

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

**Seventy-Third Session
May 9, 2005**

The Committee on Commerce and Labor was called to order at 2:09 p.m., on Monday, May 9, 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. Morse Arberry Jr.
Mr. Marcus Conklin
Mrs. Heidi S. Gansert
Mr. Lynn Hettrick
Ms. Kathy McClain
Mr. David Parks
Mr. Richard Perkins
Mr. Bob Seale
Mr. Rod Sherer

COMMITTEE MEMBERS ABSENT:

Mr. Bernie Anderson (excused)
Ms. Chris Giunchigliani (excused)

GUEST LEGISLATORS PRESENT:

Senator Maggie Carlton, Clark County Senatorial District No. 2

STAFF MEMBERS PRESENT:

Brenda J. Erdoes, Legislative Counsel
Diane Thornton, Committee Policy Analyst

Vanessa Brown, Committee Attaché

OTHERS PRESENT:

Edward Fishman, D.O., Private Citizen, Las Vegas, Nevada
Pat Elzy, Director of Public Affairs, Planned Parenthood Mar Monte, Reno, Nevada
Jan Gilbert, Northern Nevada Coordinator, Progressive Leadership Alliance, Reno, Nevada
Bobbie Gang, Legislative Advocate, representing Nevada Women's Lobby
Gina Spaulding, Executive Director, Nevada State Board of Architecture, Interior Design, and Residential Design
Keith Marcher, Senior Deputy Attorney General, Office of the Attorney General, Nevada Department of Justice
Susan Fisher, Legislative Advocate, representing State Board of Chiropractic Physicians
Buzz Harris, Legislative Advocate, representing Nevada State Board of Cosmetology
Annie Curtis, Nevada State Board of Cosmetology
Nathaniel LaShore, President, Nevada State Barbers' Health and Sanitation Board
Antinette Maestas, Nevada State Barbers' Association
Eloy Maestas, Secretary/Treasurer, Nevada State Barbers' Health and Sanitation Board
Renee Diamond, Administrator, Manufactured Housing Division, Nevada Department of Business and Industry
Sam McMullen, Legislative Advocate, representing the Modular Building Institute
John Vergiels, Legislative Advocate, representing Blue Haven Pools and Desert Springs Pools and Spas, Las Vegas, Nevada
Peter Krueger, Legislative Advocate, representing The Association of Pool and Spa Professionals (APSP)
Margi Grein, Executive Officer, Nevada State Contractors Board
George Lyford, Director of Special Investigations, State Contractors Board
Joe Vassallo, Owner and President, Paragon Pools, Las Vegas, Nevada
Michael Springer, Timberline Pools, Carson City, Nevada
Lin Wippel, President, Desert Springs Pools, Las Vegas, Nevada

Chairwoman Buckley:

[Meeting called to order. Roll called.] I'll open the public hearing on S.B. 163.

Senate Bill 163 (1st Reprint): Makes changes relating to certain regulatory bodies which administer occupational licensing. (BDR 54-22)

Senator Maggie Carlton, Clark County Senatorial District No. 2:

This bill deals with the Open Meeting Law, and an exemption for education. It also deals with the child support provision. Our child support provision tied to licensing is tied to the federal law, and if that would ever change, we would not be able to enforce it here at the state level. If the federal law ever does go away, our child support provision will stay in effect for another two years after that to give us the opportunity to enact state legislation to be able to keep the child support provision intact. I was listening to what had been done at the federal level and some of the omnibus bills they had and how they were discovering things that had slipped into different bills. I thought that one of these days someone might try to get rid of the Child Support Enforcement Act [the Ted Weiss CSE Act of 1992, PL102-537]. In order to protect that particular provision, we put that into this bill.

