Business and Industry. Our homeowners association represents a majority of residences.

Cactus Ridge was built in 1998 by the Clark County Department of Aviation in order to relocate the residents of two parks located on Tropicana Avenue. These parks had been closed by the use of eminent domain due to the airport noise. Many of our residents made the move to Cactus Ridge because they relied on promises made by aviation and government officials. These residents were promised affordable housing for the remainder of their lives.

However, after living in our wonderful community for five years, the Department of Aviation swapped Cactus Ridge to a private group of wealthy investors. This land swap is currently being investigated.

Since the December 2003 swap, our rents have been increased in excess of 30 percent. Fees have been initiated for formerly free amenities, and maintenance of park facilities has suffered from neglect. While some of the increase in monthly rents is deemed pass-throughs, none of these would have been incurred had the Department of Aviation not swapped the property. Governmental agencies do not pay property taxes, sewer fees, or insurance premiums. Under the new ownership, these fees are now assessed and then passed on to the residents. The last raise in rent alone represented a 14.85 percent increase in the base rent.

This increase in monthly rents has affected those residents who were already finding it difficult to meet their monthly expenses. They feel abandoned by those government officials who worked hard between 1992 and 1998 to gain support for the new park. They have good reason to feel abandoned, because that is exactly what happened.

Nevada has long been a wonderful place for seniors to retire. With the skyrocketing price of housing making it financially impossible for many seniors to purchase homes, manufactured housing is a wonderful alternative.

[Karene Williams, continued.] A.B. 216 is the first step needed to rectify a difficult situation affecting many low-income seniors who reside in manufactured housing in Nevada. Please recognize our plight and pass this much-needed legislation. In addition, I ask that Senator Randolph Townsend allow this legislation to proceed to a vote of the Senate.

Chairwoman Buckley:

I recall when the park was on Tropicana and was condemned by the Department of Aviation because of the airport and was moved. I thought the county did a wonderful job of setting up the park. I'll ask our staff to ask the county representatives to come to our work session and explain why they did what they did to this park. I'd like to hear the explanation.

Assemblywoman Ohrenschall:

We have several people from various parks in northern Nevada here to support the bill. Some of them wish to testify and most are afraid to testify. They were not aware of the facility to sign in support of the bill. Can I ask the people in general support to stand up so the Committee could get an idea of the head count of people who cared enough to show up? [Three people stood.]

Carl Braun, Board of Directors, Nevada Association of Manufactured Home Owners (NAMH):

I serve on a national association for manufactured homeowners and I am a member of the Manufactured Consensus Committee in Washington under HUD [United States Department of Housing and Urban Development]. This bill is what park owners describe as rent control. I agree with them. This bill is rent control. We are attempting to control the rent for certain persons in certain parks. I've heard at previous sessions that rent control is bad for two primary reasons. It discourages new business and it invites park owners to reduce their maintenance since they can't increase their rents. I took Manufactured Housing Division reports from 1998 through 2004 and built a spreadsheet. In 1998, there were approximately 36,000 lots available. The average in Las Vegas was \$370 a month, and there was a 6 percent vacancy rate. In 2004, there are 33,000 lots available. We lost 3,000 lots in 8 years.

The average rent is \$457 a month and we have a 21 percent vacancy in the fastest-growing county in the United States. Why is that? We built 29,000 new homes, and in Clark County in 2004, 269 new manufactured homes were sold. Nationally, manufactured housing is 5 to 10 percent of overall housing. Without

rent control, there have been no new parks built since Cactus Ridge. Cactus Ridge was built because two other parks were closed. Without any rent legislation, there are no new parks being built in Nevada. The available supply of lots is dwindling. The biggest maintenance expense in mobile home parks is what we pay to keep our homes in good condition, not cutting the grass and so forth.

[Carl Braun, continued.] They say that the free enterprise system, the system of supply and demand, will make rents be at the proper levels. I live in Boulder Cascade, and across the street from me is May Cliff. Behind May Cliff is Riviera, and behind us is Palms. These are four mobile home parks of about the same size. The highest rents at Palms, Riviera, and May Cliff are \$400 a month. I just got my new lease. Our rent starts at \$545 a month. There is something wrong with the free enterprise system because although I like my park, I don't like it \$145 a month more than the three parks that surround me. The free enterprise system does not work for manufactured homeowners in land-lease parks because most of us can't afford to move our homes. The park knows this and treats us accordingly. Manufactured housing is the only affordable housing not subsidized by the government. It becomes affordable housing because we purchase the home and then rent the land.

Doris Green, President, Cabana Homes Park Chapter, Nevada Association of Manufactured Home Owners:

My concern is the rise of rent each year on manufactured home lots. We are now paying over \$550 monthly for a piece of land, which we maintain. The company that owns our land is in Chicago. Their income is probably \$20 million and they put very little of this into amenities for the park. This past year, seniors in our park on Social Security and other fixed income received a cost-of-living raise of maybe \$4 to \$24 a month. Our lot rent was raised between \$46 and \$54 per month. As we get older, we have more medical problems and costs. Many seniors will have to sell their homes because of this high rent. We understand the meaning of free enterprise, but there should be some type of cap in comparison to income. I want to thank Ms. Ohrenschall, Mr. Manendo, and everyone who worked on this bill. It would be a lot of help to us. Please pass it.

Bob Varallo, President, Nevada Association of Manufactured Home Owners (NAMH):

This is the fourteenth consecutive session of the Nevada Legislation in which some form of rent justification bill, or fair rent bill, or some legislation of this nature has been introduced during the session. The bills I'm familiar with since 1997 have dealt with rent justification wherein, using certain criteria or parameters, the landlord was required to justify his rent increases. This bill gets

away from the rent justification approach, which under any circumstance is always referred to as rent control by the community owners. This bill takes a different tack and focuses on consideration for our seniors. A proper name for this bill would be a "Senior Rent Stabilization Bill." This is not a perfect bill, nor have I seen a perfect bill in the past eight years. The NAMH Board fully supports this bill and beseeches your favorable consideration in the passage of this bill in your Committee deliberations.

