

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

**Seventy-Third Session  
May 2, 2005**

The Committee on Commerce and Labor was called to order at 2:06 p.m., on Monday, May 2, 2005. Chairwoman Barbara Buckley presided in Room 4100 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4406 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:**

Mr. David Parks (excused)

**GUEST LEGISLATORS PRESENT:**

Senator Valerie Wiener, Clark County Senatorial District No. 3  
Senator Bob Beers, Clark County Senatorial District No. 6

**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:**

Steve McCauley, Representative, Nevada Athletic Trainers Association;  
and Nevada State Board of Athletic Trainers  
Boyd Etter, Government Affairs Chairman, Nevada Physical Therapy  
Association  
Nancy Dunn, Deputy Director, Nevada Commission on Tourism  
Terry Johnson, Deputy Director, Nevada Department of Employment,  
Training, and Rehabilitation  
Joe Cain, Legislative Advocate, representing the Retail Association of  
Nevada  
James Jackson, Legislative Advocate, representing Consumer Data  
Industry Association  
Michael Tanchek, State Labor Commissioner, Nevada Department of  
Business and Industry  
Paul McKenzie, Organizer, Operating Engineers Local Union No. 3,  
AFL-CIO  
Richard Daly, Business Manager, Laborers International Union of North  
America Local No. 169, Northern Nevada  
Bob Ostrovsky, Legislative Advocate, representing the Nevada Resort  
Association  
Gail Anderson, Administrator, Nevada Real Estate Division, Department of  
Business and Industry  
Jim Nadeau, Government Affairs Director, Nevada Association of Realtors

**Chairwoman Buckley:**

[Meeting called to order and roll called.] I'll start by opening the hearing on  
S.B. 47.

**Senate Bill 47 (1st Reprint): Revises provisions governing licensure of athletic  
trainers and requires study concerning regulation of personal trainers and  
other fitness instructors. (BDR 54-12)**

**Senator Valerie Wiener, Clark County Senatorial District No. 3:**

I urge your support for S.B. 47, which is the ongoing product of some  
legislation that we have been working on since my early days here in Carson

City. We passed S.B. 357 of the 70th Legislative Session, which had been a very big bill in its origin and ended up being a half-page amendment to replace the bill. That legislation allowed for 4-year study and a 4-year establishment to bring back language for the establishment of a Certified Athletic Trainer Board. In the 2003 Legislative Session, when that bill was processed and the Board was established, part of that bill provided for the athletic trainers to go forward and do something very similar about taking a serious look at regulating personal trainers. This was a substantial concern of the Chairman of the Commerce and Labor Committee in the Senate. That bill was S.B. 27 of the 72nd Legislative Session.

[Senator Wiener, continued.] The bill I brought provides for a committee that's appointed by the Athletic Trainer Board, which would comprise two of the certified athletic trainers, two physical therapists, two personal trainers who are active in their profession, and one person from the general public, to work together as a committee, holding many public hearings, setting up a registry to notify people who are personal trainers, and establishing appropriate recommendations to bring back possible language to start a licensure program for the personal trainers. They would also provide annual reports to legislators so we would know their progress as they move forward with their recommendations. We hope you will allow these professionals to go forward to establish industry and community standards in a consumer protection effort, to look after people who believe in good faith their personal trainers know what they're doing, but often they don't. This would help establish licensure when they come back so we do provide that consumer protection for the people who hire personal trainers.

Boyd Etter and Steve McCauley are two of the professionals who have come together on this who will be instrumental in making sure this goes forward and the public is protected.

Ms. Brenda Erdoes [Legislative Counsel], in the meeting it says, "A quorum of the members shall." You have to have a quorum of the seven members to hold a meeting. Would it be a quorum of the quorum to pass something? [Ms. Erdoes answered in the affirmative.] I urge your support for this because it's a very strong consumer protection bill, and these gentlemen have worked hard to get it to the table today.

**Steve McCauley, Representative, Nevada Athletic Trainers Association; and Nevada State Board of Athletic Trainers:**

We are in complete agreement with the language of the bill. We are proud and happy to say we were working together with the Nevada Physical Therapy Association, and they are in agreement as well.

**Boyd Etter, Government Affairs Chairman, Nevada Physical Therapy Association:**

We are for the most part in agreement, but we want some clarification on the quorum and some of those sorts of things. Other than that, I think we're ready to go ahead.

**Chairwoman Buckley:**

We appreciate all of your testimony.