The main difference between the original bill and the reprint is the absence of Section 4. It was taken out against my wishes in the Senate. There are different provisions on getting background checks with different licensing entities. My intention in Section 4 is you shall not issue, renew, or reinstate a license if a background check has not been done, and that we will start requiring background checks. The fail-safe part of this bill in that section is "unless a board has statutory authority to do so." We do have some boards that have the statutory authority to allow temporary licensure before a background check is completed. We're not going back and changing that provision. This is not retroactive, but it says if you do not have that statutory authority, you may not issue a temporary license until the background check is completed, and if you would like to have that statutory authority, you need to talk to a legislator and we'll decide whether it's a good idea or not. I would like that back in the bill. If we do not give them the permission to do this, they should not be able to do this. It's important to know who we are endorsing as a state by handing them a license and background checks are something we need to move forward on.

There is an amendment from Dr. Fishman ([Exhibit B](#)). They have contacted me to see if they can present the amendment, and I approved.

Assemblyman Hettrick:

Would you want Section 4 added back in if it risked the bill on the other side?

Senator Carlton:

I'm not worried about that. I believe background checks should be done and if you decide to put it back in, I'll fight for it on the other side again.

Chairwoman Buckley:

I have a question about the old Section 4. Do you know how many boards issue temporary licenses?

Senator Carlton:

There are a number of boards that do issue temporary licenses, and we have given a lot of the bigger ones the authority to do that. Some of the smaller ones are issuing them and because we are silent on it, there is not a way to change that without the background check being completed. It can sometimes take 6 to 10 weeks to get a background check done, but it can also take 6 to 10 weeks for a waitress to get a job at a major Strip hotel by the time they get done interviewing and investigating us. As far as weighing the time concerns, versus the security part of it, I believe background checks are very important, and that was one of the main concerns the subcommittee, which I chaired, decided to take this out of the bill because of the time constraints. Being able to get the fingerprint back quicker in the future will make it a lot easier to do that.

Chairwoman Buckley:

We dealt with this when we processed Assemblyman Horne's bill on background checks of doctors. The original bill did have a provision to create a temporary license, and we decided to take that out. We would rather wait and get background checks back, so our Committee is similarly inclined. My concern with Section 4 is it says you have not passed a background investigation and what that means. For example, how we ended up with the balance on Assemblyman Horne's bill is for all existing documents. If something came back on the background check, since we were doing it retroactively for existing providers, it became grounds for disciplinary proceedings, including potential revocation, but it depended what it was. It gave discretion: If we were to go along the lines of what this Committee reached on the policy, it would be different from this, but similar in some ways. It would say if a background investigation came back with an item derogatory in nature, the Board would have the power to take disciplinary action, including non-renewal, to allow that case-by-case determination. Any thoughts on that?

Senator Carlton:

The idea behind this was that there are some Boards who are allowing people to have a temporary license and practice on the citizens of Nevada before their fingerprints and background check come back; we don't know who they are. This was not meant to go back into history retroactively and take anyone's

license away, but it's meant that in the future, if you do not have statutory authority from the Legislature to give a temporary license, you may no longer do that until the background investigation has been completed.

Chairwoman Buckley:

It doesn't say that. It says "shall not issue, renew, or reinstate a license, including, but not limited to, a temporary license." So you have the situation with temporary licenses, so there could be a policy statement that you can't do them without a background check anymore? [Senator Carlton agreed.] On the renewals or reinstatements of all the existing providers, what do you do about them? Do you want to limit it to the temporary licenses?

Senator Carlton:

I would be happy with no more temporary licenses, but if this Committee has an appetite to address the other issues at this time, I would be very pleased with that. My intent was to slow down the temporary licensure factor. The other people have been in the state for awhile, so we know who they are and if they've had discipline. We didn't want to overburden the Board. The original intent, I tried to get those temporary licenses. I realize now that with the phrase in there provided by a specific statute, there are a number of boards who can do this now. In the future, I would like to see that changed.

Chairwoman Buckley:

Thank you very much for your testimony.