Richard Kirlicks, Private Citizen, Carson City, Nevada:

[Submitted [Exhibit G](#).] In my park, the landlord raises the rent and he's justified in doing so by contract a maximum of 5 percent a year. It's been 5 percent every year because he's allowed to do that. There is no justification. There isn't a club house. There is lawn mowing of front lawns only. There is basic cable television provided and that is it; no utilities, no garbage, nothing. If the lawn maintenance people break a sprinkler on your front yard, it's up to the tenant to pay for a repair. He does nothing. I don't move because it's expensive, but the rent is getting to the point now where retired people on fixed incomes cannot maintain that rent. Something needs to be done. In my park, the man is running rampant and I hear that happens all over the state.

Sherry James, Resident, Cabana Mobile Home Park; and Member, Nevada Association of Manufactured Homeowners:

I've been here in Las Vegas for 12 years, and manufactured homes have been the most affordable housing there is in the area. The last few years, the housing industry has gone up, still leaving the manufactured homes affordable. As of January 1, my rent went up \$49, which for seniors can cause a hardship. There are no improvements or anything that justifies even a little bit of the increase in our rent, nor do they tell us where it goes. Communities aren't being taken care of like they should, properties are going up, and homes seem to be going backwards when it comes time to sell. I appreciate the Assembly working on [A.B. 216](#). We need some relief for everyone involved.

Thelma Clark, Member, American Association for Retired Persons, Nevada:

I did a survey when a park across from me asked for a rent increase. They asked me to come and explain what the Public Utilities Commission did. I gave them a sheet of paper and said I don't want your name, but the amount of income you have. I averaged that for 101 persons in this park. It was \$1,191 a month. One or more of the households were only one person with one income. Twenty-six percent were two people or more, and only 3 percent were three or more. They listed all the increases they had this year on auto insurance, mobile home insurance, rent, groceries, dental, electric, gas, and all the utilities. I asked them to tell me if they had savings. Ten percent had more than \$5,000 savings, 31 percent had \$5,000 or less, and 59 percent had no savings.

Ninety-seven percent were dipping into their savings for living expenses. The percentage of interest income was 1.2 percent. This situation is very critical and I appreciate your work on it.

Joe Guild, Legislative Advocate, representing Manufactured Housing Community Owners Association:

A.B. 216 is rent control. We're contemplating the involvement of the government controlling a market-driven situation. The packet you have in front of you ([Exhibit H](#)) gives information regarding rent control and other things. Schemes like this that attempt to deal with the situation of rental housing have never worked. There are only five jurisdictions in this country that have any form of rent control whatsoever. There are several states, including Nevada, with no rent control at all. The vast majority of the states have actually preempted rent control. It is a failed scheme and it won't solve the problems that the proponents of this legislation have asked you to solve.

Marolyn Mann, the Executive Director of the Manufactured Home Community Owners, will talk about what solves the problem and why there is no problem. Nevada has the only non-taxpayer subsidized affordable housing fund in the country.

Chairwoman Buckley:

You also have a 3 percent owner-occupied cap on your taxes due to this Committee. We put mobile homes in there specifically so you would get the lowest cap available, and we all worked very hard as mobile home advocates. There are some issues we agree on; that was one, and I'm very proud we were able to get that in the final bill.

Joe Guild:

I do appreciate the efforts that all of you went through the past ten days to get to where you were this morning. In your packet ([Exhibit H](#)) are the rent average figures by county and for the state of Nevada from the Division of Manufactured Housing.

Marolyn Mann, Executive Director, Manufactured Home Community Owners Association:

We feel rent control in any form is a bad idea, cannot be justified, and is not a solution to the problem of affordable housing. We believe rent control asks park owners to subsidize all their residents: the needy, the not-so-needy, and the wealthy, both young and old alike. Rent control punishes the best and those who strive to be the best. It allows the tenant to remain indefinitely on someone else's property at a fixed rent. This obligates one group of private citizens to assume the public burden of subsidizing another group. Many Nevada mobile

home parks are still owned by mom-and-pops, and most of them are seniors themselves.

[Marolyn Mann, continued.] The rents are not and have not been out of line to warrant such a drastic legislative step. On page 4 ([Exhibit H](#)), we summarize for you the figures provided by the State Manufactured Housing Division, showing you the averages for the past 15 years. Nevada average totals show that single-wide mobile home rent increased by only \$117 in 15 years, and double-wides in 15 years have increased \$129. Not all mobile home parks are low-income, nor are all mobile home residents low-income. There are low-end and high-end parks, just as in any other product or service. Certainly, just because rents are low doesn't mean they are good owners.

There's a huge fiscal impact to administering rent control. A whole new bureaucracy would have to be created, beginning with a couple of years to establish regulations, followed by the implementation costs of office support and supplies, not to mention the lawyers, accountants, inspectors, and so forth needed for the legal battles. A commission would be time-consuming, burdensome, and expensive. Millions of dollars would be siphoned away from programs, services, and infrastructure projects. No one could really build a park today and have rent much less than \$400 a month. This seems to be the threshold that we're talking about. Many of you know the Jaycee Mobile Home Park in Las Vegas run by the Clark County Housing Authority. Their rent is approximately \$200. They had no land cost. Many of the development and management costs were donated or financed at below market rates. We believe that incentives for the free-enterprise system need to work better, not the opposite.