**Assemblyman Sherer:**

I need to disclose that my wife is a personal trainer, and this bill won't affect me any differently than anyone else.

**Chairwoman Buckley:**

We'll close the public hearing on S.B. 47.

ASSEMBLYWOMAN ALLEN MOVED TO DO PASS  
SENATE BILL 47.

ASSEMBLYMAN SEALE SECONDED THE MOTION.

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

**Chairwoman Buckley:**

I'll open the public hearing on S.B. 5.

**Senate Bill 5 (1st Reprint): Revises provisions relating to certain money received, administered and disbursed by Committee for the Development of Projects Relating to Tourism. (BDR 18-383)**

**Nancy Dunn, Deputy Director, Nevada Commission on Tourism:**

Senate Bill 583 of the 71st Legislative Session created a rural match and grant program to stimulate tourism by assisting rural communities with certain tourism needs. The program is jointly administered by the Nevada Commission on Tourism and the Nevada Commission on Economic Development. Senate Bill 5 is a clarification bill. Currently, NRS 231.360 limits the transfer of funds for purposes of tourism development to \$200,000 over each biennium. In addition,

NRS 231.360 requires the committee established to oversee the allocation of tourism development funds to request the funds from the State Controller and receive Interim Finance Committee approval before a transfer of funds to this budget account can occur.

[Nancy Dunn, continued.] Senate Bill 5, as amended, provides that the Fund will be budgeted and administered in accordance with the State Budget Act and would remove the statutory limit on the amount of room tax revenue that may be transferred to the Fund for the Promotion of Tourism. The amount would be established by the Legislature each session through the regular budget process, and providing the Fund will be administered under the State Budget Act. The bill also removes the requirement that Interim Finance Committee approval must be obtained prior to the transfer of room tax funding into the Fund.

**Assemblywoman Giunchigliani:**

This was cleanup language from last Session?

**Nancy Dunn:**

It was always our intent when we had the legislation introduced in the 2003 Legislative Session to run this through the State Budget Act, but the way the language was added to the bill, it would require a visit before Interim Finance before the Controller could transfer the funding. We were doing that as well as running it through the regular budget process.

**Assemblywoman Giunchigliani:**

Will this be going to the Ways and Means Committee after it leaves here? I ask because we have a \$10 million fiscal note and they're changing how they do it for the rural county economic grants, and since this may parallel that, we should take a look at that as well.

**Chairwoman Buckley:**

We can certainly do an amend and re-refer here.

**Assemblyman Perkins:**

I'm curious as to why running it through the other process is cleaner than running it through Interim Finance, especially when moving large sums of money.

**Nancy Dunn:**

I'm not sure if it's cleaner or not cleaner, because it goes through the State Budget Act, and any funding that goes into this budget account now or to this account is approved by both money committees at the Legislature and the full bodies of each House rather than just the Interim Finance Committee.

**Assemblyman Perkins:**

Are you talking about an amount of money that's appropriated during the session, or are you talking about amounts of money that come from room taxes during the interim?

**Nancy Dunn:**

It would be appropriated through the State Budget Act. The way it stands now, it was limited to \$200,000 transfer from state lodging tax.

**Chairwoman Buckley:**

We'll just re-refer this to Ways and Means. I think it ended up here because of the large number of bills. I think it's really more budget and accounting.

ASSEMBLYMAN ANDERSON MOVED TO RE-REFER  
SENATE BILL 5 TO THE ASSEMBLY COMMITTEE WAYS AND  
MEANS.

ASSEMBLYWOMAN GANSERT SECONDED THE MOTION.

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

**Chairwoman Buckley:**

We'll open the public hearing on S.B. 111.

**Senate Bill 111 (1st Reprint): Revises provisions governing procedure for determining claims for unemployment compensation. (BDR 53-320)**

**Terry Johnson, Deputy Director, Nevada Department of Employment, Training, and Rehabilitation:**

One of our divisions, the Employment Security Division, has requested S.B. 111 to improve the processes by which it handles claims for unemployment. This bill makes a couple of minor revisions to the types of information that must be supplied by the employee upon separation from an employee unit. It also clarifies that the employee unit is to provide all relevant facts affecting the claimant's rights to benefits once they have received notice of the claim.

**Chairwoman Buckley:**

Can you tell us relevant facts about this bill?

**Terry Johnson:**

That one word has caused more challenges, if not additional litigation. The "all relevant facts," coupled with some internal revisions to the agency's forms and policies, as well as some regulations we hope to adopt later this summer taken together, will improve the Division's handling and operations.