Edward Fishman, D.O., Private Citizen, Las Vegas, Nevada:

[Read from [Exhibit C](#)]. My purpose here today is to request an amendment to S.B. 163 ([Exhibit B](#)). This amendment provides that a pharmacist should not be able to refuse to fill or refill a prescription. As a physician, I've worked extensively with pharmacists, who are a crucial part of a patient's health care and professional health care team. The standard practice in a pharmacist/physician relationship is that a pharmacist is expected to contact a physician if there are any questions concerning the prescription. Pharmacists call physicians every day to discuss prescriptions we write and to clarify that these prescriptions meet the needs of our patients appropriately. If a pharmacist has any question about a dosage, quantity, or even if he/she believes a doctor has made an error, it is always the pharmacist's first obligation to contact the prescribing physician. If a pharmacist is not going to dispense a prescription, he has an obligation to alert the physician and explain why the prescription is not being filled.

[Edward Fishman, continued.] A growing trend among some pharmacists to refuse to fill prescriptions is cropping up around the country. Individuals are being denied access to medications for which they have a valid and legal prescription. I want to ensure that Nevadans are not subject to such denials. Refusals allow patients to be denied basic health care services by individuals who chose to impose their own ideological beliefs on others. Refusals often result in embarrassment to the patient. Inability to fill a prescription in a timely manner affects overall health care. It's important to note that in many parts of our state, the next nearest pharmacy could be miles away.

A plan of medical treatment is formulated by a physician and a patient. Whether someone receives medication should be up to a physician, not a pharmacist. Allowing pharmacists personal opinion to dictate care could allow underlying prejudices to take precedence over patient health care. For example, can a pharmacist refuse to fill a prescription for an HIV medication for a gay patient because he disapproves of homosexuality? Can a pharmacist refuse to fill prescriptions for a single mother who is on Nevada temporary medical assistance for the needy because he/she thinks the patient should get a job? Does the pharmacist refuse to fill a Viagra prescription for an unmarried man? Does a pharmacist refuse to fill a rape victim's prescription for emergency contraception because he doesn't believe in it? Does a pharmacist refuse to fill an antibiotic prescription because he feels the patient is not sick enough? Patients have a right to access lawful medications prescribed by their doctors without judgment or discrimination. Pharmacists have a professional responsibility to the public. This amendment ([Exhibit B](#)) ensures patients the right to medical care prescribed by their own physicians and I ask you to support it.

Pat Elzy, Director of Public Affairs, Planned Parenthood Mar Monte, Reno, Nevada:

[Read from [Exhibit D](#)]. On behalf of Planned Parenthood Mar Monte and Planned Parenthood of Southern Nevada in Las Vegas, I'm here to voice our support of the proposed amendment to S.B. 163 ([Exhibit B](#)). This amendment addresses the issue of pharmacists who refuse to dispense certain prescriptions.

Planned Parenthood believes in the right of every individual to have access to health care services. We believe it is an act of discrimination to refuse to provide legal and medically prescribed

contraceptives. Individuals who have medications prescribed for them by their health care providers should be able to have their prescriptions filled.

[Pat Elzy, continued.] Throughout the nation we are seeing more instances where pharmacists refuse to dispense contraception on religious or moral grounds. Responding to complaints about a Chicago pharmacist who refused to dispense birth control pills, Illinois Governor Blagojevich issued an executive order requiring drugstores to fill prescriptions for contraceptives in early April of 2005. According to Blagojevich, "The regulation says that if a woman goes to a pharmacy with a prescription for birth control, the pharmacy is not allowed to discriminate who they sell to and who they don't. The pharmacy will be expected to accept that prescription and fill it in the same way, and in the same period of time they would fill any other prescription."

Recently, the Access to Legal Pharmaceuticals Act was introduced in Congress to address the disturbing trend occurring at pharmacy counters across the country. This bill protects women's access to basic health care and ensures that no woman experiences the discrimination and humiliation of being refused service at her own pharmacy.

Currently, Nevada's pharmacy law is silent on a pharmacist's duty to fill a prescription, leaving it wide open for interpretation. This amendment will ensure that a legal prescription can be filled without delay.