Rent control means an increased bureaucracy, higher taxes, fewer services, and reduced quality and quantity of affordable housing. Nevada has a sound landlord/tenant law, a good program of owner/manager continuing education, and a proven rental assistance program that is funded solely by the park owners. Our lot rent subsidy program was the only mandatory program of its kind. It's funded entirely by the park owners, who assess \$12 per space per year. Since 1992, we have contributed over \$4.5 million to help residents remain living in the homes that they otherwise could not afford. This plan was enacted without further burdening the taxpayer or asking mobile home park owners to go into the subsidized housing business. We almost have to live within our means or live within the criteria for rental assistance.

Under rent control, a transfer of wealth occurs. The home's value becomes inflated. When rents are held artificially low and the value of the home increases, the tenants actually end up with a dual benefit. They receive the

restricted rents and then receive more money when they sell, not because the home is better, but because of rent control. New buyers then pay more for the homes than they are worth.

[Marolyn Mann, continued.] We don't want you to confuse perception with reality. We hope you see the harm that any kind of price controls would bring to our state. Positive action to encourage development of more parks and housing will do more for residents than any other use of the power of government.

Chairwoman Buckley:

Sometimes the averages are a little deceiving because you get lower-cost parks mixed with the high end, and that tends to distort it a little bit. It's been clear session after session that most of the problems don't come from family-owned parks. They come from some of the out-of-state owners who aren't as sensitive and don't work as well with the residents in the parks. In the rural areas, they do a wonderful job of working with the residents in trying to keep the rents as low as they can be. The problem is more in the urban areas, where we haven't seen that same level of concern.

Teresa Maloney, Owner and Operator, Lucky Lane Mobile Home Park, Reno, Nevada:

If the cost of housing is a critical situation for seniors and if this is the solution, then I would ask why it doesn't apply to apartments, rental houses, and weekly hotel rentals. All seniors don't live in mobile home parks; they live other places as well. The average percentage of Americans' income that is put toward housing is between 25 and 33 percent. Those are the most current numbers. Under this bill, the person with the adjusted gross income of \$20,000 capped at \$300 per month is only paying 18 percent of their income for housing. The person with a \$30,000 income capped at \$350 is only paying 14 percent of their income for housing. The person with a \$40,000 income capped at \$400 is only paying 12 percent of their income for housing. I think that's a little bit off.

Chris Palludan, Mobile Home Park Owner, Fallon, Nevada:

I'm the owner of two mobile home parks. I own a family park and a 55-plus park. I've heard about the rotten landlords and everything. I want to give you a brief summary of how this bill would affect my position. I've just recently started on a project to bring both of my parks into the city under the city sewer and water, to repave the streets, and to reconstruct the electrical systems. We're looking at expenses of \$600,000 to do these parks. I did numbers on the people I thought would be eligible in my senior park for this reduction. Fallon has a lot of low-income seniors. This would probably affect 60 percent of the seniors in my park. They would be eligible for this bill under some provision of

it. That's my biggest concern. I've heard about rent increases in Fallon, and I haven't raised my rent in almost five years. Not all of the park owners are what you hear in these hearings. There are a lot of good park owners out there who don't need this rent control and don't deserve it. Ninety percent of the problems I've heard over the years come from Clark County. I often wonder why this isn't being discussed at the Clark County Commissioners' meeting instead of here at the Assembly.

Chairwoman Buckley:

Because the corporate owners take the position that the county cannot do it and that the state preempts it. That was done a number of years ago by Commissioner Don Schlesinger in around 1993 or 1994. The parks tried to kill it there. I agree with you that most of the problems do come from Clark County and a few other places.

Assemblyman Anderson:

You mentioned that 60 percent of the folks might qualify. What total percentage of the folks in your park—is that 100 percent of everybody who's in the park?

Chris Palludan:

I'm 100 percent occupied, so I would say 60 percent of them.

Assemblyman Anderson:

I was trying to figure out whether it was dealing with everybody or just those who were over a particular age.

Chris Palludan:

It's a 55-plus park, so everybody qualifies.

Jim Nadeau, Legislative Advocate, representing the Nevada Association of Realtors:

The Association has historically taken a position in opposition to rent control. We feel there are other means with which to deal with the situation.

Renee Diamond, Administrator, Manufactured Housing Division, Nevada Department of Business and Industry:

I won't comment on the weighty decision-making and policy-making related to this bill, but I do have to remind you that as a self-funded agency, providing us with unfunded mandates provides a huge difficulty for a rather small agency. I prepared a fiscal note ([Exhibit I](#)) because it said there might be some impact. In order to provide a program officer and a compliance investigator at the very least with a vehicle to adjudicate when there are cases where landlords didn't

agree with the income levels, it looks like about a \$115,000 fiscal note in the first year in the biennium, and about \$100,000 in the second. For an agency that always runs lean and mean, and for Budget Account 3843, I have to tell you that unless there is some funding mechanism, I wouldn't even begin to know where to find the personnel to do this.

Assemblywoman McClain:

I want to thank Ms. Ohrenschall for bringing this bill. It's an innovative approach and I appreciate being allowed to be a sponsor on it. We listened to Ms. Diamond's budget yesterday. They are the leanest budget in the state, and I know we would have to add people to administer this.

Chairwoman Buckley:

We'll pump up the budget.

Paul Havas, Co-Owner, Sierra Shadows Mobile Home Community, Reno, Nevada:

I thank you for all of your efforts and past accomplishments. The lot rent subsidy with its intention and its results have accomplished great things for the Nevada community. I'm philosophically against this legislation and have some real concerns about items enumerated, as such the adjusted gross incomes and how they relate to certain kind of spaces. We've always endeavored to keep our rents down and to allow for development of aesthetics and personal contribution to a park, not only from the owners, but the tenants. We've always tried to contribute back into the park with a sense of fairness. We try to improve the park. We try to have the best park with stability of tenancy, and we never really have any vacancies.