**Chairwoman Buckley:**

What was the problem before that made the Division feel they didn't have the right to limit the testimony, and so extraneous employment matters were coming in?

**Terry Johnson:**

The problem was that there were interpretations out there that any facts that could be submitted would suffice. The Division is trying to get to a point where the employer provides more information up front than less. Specifically, there was an instance where an employer didn't respond to the Division upon request for information as to why they discharged an employee, and they later brought in the information on appeal, which resulted in the Division making an initial determination favorable to the employee for benefits. Then on appeal, the employer brings in additional information, and the Division is not going back and collecting on overpayments that it shouldn't have made in the first place. The intent is to get the employers to be more responsive at the outset with regard to all relevant facts affecting the employee's claim.

**Chairwoman Buckley:**

We'll close the public hearing on S.B. 111.

ASSEMBLYMAN HETTRICK MOVED TO DO PASS  
SENATE BILL 111.

ASSEMBLYWOMAN GANSERT SECONDED THE MOTION.

**Assemblyman Conklin:**

By changing this word, do you really anticipate that employers will actually give you facts sooner, or do you have some sort of mechanism to enforce this? It would seem more appropriate that if you change this to "all relevant facts" and then say "any fact that wasn't brought forth, but was known during the first testimony, can't be used under appeal," and that would force employers to give

you all the information up front. I'm concerned this change doesn't do anything unless there's more there.

**Terry Johnson:**

This bill started out with more information than what is presented here today. This bill now is the result of some compromise. I agree that it may not go as far as we would have liked to, but I think if you take it together with regulations and with the Division's revisions to its own forms, the three of them taken together will amount to a better rationale for the Division. Standing by itself, it may not go as far as we'd like it to, but taken together with some other avenues, I think it will cause the Division to make some progress in how they administer these claims.

**Chairwoman Buckley:**

In the original version of it, on page 2, lines 24 and 25, it did have a preclusive effect, which was taken out in the Senate.

**Assemblyman Conklin:**

And on page 3, they have it so the tribunal can't consider any evidence.

**Chairwoman Buckley:**

Yes, the next level of appeal. I think that's what they were originally trying to go for. I think anytime you have a hearing officer or decision maker, you can make decisions on relevance. It's part of your internal procedures.

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

**Chairwoman Buckley:**

We'll open the hearing on S.B. 80.

**Senate Bill 80 (1st Reprint):** Establishes requirements and procedures for consumers to place security freezes in certain files maintained by credit reporting agencies. (BDR 52-284)

**Senator Bob Beers, Clark County Senatorial District No. 6:**

Senate Bill 80 is a bill addressing identity theft. It allows a consumer to pay a fee, and the three credit reporting agencies thereafter freeze the consumer's credit report. This halts identity theft in its tracks, because an identity thief will



get ahold of your personal information and submit credit applications in your name, taking advantage of your good credit history, and with the credit that is then awarded, the identity thief goes out and runs up your credit card bills. By allowing you to freeze your credit data and essentially take ownership of it—if you're in a position where you don't need credit because you have all the credit you need and your credit cards are established—when an identity thief tried to get credit in your name and applies, the person thinking about giving them credit is told, "No, they can't have any information, and the credit is not granted." The identity thief is left with your name, address, and identifying information, but no ability to capitalize on it.

[Senator Beers, continued.] In the Senate, we had opposition from the credit reporting agencies that would prefer to sell your information unfettered. We also had some opposition from companies that use credit reports. This bill was amended to mirror California's legislation to accommodate a couple of those instances. Most of them were already accommodated by a pre-existing business clause within this legislation.

**Assemblyman Arberry:**

I understand these identity thieves are good at what they do, and once they're caught, they really aren't caught because they have taken over the person's identity as far as their driver's license, Social Security number, and everything. So, how would this save those folks who don't even know their information has been stolen, but they have all new IDs and have taken the total role of that person?

**Bob Beers:**

An identity thief rarely damages their victim financially by taking possession of their bank account and running it down to \$0. Almost always they damage their victim by getting credit in the victim's name, utilizing the victim's good credit reports if someone opts to do this process. The identity thief would have their address and Social Security number and could potentially take some existing accounts and get that information routed to another address if they knew about the existing accounts, but they will not be able to apply for credit in their name. So the major component of the crime, which involves financial crime committed with someone else's good credit, is in fact stopped.