Prescription drugs play a large and growing role in medical treatment and health care. Access to and obtaining pharmaceuticals are fundamental pieces of our health care system. Many Nevadans live in rural areas where there may only be one pharmacy. Patients should not be forced to go from pharmacy to pharmacy trying to find a pharmacist who will dispense a lawful prescription. Some patients may simply not have the means to do so. Access to pharmaceuticals should not depend on the personal beliefs of pharmacists. Pharmacies must ensure that patients get their doctor-prescribed medication without delay or inconvenience.

Obstacles to obtaining care and filling prescriptions are even more harmful to patients when the medication required is time-sensitive, as are oral contraceptives or emergency contraception. When a

woman and her doctor decide that a prescription for contraception is in the women's best interest, a third party has no right to override that decision. Any barrier to time-sensitive medications seriously reduces the quality of health care. Timely access to contraception is central to women's health. We know that birth control prevents unintended pregnancies and reduces the need for abortion. We must trust women and their doctors to make their own reproductive health decisions.

[Pat Elzy, continued.] While Planned Parenthood firmly believes that all people have the right to their own opinions and moral beliefs, it is unethical for health care providers to stand in the way of a woman's access to safe, effective, legal, and professional health care. This proposed amendment ([Exhibit B](#)) assures the patient that a medicine legally prescribed by a licensed physician in the state will be dispensed. Planned Parenthood encourages you to support the amendment.

For the record, I have submitted ([Exhibit E](#)) from Elizabeth Hutson. I also submitted testimony ([Exhibit F](#)) from Lisa Lynn Chapman.

Jan Gilbert, Northern Nevada Coordinator, Progressive Leadership Alliance, Reno, Nevada:

We are in support of S.B. 163 as amended. We are particularly supportive of the amendment, as it will protect the patient/doctor relationship. In rural Nevada, the low-income patients have enough difficulty getting around. In Las Vegas, if they have no personal transportation and they go to a pharmacy and are refused service and have to go to another, it becomes a much bigger obstacle for them. Pharmacists should be required to fill these prescriptions. They are legal and prescribed, and we hope you support the amendment ([Exhibit B](#)).

Bobbie Gang, Legislative Advocate, representing Nevada Women's Lobby:

We support the amendment to this bill ([Exhibit B](#)). We believe it is the responsibility of a pharmacist when they are licensed to fill every legal prescription that is brought to them, provided that there is no contraindication with other medications. In the scope of practice of a pharmacist, it says they can either refuse or not immediately fill a prescription, but it does not have to do with the pharmacist's personal opinions about the medications.

I want to tell you my personal experience as to how humiliating it can be when you go to the pharmacy to get a prescription filled and you find it won't be done that easily. Usually you go and the prescription is filled and you walk away, or

you wait 30 minutes to get it filled. A couple of years ago, I had been very sick with a sinus condition that lasted for 6 weeks, and it got so bad that I had terrible headaches, draining me, and making me feel miserable, and finally I got a fever. I went to my doctor, got a prescription for an antibiotic, and went to the pharmacy. I knew the pharmacist and had seen him many times, and suddenly he started asking me questions about what was wrong with me and other questions my doctor had already asked. I began to get very angry and didn't understand what was going on. He asked me five questions and said he'd fill the prescription.

It turned out the prescription was for a very expensive antibiotic. It was only when he understood the nature of my condition that he realized it was prescribed for that reason. He was trying to save me money and see if he could call the doctor to ask for something less expensive. I felt so angry and humiliated that I brought in a prescription from my doctor, whom I trusted, and the pharmacist wouldn't fill it right away. Fortunately, it was filled, but I can only imagine how someone must feel when they expect a prescription to be filled and they're turned away and don't have an alternative pharmacy to go to.

Chairwoman Buckley:

Thank you for your testimony. We'll close the public hearing on S.B. 163, and we'll open the hearing on S.B. 135.