You have to have a longer view of any kind of constructor when you're looking at the problems in rent and try to understand why park owners do certain things and why they're trying to maintain a certain kind of ethos. In our park, we want a very strong community ethos, we want to keep our rents down, we want to see aesthetics and improvements. We're facing some strong economic challenges on the rise. We're looking at increases on property taxes and utilities. If it is necessary for us to accept these changes, we really are not inclined to pass these costs on to our tenants. We're not trying to impose that ethos upon other park owners, but we have this sense that you have to take a longer view and allow things to evolve.

A legislator must look at a longer view to provide a structure for the future so that park owners will not have deferred maintenance. It's more than just affordable housing; it's a community sense of being. There are a lot of reasons why people live in mobile home parks. We should provide some improvement.

Watch out for some of those signs out there that can hurt us and unnecessary incumbencies for us to deal with.

Chairwoman Buckley:

I'll close the public hearing on A.B. 216. I'm going to reschedule my own bill, A.J.R. 6, and hold it for Monday.

Assembly Joint Resolution 6: Urges Congress to amend the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 to provide affordable, easily understood coverage for prescription drug benefits. (BDR R-152) NOT HEARD

Chairwoman Buckley:

We'll open the hearing on A.B. 254.

Assembly Bill 254: Revises provisions governing industrial insurance. (BDR 53-1080)

Assemblyman Jerry Claborn, Assembly District No. 19, Clark County:

I'm bringing A.B. 254 before this Committee for consideration. This bill was requested by Danny Thompson of Nevada State AFL-CIO.

Ray Badger, Nevada Trial Lawyers Association, Carson City, Nevada:

I've had an opportunity to talk to Mr. Ostrovsky since the bill was introduced, and these are proposed amendments (Exhibit J) he brought to light that our group feels it makes the bill better.

There are three basic topics in the bill. The first one would take away an independent right of a private employer to contest claims decisions in the workers' compensation hearing process. We think we have an outmoded system since the state fund left. Prior to 1999, if you were a very large employer, you were required to buy workers' compensation insurance through the state insurance fund. The Legislature thought that employees who were mandated to go there should have the right to their own ability to contest claims. When the state fund was abolished in 1999, the need for this provision went out because now employers, except for very large self-insured employers, have an insurance policy, and that insurance policy requires an insurance company to defend. They have the right to settle and to choose what they pay and what they litigate on a claim that might come from an employee. Therefore,

we think this is an outdated provision letting an uninsured employer cause hearings. I've had cases where the claim is entirely paid, but an employer continues litigation. I'm not sure what they try to gain, but it costs the state when we have hearings.

[Ray Badger, continued.] The second two ideas involve fines and benefit penalties. Prior to 1995, an injured employee or employer could file a lawsuit if they thought an insurance company had committed bad-faith insurance practices, something that was grossly negligent or intentional without a legal basis, and they were injured thereby. The 1995 Legislature changed that law. That was at the time we were having problems with our state fund. In place of that ability to go to court, they enacted a fine-and-benefit penalty system that is administered by the Department of Industrial Relations, whereby a person can make a complaint about an insurer. They review and investigate it and issue a decision regarding that. These provisions in this bill are their parameters. We suggested raising the maximum penalty amount. We probably wasted your time because every session since 1995, we tried to reenact the bad-faith tort action, and it took us five losses, but we decided you weren't going to do that.

Chairwoman Buckley:

The Senate wasn't going to do that.

Ray Badger:

The first part of this bill adds a higher deterrent by maximum penalty. It does not require that. It gives the Department of Industrial Relations the authority to increase penalties for intentional violations of the law. It also makes one other offense that presently is only subject to a fine, which I call misdemeanor, into a felony. The bill initially doubled the maximum for a fine or penalty. What the amendment does is instead of making the maximum increase by 100 percent, it makes the maximum increase by 50 percent. The one other amendment is, we had added three new items that could be considered a "penalty" that could be subject to a benefit penalty. With the amendment, we changed that to just one item. The one item that is presently subject to a fine involves when an insurer intentionally violates a statute or a regulation. The opinion from the labor employee side is that if you're intentionally violating, that warrants more than a parking ticket.

Assemblyman Conklin:

In Section 2 of the bill, I'm looking for clarification. An employer believes that they're pursuing something that is correct, a claim that maybe that employer believes is fraudulent for a variety of reasons, which his/her insurer may have decided is not worth litigating. There's a principle here that employer is

concerned about. I'm fearful if we take out this section of NRS [*Nevada Revised Statutes*], an employer has no recourse in that particular situation.

Ray Badger:

You still have a mechanism to make a complaint about fraud to the Attorney General's Office. Under this provision, an employer could not challenge a lower-level workers' compensation decision if this is enacted if their insurer chose not to. Our idea was modeled on what happens in other states when we have private policies. If I have an automobile accident and somebody makes a claim saying I caused the accident, I can't make my insurance company do what I want as the insured. They have the right to control that case. They may settle when I don't think they should. My remedy is to go get another insurance company if they bother me enough.

Bob Ostrovsky, Legislative Advocate, representing Employers Insurance Company of Nevada (EICON):

We have no objections to Section 2. We believe it is language that probably should have been removed back in 1999. If we're unhappy with what an insurer does, we're going to talk to our insurance companies. If we're not happy with their answers, we're going to find another insurance company as an employer. We think this language is consistent, as Mr. Badger said, with what's going on in 49 other states where they have real competition. We did negotiate down to a 50 percent increase in the benefit penalties. We think that it's a substantial increase from where we are today, and if we find it necessary to raise them in the future, we'll sit down at other legislative sessions. We think this is a defensible number, understanding that benefit penalties actually float to the claimant. The misdemeanor is fines, but the felony, up to now \$37,500, is going to be awarded to the claimant. That's why it's a benefit penalty.