**Assemblyman Seale:**

If one were to freeze one's own account, is there any way this could have a negative impact on their credit rating by just not having it available? What if I wanted to get more credit? Am I going to have to unfreeze it and then refreeze it?

**Senator Beers:**

On page 4, the answer to your second set of questions is yes. You would have to unfreeze it and refreeze it. The answer to your first question is no. You would not damage your credit report in any way. On page 4, Section 5, starting at line 10, describes the charges involved for imposing a security freeze on your information and then lifting it, either for a period of time or for a particular company you're planning on doing business with, and then refreezing it after you've had your credit information accessed.

**Chairwoman Buckley:**

I supported this bill when it was here in the Assembly three sessions ago, and I support it now. My question has to do with the negative impact on credit, because I think it could have a negative impact on your credit score or on your credit, because even just inquiries that weren't even yours can have a negative impact on your credit score. What if we put in here that as long as it was used in good faith, if you're a victim of identity theft, it should not be construed as a negative impact on your credit? Do you have a concern if we do that?

**Senator Beers:**

I do not. If we're imposing this whole thing on these three national companies, we might as well take it another step further. I don't think it would cause a problem in the Senate, and the unrelated third party querying causing a hit to your credit rating no longer is an issue because they get rebuffed as well.

**Chairwoman Buckley:**

I want it to happen the other way. Before, it pinged, but now they can't do that, yet you're a victim of identity theft and you're trying to protect your credit record so you put a security freeze on it. Under credit scoring, your insurance goes up.

**Senator Beers:**

We had industry representatives from the insurance industry who professed satisfaction with this at the end of the process in the Senate. I've recently heard from another insurance company that has some concerns that sound like they revolve around prospectively marketing and taking a body of people and developing some sort of a suitability rating and marketing to them. I don't have a problem with that amendment, and I don't think the Senate would, either.

**Chairwoman Buckley:**

Are there others who would like to speak in favor of S.B. 80?

**Joe Cain, Legislative Advocate, representing the Retail Association of Nevada:**

We're in support of the bill. We did have some concerns on the Senate side with the original version with some of the amendments that were incorporated. We think it's fine and we support it now.

**James Jackson, Legislative Advocate, representing Consumer Data Industry Association (CDIA):**

I signed in as neutral. We've worked a lot with Senator Beers on this bill to try and get it in its current form. To address your specific question as to whether or not placing a freeze is considered a negative score criteria, my understanding is that it is not, but I'll get you a definitive answer from Washington, D.C. I'm in the process of sending the email now and I'll get you a complete answer to that question.

**Chairwoman Buckley:**

We'll close the public hearing on S.B. 80, and we'll wait to get that data in a day or two and we'll put it on our next work session. We'll open the public hearing on S.B. 116.

**Senate Bill 116 (1st Reprint): Makes various changes to labor laws and powers and duties of Labor Commissioner. (BDR 28-231)**

**Michael Tanchek, State Labor Commissioner, Nevada Department of Business and Industry:**

Senate Bill 116 would first allow the Labor Commissioner to assess administrative penalties against public bodies in relation to prevailing wages, if necessary. The second provision goes to our basic wages and hours statutes and provides that employers may be liable for certain portions of medical bills for their employees that are incurred when health insurance has been cancelled by the employer without proper notice.

**Assemblywoman Giunchigliani:**

You're redoing the prevailing wage survey now, correct?

**Michael Tanchek:**

It's the annual survey where we conduct the survey of the contractors and the projects they've worked on in order to do it for next year.

**Assemblywoman Giunchigliani:**

When you have an employer who knowingly and willfully stops paying premiums or life insurance, what happens?

**Michael Tanchek:**

They're required to give 10 days' written notice before the coverage ceases to the employees. If they don't provide that notice, they can be liable up to the amount of the premium for any costs that are incurred by that employee as a result of not knowing their insurance is being cancelled.

**Paul McKenzie, Organizer, Operating Engineers, Local No. 3, AFL-CIO:**

I'm speaking in favor of the first section of S.B. 116, which gives the Labor Commissioner the tool he needs to help him afford prevailing wage. On the Senate side, I worked in a subcommittee with the Labor Commissioner and a couple of other people to try to come up with some language to address this issue. This is movement in a positive direction on that language, but just to clarify, if I'm an employee and my employer is providing me with health insurance, and he willfully and intentionally quits making the payments on my premium, but I think I still have health insurance, so I go to the doctor and incur a \$100,000 doctor bill, all he'll be obligated to pay on that is what my health insurance premium would have been, and I'm going to be stuck with the rest of it. This is better than what we had, but I don't think it's perfect, and I'm not sure exactly where we can go. The concern that we met with in the Committee is that if we got stringent enough to where the employee was completely taken care of, we would have a problem with employers to provide insurance. We're protecting an employer that inadvertently has an insurance lapse or the person who willfully stops it. The person who willfully stops it we can't have a penalty strong enough for, but we don't want to penalize a guy who in good faith is providing insurance but inadvertently lets it lapse.