Senate Bill 135 (1st Reprint): Revises provisions governing certification of registered interior designers. (BDR 54-744)

Gina Spaulding, Executive Director, Nevada State Board of Architecture, Interior Design, and Residential Design:

[Submitted [Exhibit G](#)]. I support S.B. 135. The Registered Interior Practice Act has been in effect for about 10 years; it's going well, and we're registering a lot of interior designers. One thing we've noticed over the last couple of years with the tremendous growth in Nevada, we are getting a lot of applicants who have tremendous amounts of experience, but do not have the accredited degree required by statute. We're looking to expand opportunities for qualified applicants to become registered in Nevada by allowing them to supplement educational gaps with qualified work experience.

Chairwoman Buckley:

Why do you have no opposition here? Did the Board work with a lot of folks over the interim?

Gina Spaulding:

Yes, we did. We've spent the last two years working with the design community. We've been having town hall meetings and working with as many interested parties as we possibly can to get as much support for this to make sure we are as inclusive as possible to allow qualified applicants to have the ability to become registered here.

Chairwoman Buckley:

We appreciate that interim work. We'll close the public hearing on S.B. 135, and we'll open the hearing on S.B. 276.

Senate Bill 276 (1st Reprint): Establishes uniform disciplinary process for certain regulatory bodies which administer occupational licensing. (BDR 54-98)

Keith Marcher, Senior Deputy Attorney General, Attorney General, Nevada Department of Justice:

S.B. 276 is one of the Attorney General's bills (AG). This bill creates a uniform disciplinary hearing process for most of the occupational licensing boards in the state. The procedures have a twofold effect: One, to ensure the licensee has constitutional due process considerations when they're before boards; Two, it will help the boards in the defense of litigation and on petitions for judicial review where the different hearing procedures are routinely attacked. The purpose is to make most of the boards proceed in the same fashion if they're going to hear a contested case. [Submitted [Exhibit H.](#)]

Chairwoman Buckley:

In the Senate, a number of boards asked to be exempted, and not all of them ended up being included, and one or two got dropped out. Do you know anything about that?

Keith Marcher:

The only one that asked to be excluded that wasn't was the State Board of Chiropractic Examiners, and they are here today.

Chairwoman Buckley:

And you have no concern with that? [Mr. Marcher answered in the negative.] Can you describe what process you went through to notify all the boards of this bill and their right to opt out?

Keith Marcher:

Originally, this bill was twofold and it's been cut in half. The other portion of it dealt with creating an investigative unit for some of the smaller boards to help them with their investigations and then employ these hearing procedures at a certain point in the process. We're left with the hearing procedure part of it, but when we first drafted this, we went to each of the boards. We discussed it, gave them a copy of the draft, and discussed the concept with them. Some were in support of it and some had questions about it. The ones with problems with it showed up at the Senate and raised those concerns. This is what we're left with.

Chairwoman Buckley:

I saw a fiscal note dated March 24 of about \$616,000 over the biennium. Is that the current fiscal note on the bill, or was that the one on the unamended version?

Keith Marcher:

It's on the unamended version that created the investigative unit that would have handled the investigations for the Boards. That's the reason it's not here anymore, so there shouldn't be any fiscal impact with this.

Chairwoman Buckley:

You might want to submit a revised one; otherwise, the Chairman of Ways and Means will pull it in anyway to verify that.

Keith Marcher:

Okay.

Chairwoman Buckley:

Thank you very much.

Susan Fisher, Legislative Advocate, representing State Board of Chiropractic Physicians:

We have spoken with the AG's Office and we testified to the Senate that we want to be included in the exclusion list. They have a list of Boards that have requested being excluded from the provisions of this chapter and there was no opposition to our request; however, it didn't come out on the list. We can support the bill with our amendment ([Exhibit I](#)).

Chairwoman Buckley:

Thank you very much for your testimony. I'll close the public hearing on S.B. 276.