We've also agreed that in the list of minor/major violations, if a company intentionally fails to comply with the provision or regulation, that should be a major violation. On the amendment ([Exhibit J](#)), there is a change on page 6. There might be some conforming changes in that paragraph the bill drafters might have to look at. The intent was to move that one into the major violation category. As a result of that, we will support this piece of legislation through both Houses of this Legislature.

Chairwoman Buckley:

We appreciate you working together on this bill and coming up with another way to address the problem that only a few cause.

**Pilar Weiss, Legislative Advocate, representing Culinary Workers Local 226,
Las Vegas, Nevada:**

I'm testifying on behalf of Danny Thompson, Nevada State AFL-CIO. The Nevada State AFL-CIO support the compromise that has been made between Ray Badger and the firm Bob Ostrovsky is representing.

**Mike Livermore, Claims Supervisor, Alternative Service Concepts, Reno,
Nevada:**

We handle the claims primarily of a group self-insurance program of public entities throughout the rural areas of Nevada. I'm speaking in opposition to removing the right of employers to appeal determinations of their third-party administrator acting on behalf of their group self-insurance program. I understand to a certain degree the reasoning propounded by Mr. Badger in that it's somewhat outdated, but I want to draw to your attention that the interests of the employer that is a member of a group or that had a policy with an insurance company is not necessarily identical. There are times when the interests of different members come into opposition. There are cases where, at least in a group self-insurance program of public entities, one county can be adverse to another county.

We would sort through the laws and try to make our best interpretation to make a determination about the claim. If we find that it's compensable, we have to assign liability to one employer or the other. In that situation, at least one of those employers, the member, is going to be relatively upset with our determination because they're going to probably think it belongs to the other county, the other member. If you take away their right to appeal, they have no recourse. They completely lose their rights to oppose anything that we as an administrator or the insurer does in those cases.

It's always been tradition in Nevada that an employer has the right to oppose its insurance company's determination. The laws are open to a variety of interpretations all the way up to our Supreme Court to decide where a liability may belong. As long as the injured employee has the right to appeal our determination, why shouldn't the employer have the right to stand in opposition to it as well? The insurance company, or us as a third-party administrator, may make that determination based on our current understanding and interpretation of the laws you enact. The employer must have the right to take that up and challenge the interpretation just as an injured employee does. It's simply a matter of the constitutional right to have somewhere to go with your appeal. It's not simply possible for a member or someone with a policy to just change insurance companies, because their experience modification factor goes along with them from insurance company to insurance company. The insurance carrier makes a decision accepting a claim adverse to what they feel is appropriate and

what the Supreme Court ultimately might say is right or wrong. That damage is their experience rating, which they pay.

Chairwoman Buckley:

I can't say that I disagree with that logic about the employer having the right, but we also have another problem in that we have a law that says even if there is bad faith in stringing a worker along, the worker has no recourse in terms of being able to sue. The suggestion is trying to level the field a little bit by addressing this issue. What would your suggestion be if we were trying to solve this and to level out that playing field a little bit with the other problem that has not yet been successfully resolved by the Legislature?

Mike Livermore:

I don't necessarily see it as a leveling of the playing field by taking away an employer's right to appeal something. If a third-party administrator insurer or claims adjuster deprives an injured worker of something, and the hearing or appeals officer reverses that, then we have to pay those benefits or we are subject to fines, benefit penalties, or loss of license. The injured employee who prevails in an appeal must be given their benefits on penalty of the penalties.

Chairwoman Buckley:

What if it's done willfully, and can be shown that it's done in bad faith? That's what we're talking about.

Mike Livermore:

Those are two separate issues.

Chairwoman Buckley:

We're trying to solve an issue that has come up, and reinstating the right to sue for deliberate denial of damages in bad faith hasn't been successful, so they were trying to think of another way to address it.

Mike Livermore:

The benefit penalty side is where that's addressed. That has nothing to do with the employer. The employer doesn't make any of those decisions. It's all done by insurance companies, adjusters, or the third-party administrator's adjusters. I didn't get a chance to see the amendment. If the amendment removes the benefit penalty in paragraphs (f) and (g) under Section 6, subsection 1, then I don't have a point to make. That's what I understand it's doing.

Tom Nelson, President, Nelson, Jones and Associates:

We are a workers' compensation third-party administrator. We are a licensed employer representative, and we are a licensed property and casualty agency.

We deal in all aspects with workers' compensation. In our reading of Section 2 of this bill, it does remove the employer's right to appeal decisions made either by their carrier or in pools for self-insurance. The problem we see with that is employers in Nevada have had their right to appeal decisions concerning their workers' compensation for decades.

[Tom Nelson, continued.] Another problem arises when one employer is left paying for an employee who is reinjured on another job from exceeding the limits that a doctor has placed on them from the first injury. Now you have the last injury's exposure rule coming into effect in this situation. If it wasn't for the employer's right to appeal the claim re-opening and being assessed these new charges, the new employer would become stuck with costs that may not necessarily theirs. If you take this section away, that removes the right for an employer to decide whether they want to be involved in the litigation process or not.

Don Jayne, Legislative Advocate, representing Nevada Self-Insurers Association:
The Self-Insurers Association doesn't have a real issue with the first parts of the bill. I thank the Chair for recognizing the problems evoked here are probably a result of the few rather than the whole. I had occasion to speak with Mr. Ostrovsky before today's testimony, and we are appreciative of the recognition and reduction of the original amounts in the original drafting of the bill and the removal of those sections that we think are appropriate leaving in the final section, which I believe is paragraph (h). We don't have an issue with that, either.