I support the first section of the bill, and I think the second section is a positive movement, but I don't know that it addresses the issue we're trying to address.

**Richard Daly, Business Manager, Laborers International Union of North America  
Local No. 169, Northern Nevada:**

I have similar concerns that Mr. McKenzie pointed out on the insurance portion of the bill. The rest of it is fine, and we have no issues. Where it says they have to notify them 10 days before the insurance is going to be cancelled, in a non-collective bargaining situation, that may work well; we have that in our bank under most of our agreements on that, so we may need to consider they need to tell them before they're going to quit making the premium payment. We have contractors who are sometimes delinquent, and it's usually when they're having trouble financially paying all of their bills.

The employee needs to know so he can call the union to find out where it is and what's going on. In other non-collectively bargained situations, they pay the

premium or they don't, and it's going to get cancelled, which is not the case with ours. I agree with Paul that it's a step in the right direction, but just having to pay the difference of what the premium would have been gives the employee virtually zero protection. Even if he had a relatively small accident that's \$3,000, having a guy pay \$500 is not really going to do much to help. You might consider making the employer responsible for the unpaid debt rather than the employee if he didn't get the proper notice, so the hospital bill goes after the employer rather than the employee who thought he had insurance.

**Bob Ostrovsky, Legislative Advocate, representing the Nevada Resort Association:**

I participated in the discussions and we arrived at the compromise language relative to the health insurance. The idea in that language was to give the Labor Commissioner an extra lever. It says that the Labor Commissioner may fine them. Our hope is that the Labor Commissioner can call an employer and say, "You have a couple of choices: you can pay me, or you can pay the insurance premium for this month and then give your people proper notice," thinking that most employers would say, "Why bother paying the Labor Commissioner? I'll just pay the premium then give my ten days notice the following month, so the notice provision would be met." It's hoped in that circumstance that employees who had claims would get fully compensated from the insurance company under the particular policy. We were trying to give the Labor Commissioner some leverage with employers. Whether it's intentional or unintentional, he would even have to determine that. He would just call on the phone and say, "You didn't make your premium payment and you violated the law by not giving notice, so why don't you go ahead and make your premium payment, give the notices provided under the law, and that would end the discussion," which is the hope of the compromise language.

**Assemblyman Conklin:**

What's the standard lapse time from the time that you miss your payment until the time you can't make it up for commercial group policy?

**Bob Ostrovsky:**

I'll use my company as an example. My premium is due on the first of the month. I have 30 days to make that payment, so I have until the end of the month. At the end of the month, I get a notice from the insurance company, which is approximately five or ten days notice. The notice letter will say if I don't make that premium payment, they will cancel my coverage backdated effective to the date I didn't make the payment. It's usually a 30-day grace period to make the payment and some provision for a notice period after that. There may be a circumstance where the employee doesn't know until it's too late, and that's a possibility. There is some leeway in there. There's not a whole

lot we can do with the bad employers, who are going to run from this, file bankruptcy, close, and go away. Hopefully, the good guys out there will respond to the Labor Commissioner's efforts.

**Chairwoman Buckley:**

The question is whether we just let the bill go as it is, monitor the progress over the next two years, and see if it's used as a club, and if it's not to come back. I don't think we can automatically make an employer liable for medical bills from a legal point of view. You would have to create a lien for the medical bills from the Labor Commissioner; you couldn't just convert it. But it also doesn't seem fair that the employee gets stuck with the tab, which is the point of it all. I think at this point in the session, I'd be inclined to move it, study it, see if the lever works, and if it doesn't, come back next session, if that's the pleasure of the Committee. Mr. Tanchek, do you have any comments?

**Michael Tanchek:**

The information provided by Mr. Ostrovsky and Mr. McKenzie is accurate as to some of the things we discussed. Originally, we were looking at the full amount of the medical bills brought in, and we considered, for example, a single catastrophic event in one family. While it would be devastating to the family, it could also sink a medium-sized business, in which case it would spread out and affect other employees. Also, if you have an employer who is in a financial condition where they can't pay their medical premiums, they probably can't pay their medical bills either. Also, we looked at the probabilities of the lapse of the insurance. We're hoping they would be identified in routine medical things like a trip to the doctor for checkup or a shot, where the problem could be picked up. I discussed with Mr. McKenzie the idea of monitoring this over the next couple of years and seeing if this process does work, or if something more stringent might be of more use.

**Chairwoman Buckley:**

We appreciate that. I'll close the public hearing on S.B. 116.

ASSEMBLYMAN CONKLIN MOVED TO DO PASS  
SENATE BILL 116.

ASSEMBLYWOMAN ALLEN SECONDED THE MOTION.

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

**Assemblywoman Giunchigliani:**

I'll reserve my right to change my vote on the Floor.

**Chairwoman Buckley:**

We'll open the hearing on S.B. 332.

**Senate Bill 332 (1st Reprint): Revises provisions relating to real estate.  
(BDR 54-230)**

**Gail Anderson, Administrator, Real Estate Division, Nevada Department of  
Business and Industry:**

Senate Bill 332 is the Real Estate Division's legislation. The Real Estate Division administers seven chapters of regulatory law. Sometimes when we have one change we want to make in one place, we subsequently need to make it in several places at the same time.

Sections 2 and 11 are related and Section 2 is a proposed limited recognition for real estate licensing. In subsection 1 of Section 2, it allows an applicant for a license as a real estate salesman who currently holds a license in good standing as a real estate broker, broker salesman, or salesman, issued by another United States jurisdiction, to use their existing license as proof of having met pre-licensing education requirements and that they have adequate knowledge of the principles and practices of real estate portion of the national exam, if that other jurisdiction's licensing requirements are substantially equivalent to the requirements in this state. The applicant would still have to pass the Nevada law portion of the licensing exam and pass a licensing examination in their other jurisdiction where they currently hold a license. This would help expedite, for both the applicant and the Real Estate Division, the original license application process for a salesman if the Division did not have to review sometimes 25-year-old college transcripts, or the applicant has to locate a 10- to 30-year-old real estate school certificate of completion to substantiate their pre-license education. This also recognizes the applicant has knowledge of the principles and practices portion of real estate if they're currently licensed and in good standing in another jurisdiction that has substantially equivalent requirements. Most other United States jurisdictions currently have either a direct reciprocity license for license, or limited license reciprocity with other jurisdictions, and Nevada does not.

Subsection 2 allows the Nevada Real Estate Commission to enter into a reciprocal licensing agreement with other United States jurisdictions for broker and broker salesmen's licenses. The Real Estate Commission would review the

requirements to assure that they were substantially similar to the provisions relating to the practice in this state. A number of jurisdictions have gone to single licensure, where they call all of their licensees "brokers," where they do have three or four levels of broker's licenses as we have three levels of real estate licensing. The Division did not want to propose a license-for-license reciprocity for a broker or broker salesman's license, but rather to maintain the requirements for passing the Nevada law portion of the examination and, through the reciprocal agreements, for the specific 45-hour broker management required course for a Nevada broker and for the financial reviews and approval for a broker's license.

[Gail Anderson, continued.] Section 3 proposes a disclosure booklet for the purpose of consumer education and consumer protection. This booklet is a combined effort of the Nevada State Association of Realtors and the Real Estate Commission through the Real Estate Education, Research, and Recovery Fund. It proposes a requirement for a compilation in a booklet form of a description of the various disclosure requirements—they might be federal, state, and local—in a residential real estate transaction, to educate a buyer and a seller on what these required disclosures are. It would be required that a real estate licensee provide the booklet to a buyer or seller in a transaction involving residential property. The Real Estate Division will prepare the booklet, and the Real Estate Commission will review it and approve a format and the content. The booklet will be made available to licensees through the Division's website, we will do some initial printing out of the Education and Research Fund, and we'll work with the Realtor Association on other distribution and availability options.

**Chairwoman Buckley:**

Would it also have sections on your office, how to make a complaint, about the Recovery Fund, and how to resolve complaints, or would it be strictly property disclosure issues?

**Gail Anderson:**

The discussion was on the federal, state, and local disclosure issues that are required; however, as part of our public information that we're going to be developing in this next biennium, we can certainly develop some of that information, and we can consider looking at that. I'll discuss that with the Commission and with the realtors as to where we might go with that, but this was intended to focus on simply explaining what some of these disclosures are.