We're not sure that the simple increase into fines will address the issue that we're dealing with, which are the sins of a few that are tainting all of us. We'd certainly like to participate in any work session and maybe consider the fines to start at a lower amount and move up a third time. If there are repetitive offenses and the same type of offense, maybe even recommending it over to the Division of Insurance for a hearing on the appropriateness of them maintaining certification if it's a self-insured.

Wayne Carlson, Executive Director, Public Agency Compensation Trust:

We're the only association of self-insured public employers. As a matter of philosophy, my board, which consists of members of cities, counties, and county commissions, likes to make independent decisions. I would have difficulty accepting the deletion of the employer's right to appeal decisions. For some of our members, the only other market they could go to if they didn't like a determination would be assigned risk, because there's no other market willing to write certain kinds of exposures unique to the public sector. We would oppose removing that portion of the bill. The amendments as far as penalties

may be reasonable. We're willing to help work on this because we're also a member of the Self-Insurers Association.

Assemblyman Conklin:

Under current statute, if the employer appeals a ruling that has been made in favor of the employee, are claims being paid during that appeals process, or does the employer or insurance company hold up the payment on claims and monies due while the appeal is being made?

Redentor Villanueva, Quality Assurance Specialist for Workers' Compensation, Governor's Office:

I appreciate the portion regarding the benefit penalties, especially since I've been in this job for approximately two years. I've worked collaboratively with DIR on a lot of cases, and the ones that I have sent over to DIR had ended up in benefit penalties. I understand there is no payment suffering in workers' compensation, but this should hopefully rectify the situation that injured workers had gone through by the form of the benefit penalty.

Chairwoman Buckley:

I'm going to put this in a subcommittee of one, Assemblyman Conklin being the one. I'll have him work with you all and see if we can achieve a compromise again.

Jim Fry, Deputy Risk Manager, Division of Risk Management, Nevada Department of Administration:

I want to explain how this would affect the State's workers' compensation program. We have two programs under insurance. We have an old retro plan through EICON and it's still open, so we would have to pay on it this year. This becomes effective on passage. Reserves could be raised and we would have no recourse to appeal them. The State looks self-insured, but we are actually in a large deductible program. Mr. Badger brought up that if you have car insurance, the insurance company takes care of it. The insurance company is not going to take care of what's below your deductible. This bill would take the taxpayers' money and put it into the hands of an insurer.

Gary Cooper, Chief, Self-Insured Workers' Compensation, Division of Insurance, Nevada Department of Business and Industry:

One thing insurance companies look at to decide whether they want to do business in a state is the punitive environment surrounding worker's compensation. We don't want to give the insurance industry the appearance that we are punitive and hostile towards writing workers' compensation in this state.

On Section 2, our only observation is that it does bring some closure and finalization of workers' compensation disputes.

Bob Ostrovsky:

Some of the group self-insurers have internal review processes for selling claims between insurers that are members of the group, and apparently some don't. NRS 616D.120 is a direct trade-off for the fact that in this state you can't be sued for bad faith. We understand there is a trade and a cost of doing business resulting in violating 616D.120. That cost in balance is way better than opening up bad faith, punitive damages, and a lot of things that follow. We have an obligation to meet with the other side and balance that out as often as we can.

Chairwoman Buckley:

I'll close the hearing on A.B. 254 and ask Assembly Conklin to work with the sponsor and those interested to see what we can do there. We'll open the hearing on A.B. 437.

**Assembly Bill 437: Revises provisions governing manufactured home parks.
(BDR 10-1027)**

Bob Varallo, President, Nevada Association of Manufactured Home Owners, Incorporated, Las Vegas, Nevada:

We have worked diligently between sessions and we've had 10 meetings regarding the consensus bill. The consensus committee was with Marolyn Mann, me, Carl Braun, and others who attended these meetings. On page 9, Section 8, subsection 4, paragraph (a), states that "for 180 days before applying for a change in land use permit or variance affecting the manufactured home," and the change in paragraph (b), "Until a decision is made on the application by the appropriate local zoning board, planning commission, or governing body." This tells me that the owner may increase the rent during that 180-day period after approval. I don't know if that was the intent of 4 (b), but it's not clear to me.

Joe Guild, Attorney-at-Law, representing the Manufactured Housing Community Owners Association:

My concerns are technical in nature and might need a change or consideration. On page 3, line 8, this section of 118B.110 is a good section of the law because it requires landlords and tenants to get together and discuss issues. The new addition on line 8, where we have in the case of a corporation meeting with a group of tenants, "that an officer designated by that corporation shall meet with the tenants," oftentimes an "officer" might not be the person who

has any authority to actually make decisions about the park. We might have a managing director or someone like that. They also might not know enough about the park to actually have a meaningful participation. It should read in the case of a corporation, "a person designated by the corporation with the authority to make decisions and with knowledge of the mobile home park should meet with the tenants." That might help clarify what the real intent is.

[Joe Guild, continued.] On page 7, in the case of amendments to 118B.170, this is the situation where a landlord, if they require certain approval processes for future tenants in the park, has to post such requirements. On line 3, we're talking about a completed application, and in paragraph (c), we talk about application twice and it not being a completed application. It's a technical thing where the word "completed" should be inserted before "application" on both lines 7 and 8.

On that same page 7, under Section 7, this was the attempt by the consensus committee to reach an agreement on when a condemnation has occurred. It becomes the responsibility of the park owner to pay for moving tenants. I suggest that whatever we come up with when we discuss those procedures in Ms. Giunchigliani's bill, there be some sort of reconciliation with this notion on page 7 of this bill.

On page 8, line 16, where there is a closure of a park, the notion has always been that under 118B.177, it is the responsibility of a park owner to do some notification and mitigation to move tenants. The word "potential," on line 16 and again on line 35, has problems associated with it. A park might be contemplating closure but decide not to close the park or to change the use of the park. Notification to tenants, particularly senior citizen tenants, of the potential might cause some anxiety and give rise to a panic selling situation because there was a potential notification. I'm not sure that's where we want to go to with that word.

On page 9, as Mr. Varallo just talked about, beginning on line 28, I'm not sure what this means either. Certainly, the notion is that a landlord during the process of closing or converting a park should not be able to be raising the rent up to that moment in time when that park changes its use or closes. If the idea is that a park would be able to raise the rent after that 180-day notice, I don't think that's your intent.

Chairwoman Buckley:

I'll have Ms. Erdoes work on those amendments with everyone to make sure it captures the intent.

Assemblyman Seale:

Referring back to your comments on page 3, line 8, where you were concerned how you define the officer of a corporation, likewise on line 6, you have a partner who has a managing partner and you could run into the same problem there. I suggest you look at that also. [Mr. Guild agreed.]

Chairwoman Buckley:

The idea behind it is that the residents have already tried with the management company and are getting nowhere, so we want to adequately define the owner can be anyone with authority that's part of the ownership structure. We'll work on different option that might make more sense.

Joe Guild:

During the discussions of the consensus, there was an agreement to look at an amendment to Chapter 108, which is the lien law. The Chair and I have already talked about this. That would be to increase the maximum amount of a lien, perhaps going as high in a landlord lien from \$2,000 to \$5,000. I don't think that number is cast in stone. I would note the last time the Legislature amended the lien law in the landlord/tenant context to increase was in 1981. It's time to address whether inflation has made that number too low.

Chairwoman Buckley:

We'll close the public hearing on A.B. 437. I'll open the hearing on A.B. 303.

Assembly Bill 303: Requires licensing of persons engaged in certain activities relating to control of mold. (BDR 54-1096)

Thomas Morley, Political Action Director, Laborers Local 872, Las Vegas, Nevada:

I come for assistance in the passage of A.B. 303 and I urge your support. Mold is a very serious issue in our state. It can cause a wide array of adverse responses in humans depending on type and quantity present. These are not the lone factors when considering the health effects of mold exposure. Since dose and human response can be highly individual, the sensitivity of the person exposed is also an important consideration. I'm here to require standards and training for the industry of mold remediation.

Currently, I represent over 200 trained journeymen in the remediation field. My journeymen who remove these toxins in the commercial industry have yet to become ill or have health problems arise, due to the level of training provided at

our training centers. My concern is for the workmen performing the same job who have had no formal training in remediation and are not aware of the potential hazards to their personal health and well-being. I'm also concerned with the consumers being convinced that they have hired a professional to deal with their issues, only to find their problem has returned several weeks later. I have with me many experts in the field. Mr. Pat Sanderson has done most of the leg work on this bill.

Pat Sanderson, Laborers Local 872, Las Vegas, Nevada:

We have coordinated with a coalition of several professionals of the indoor air quality, mycology, and abatement/remediation technologies to try and assist with the passage of a good bill. We have also reviewed comments by contractors and considered the best comments in our review.

We believe that having a good bill will help consumers of services, contractors, and the industry in general. Too often, we see get-rich-quick companies selling the wrong thing and in many cases spreading contamination in buildings or homes, then leaving the mess behind for lawyers to sort out. A good bill will help this situation by putting a minimum entrance level of knowledge and standards of performance for both consultants and contractors.

Millions have been spent cleaning mold in State buildings, legislative buildings, State districts, and daycare centers, all without minimum standards and training for workers and contractors. This bill has been written for the safety and health of the citizens in Nevada and the workers who perform mold remediation. Our coalition has also been talking with risk managers and insurance people, and they believe if a good bill comes out, it will help lower insurance. We will work with any concerned entities to make this a better a bill.

Chairwoman Buckley:

My plan is to put this into a subcommittee of one, Assemblyman Anderson. Assemblyman Anderson has worked with construction defect and laborers and has a lot of knowledge in this area. We'll ask him to see what can be done.

Rose McKinney-James, Legislative Advocate, representing Clark County School District, Las Vegas, Nevada:

We are opposed to this bill in its current form. We have two additional individuals from the Clark County School District, Mr. Dave Broxterman and with Mr. Robert Maxner, who is the coordinator of our industrial hygiene program for facilities. Both are technical advisors on this piece of legislation.

The Clark County School District already has a program in place. We have facilities services representatives who are trained to examine potential fungi and

other mold growth. We have a process for reporting. We interact with the Harry Reid Environmental Center at UNLV [University of Nevada, Las Vegas] and also commercial laboratories. The significant issue for us would be the additional cost coming out of this measure. We believe that if we are required to comply, it would be very costly. The way the bill is structured, it would create some complexities that could prove potentially harmful for the district. I have both Mr. Broxterman and Mr. Maxner with me to respond to any questions from the Committee and also to participate with Mr. Anderson in the subcommittee.

Chairwoman Buckley:

What exactly is costly? Is it getting your folks licensed?

David Broxterman, Administrative Manager, Facilities Division, Clark County School District, Las Vegas, Nevada:

A major concern to us is, although we have a process, the way bill reads now, even with that process in place we'd be in immediate violation of the law. We've looked at a four months' implementation of the way the bill is presently written, and there's no simple amendment we could put to it. It would cost us \$371,000 to implement it. We have about 320 facilities in the Clark County School District. We have facility services representatives who have a minimum amount of training to at least tell the difference between a stain on the ceiling and mold so that we can get it reported rapidly.

Under this bill, that person would be violating the law in so doing that. When that person is finished, we go to our laboratory people, who can take samples, stains, and look at it under the microscope. Again, they are not licensed in this specific field. We're looking at a tremendous amount of training that is unnecessary for the initial assessment of mold and then going through the final analysis. When we go into remediation, we hire commercial remediators who are licensed to perform those functions.