**Chairwoman Buckley:**

It would be good to have, because if someone doesn't disclose, what do they do, and where do they go? I think that consumer information is really helpful.



**Gail Anderson:**

Thank you. Section 4 is a financial audit cost recovery proposal, which would allow the administrator to charge and collect from a real estate broker the actual costs and fees incurred by the Real Estate Division to conduct an audit of the broker's financial accounts as a part of an investigation. This would be when the Division has reasonable cause to believe the requested documentation will assist in investigating whether the broker has committed any act or offense that would be grounds for disciplinary action. This would be used if the Division makes a request during the course of this audit investigation of the broker to produce certain financial records, and the broker fails to comply with the request for documents. The Real Estate Division is sometimes required to subpoena bank records, which can be a costly part of an investigation, for which we are not reimbursed and for which we are not budgeted. This would be actual cost and would have nothing to do with staff time. The money received would be credited to the appropriate account, which would be used to offset the fees and the costs incurred in that part of the investigation. This does not happen very often. We utilized it once during the fiscal year of 2004 in terms of having to subpoena bank records we could not get from the respondent as part of the investigation.

Section 5 relates to Section A in regard the owner/developer. An owner/developer is not a licensee and is registered with the Real Estate Division to develop and sell their own newly built property/homes. Under current law, the owner/developer may directly employ one or more licensed real estate salesmen to sell any single-family residence owned by the developer and not previously sold. This section proposes that an owner/developer must employ a licensed real estate broker/salesman to act as a sales manager to oversee the activities of the licensed salespersons, when working in the capacity described here, directly for the owner/developer. It does not preclude an owner/developer from contracting for brokerage services through agencies that offer that service. Those services have brokers who supervise salesmen working for them.

The current situation is that the licensed sales agents working for an owner/developer are not supervised by a licensee, but instead by the owner/developer, or sometimes a designated manager who is also not licensed. This provision will place real estate licensees under the supervision of a licensee. This section came to be after discussion by the Real Estate Commission and their desire to bring this forward to have real estate sales agent licensees supervised by higher level real estate licensees, in this case a broker salesman. Section 5, related to this, defines the qualifications of the broker salesman to fill that requirement of a sales manager.

[Gail Anderson, continued.] The most important piece for us is the fingerprint verification in Sections 13, 14, 18, 19, 25, 27, and 28, which would allow the Division to accept verification that non-latent digital prints have been taken and submitted, as opposed to the card coming in with the application.

**Chairwoman Buckley:**

Are there any concerns about the fees? We don't want to have another administration bill that we have to have vetoed after they've requested it.

**Gail Anderson:**

The Real Estate Division does wish and need to withdraw Section 29 from the bill. This was a change fee in the text of NRS 119A, changing a change from \$10 to \$20, and the Real Estate Division does request to withdraw that section.

**Chairwoman Buckley:**

We appreciate your testimony.

**Jim Nadeau, Government Affairs Director, Nevada Association of Realtors:**

We are excited about the passage of this bill. We think the written verification aspect that allows digital fingerprints will help our licensee applicants tremendously. They're dealing with significant amounts of delay time in processing through the repository and the FBI [Federal Bureau of Investigation] on their fingerprints. We think this will help them process quicker through the system and we appreciate the Division coming forward with that.

**Chairwoman Buckley:**

Thank you for your testimony. I'll close the public hearing on S.B. 332.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO AMEND AND DO  
PASS SENATE BILL 332, WITH THE AMENDMENT BEING THE  
STRIKING OF SECTION 29.

ASSEMBLYMAN ANDERSON SECONDED THE MOTION.

**Assemblywoman Gansert:**

So, striking the fees removes the two-thirds requirement?

**Chairwoman Buckley:**

That's correct.

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

**Chairwoman Buckley:**

We'll now refer to our Work Session Document ([Exhibit B](#)). Let's go to S.B. 59.

**Senate Bill 59 (1st Reprint): Revises provisions governing regulation and licensure of professional engineers and land surveyors. (BDR 54-176)**

**Diane Thornton, Committee Policy Analyst:**

This bill is sponsored by Commerce and Labor and was first heard on April 27, 2005. Bud Cranor from the Board of Engineers testified on behalf of the bill. There were no amendments and no opposition to the bill.