Assemblyman Anderson:

Is the Clark County School District training the people who are identifying, the custodians and the janitors at the individual schools who initially have to deal with this problem? Is this beyond their expertise and they need someone else at a higher level to get in there?

David Broxterman:

Not only do we have custodians who actually can do some initial cleanup because they had and are given training on a yearly basis, we also have our facilities services representatives who are trained at a slightly higher level. It progresses from "I think that might be mold," to someone who says "I really think it is mold," until we get to the experts like Mr. Maxner, an industrial

hygienist, who can then detect it. Then we can measure it to determine what we're facing, and, quite candidly, we go out for commercial contractors to do remediation.

Alex Haartz, Administrator, State Health Division, Nevada Department of Human Resources:

[Read from [Exhibit K](#).] This bill requires the Health Division to create a new function to serve as a regulatory licensing body for which we do not have the expertise. To accomplish that, while there is some fee revenue built into this bill, it is a capped fee revenue; the fiscal note we provided and the Department of Human Resources submitted is nearly \$200,000 a year in excess to the projected fee revenue to accomplish what we believe the bill requires the Health Division to do.

Madelyn Shipman, Legislative Advocate, representing Southern Nevada Home Builders:

We have concerns about the bill and we can deal with them in the subcommittee.

Steve Stefani, Corporate Counsel, Budget Suites of America, The RT Bigelow Companies:

I'm speaking on our behalf and also on behalf of other public accommodation facilities in southern Nevada and in Nevada as a whole. I've had an opportunity to work in-depth in this health issue as a result of activities in Clark County that have been affecting the Budget Suites of America. Through the course of my research and my work with experts, including Dr. Linda Stetzenbach, the head of the Mold Division for the Harry Reid Center at the University of Nevada, Las Vegas, I've learned a few things about mold.

The definition of mold as a hazardous material as set forth in the proposed bill is inaccurate. Mold is not a hazardous material. We all recognize that penicillin is a byproduct of mold and is certainly beneficial to human life. There has been no causal connection made between mold and any byproduct of mold in adverse human health effects. The Centers for Disease Control had a committee on damp indoor spaces. They wrote a report entitled, "Human Health Conditions from Damp Indoor Conditions," and they found that specific roles of the infectious and noninfectious microorganisms and their components in diseases related to indoor environments are poorly understood. The lack of knowledge regarding the role of microorganisms in the development and exacerbation of those diseases is due to the lack of valid quantitative exposure assessment methods and knowledge of which specific microbial agents may primarily account for the presumed health effects. In most studies on the subject,

exposure is accessed by means of questionnaires, and relatively few studies have attempted to measure exposure to microorganisms.

[Steve Stefani, continued.] There is a great feeling that mold must cause adverse human health effects, but there is no scientific connection. This lack of scientific foundation should be the foundation of the subcommittee's work as we try to craft sound, legitimate legislation. I caution the Committee that the current bill has on its appearance the effect of a Trojan horse. It seeks to license individuals as mold remediation specialists or mold assessment professionals, but in actuality, the effect of it is to mandate commercial property owners hire outside consultants to provide the mold assessment service or the mold remediation service, and that's simply not required. Most commercial owners, of which the Budget Suites would be one, or other, larger, public accommodation facilities, can handle that type of function in-house and have our own folks trained effectively and according to any State standard without the extreme cost that an outside consultant would bear upon the commercial owner.

Dr. Stetzenbach wanted me to pass on her comment, which I'll bring to the subcommittee. One of the effects of the bill as far as licensure and ability to do mold assessment would actually prohibit Dr. Stetzenbach from performing mold assessment services. Dr. Stetzenbach is recognized throughout the world as an expert on mold, yet the statute in its current form would prohibit her from performing that function.

Van Heffner, President and CEO, Nevada Hotel and Lodging Association:

We represent 182 hotels, casinos, and lodging properties throughout Nevada, with well over 120,000 rooms. On behalf of the Association, we are both concerned and opposed to this proposed licensing. I'd like to participate with Mr. Anderson's subcommittee in any way that we can assist him.

Chairwoman Buckley:

I would ask anyone who has an interest in this bill to Assemblyman Anderson their contact information and any points that you said today, or that you withheld, in writing. That will help his work facilitating which course he'd like to take. I'll close the public hearing on A.B. 303, and we're adjourned [at 3:20 p.m.].

RESPECTFULLY SUBMITTED:

James S. Cassimus
Transcribing Attaché

APPROVED BY:

Assemblywoman Barbara Buckley, Chairwoman

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: April 1, 2005

Time of Meeting: 12:15 p.m.

Bill	Exhibit	Witness / Agency	Description
	A	Legislative Counsel Bureau	Agenda
343	B	Assemblywoman Giunchigliani	Photos from Sky View Mobile Home Park
343	C	Assemblywoman Giunchigliani	Suggested Amendments to A.B. 343
343	D	Renee Diamond, Administrator, Manufactured Housing Division, Department of Business and Industry	Testimony on A.B. 343
343	E	Alex Haartz, Administrator, State Health Division, Department of Human Resources	Testimony on A.B. 343
216	F	Steve Ray, Vice President, Tahoe Shores Homeowners Association	Letter in support of A.B. 216
216	G	Richard Kirlicks, Private Citizen, Carson City, Nevada	Letter in support of A.B. 216
216	H	Marolyn Mann, Executive Director, Manufactured Home Community Owners Association	<i>Facts You Should Know About Rent Control</i>
216	I	Renee Diamond, Administrator, Manufactured Housing Division, Department of Business and Industry	Testimony on A.B. 216
254	J	Ray Badger, Nevada Trial Lawyers Association, Carson City, Nevada	Proposed Amendment to A.B. 254
303	K	Alex Haartz, Administrator, State Health Division, Department of Human Resources	Testimony on A.B. 303