Senate Bill 59 makes various changes to the licensure of professional engineers and land surveyors. The bill increases the number of members on the State Board from seven to nine and requires six of those members be practicing or instructing engineers. The bill also allows applicants to take the licensing exam on the principles and practices of engineering before meeting the active experience requirements. However, if the applicant is not qualified for licensure until all additional requirements for licensure are met, the measure further specifies an attainment of a master's or doctorate degree as equivalent to two years of active experience for the purposes of the professional examination and licensure. The bill also restricts the aggregate number of years that can be waived by academic degrees for these purposes.

ASSEMBLYMAN ANDERSON MOVED TO AMEND AND DO PASS  
SENATE BILL 59.

ASSEMBLYMAN HETTRICK SECONDED THE MOTION.

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

**Chairwoman Buckley:**

I'd like to go back to the real estate bill for a minute. I misspoke; there were two sections that raised fees, Section 4 and Section 29. They wanted to

remove Section 29, so that removed the two-thirds for Section 29, but they did not ask to remove Section 4, so that kept the two-thirds in the bill overall. Let's move to S.B. 121.

**Senate Bill 121 (1st Reprint): Revises provisions governing payment of certain workers' compensation claims. (BDR 53-1021)**

**Diane Thornton, Committee Policy Analyst:**

This bill is sponsored by Senator Heck and was heard on March 21, 2005. Senate Bill 121 allows a health care provider to accept payment from a health or casualty insurer on behalf of an injured employee for treatment that the injured employee alleges is related to an industrial injury or occupational disease. Rusty McAllister from the Professional Fire Fighters of Nevada testified on behalf of the bill. There were no amendments and no opposition to the bill.

ASSEMBLYMAN OCEGUERA MOVED TO DO PASS  
SENATE BILL 121.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

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

**Chairwoman Buckley:**

We'll look at S.B. 152.

**Senate Bill 152: Revises provisions relating to physical therapists. (BDR 54-471)**

**Diane Thornton, Committee Policy Analyst:**

The bill is sponsored by Senator Mathews, and was heard on April 27, 2005. Senate Bill 152 requires the State Board of Physical Therapy Examiners to approve any school or educational curriculum taught at a school if the school is accredited by an accrediting agency recognized by the Board. The bill also provides that an applicant who meets the statutory qualifications for licensure is temporarily exempt from licensure and may practice physical therapy during the period of exemption under certain circumstances. The bill also authorizes the

Board to establish a fee of not more than \$150 to consider approval of a course of study and also authorizes the Board, after notice and hearing, to impose a civil penalty.

[Diane Thornton, continued.] There was an amendment proposed by Pamela Hogan from the Nevada State Board of Physical Therapy Examiners, behind Tab A ([Exhibit B](#)), that adds the language "physical therapist's assistant" to several sections of the bill, including on page 2, line 22, and also on page 3, line 10, and page 3, line 29. She also wants to add on page 3, line 1, the language, "or a person who has applied for licensure as a physical therapist's assistant, and who meets the qualifications set forth in NRS 644.230, except Section 5 thereof." There was no opposition to this bill.

**Assemblyman Seale:**

Does this conflict with S.B. 47 regarding the personal trainers?

**Brenda Erdoes, Legislative Counsel:**

We have looked at these bills, and we don't believe there is a conflict. Although the subject matter is close, the two areas are subject matter divided.

**Assemblyman Anderson:**

I have no problem with adding the amendment for the physical therapist's assistant, but I want clarity as to why they needed that when they first put in their application if they're going to be given that kind of immunity in the beginning. I can understand a regular licensed physical therapist, but avoiding all the standards of the assistant, I'm not sure that the assistant meets those same standards in the very beginning. That would be part of the amendment?

**Chairwoman Buckley:**

Why don't we get that clarified? The question specifically is with regard to the assistant; are they now being put in this license before exempt temporary qualification, and what is the impact of that? We had a lot of that discussion when we had the background checks on doctors with regard to temporary licensing, and we didn't do it there. It looks like part of that is already in existing law, but we are expanding it here, so we certainly could get that clarified. We're adjourned [at 3:12 p.m.].

RESPECTFULLY SUBMITTED:

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James S. Cassimus  
Transcribing Attaché

APPROVED BY:

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Assemblywoman Barbara Buckley, Chairwoman

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

**EXHIBITS**

**Committee Name:** Committee on Commerce and Labor

**Date:** May 2, 2005

**Time of Meeting:** 2:06 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	<b>A</b>	Commerce and Labor Committee	Agenda
	<b>B</b>	Diane Thornton, Committee Policy Analyst	Work Session Document