ASSEMBLYMAN HETTRICK MOVED TO AMEND AND DO PASS
SENATE BILL 276.

ASSEMBLYMAN PERKINS SECONDED THE MOTION.

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

Chairwoman Buckley:

I'll open the hearing on S.B. 335.

Senate Bill 335 (1st Reprint): Revises provisions governing practice of
barbering, cosmetology and related professions. (BDR 54-1356)

**Buzz Harris, Legislative Advocate, representing Nevada State Board of
Cosmetology:**

This bill deals with both the Cosmetology Board and the Barbers' Board. I will
walk you through the bill.

Sections 1 through 6 relate to the Barbers' Board. Section 3 allows the Barbers'
Board to increase their fees to bring them up to date for enforcement. Section 4
allows for both Boards to enforce their appropriate actions as they deem when
conducting inspections. Sections 5 and 6 relate to the particular practices of
barbers so there aren't deceptive trade practices. Section 6 takes on a more
specific approach dealing with barbers and how you can create the impression
for general public members to identify a barber shop.

Section 7 allows the Cosmetology Board to assist in their chapters as far as
enforcement on their laws. Section 8 deals with Board members not serving
more than 2 full terms unless they are filling in for an unexpired term. Section 9
asks members to have their home and work addresses on the record. Section
10 adds "hair designer" as one of the licensed professions for the Board of
Cosmetology and increases the fees for instructors. Sections 11 through 20
increase all of the fees so they can have their first update in ten years for fee
increases. Section 21 allows for the leasing of space for barbers in a
cosmetological establishment. Sections 22 and 23 allow for the increases in
fees.

[Buzz Harris, continued.] Section 24 increases the number of hours required for students. It's good consumer protection to increase the hours for cosmetologists, hair designers, manicurists, electrologists, and aestheticians. Section 25 increases the fine for third offense if a person's license was revoked or suspended. The fine goes from \$1,000 to \$2,000. Section 26 relates to the barbers and enforces what is in Section 6, how barbers are to practice and not have deceptive trade practices. Section 27 increases the fees and fines for infractions under the Board of Cosmetology.

Chairwoman Buckley:

Why do you need to increase the hours that a student must spend in the classroom before being licensed? Why is what we're doing right now not working for these professions?

Annie Curtis, Nevada State Board of Cosmetology:

Health and safety would be better if we made our students more ready for the clinic floor with more knowledge.

Chairwoman Buckley:

So all the schools will redesign their hours. What would they add, and how do we know it won't cost more and be more time? How do we know it will yield results that will benefit the public?

Annie Curtis:

It does not add an additional cost, it's just more time and theory in the classroom before going on the clinic floor. It's not being added on to the ending hours and it won't be a cost factor for the student. It's just more time and theory before going out on the clinic floor within the school.

Assemblywoman Gansert:

There are two costs. One is what you pay to go to school and the other cost is time that you're not working elsewhere or doing something. I'm not sure that we've had a problem to increase these hours.

Chairwoman Buckley:

Do you have any evidence, whether in the number of complaints alleged against individuals who have only been out a year, a high number perhaps to show that our clinical instruction hours are not sufficient, or anything else that might address Assemblywoman Gansert's point?

Annie Curtis:

No, I don't have any hours to show that; however, it was just done in subcommittee with the schools feeling if they were able to be more user-ready for the public, it would be better.

Chairwoman Buckley:

On the fees, could you talk to us about why the Board can't make do with its existing fees?

Annie Curtis:

This is the first increase in ten years. However, the cost for the Board has continued to escalate as far as our testing. We're absorbing the cost of testing for each applicant without a testing company. The testing costs \$100 and our fees are at \$75, so we absorb that cost. We're getting ready to test with computers where they will have the ability to test with computers and this would be an additional cost. The cost arising for the testing is why we're asking.

Chairwoman Buckley:

The test costs you \$100? [Ms. Curtis answered in the affirmative.] And you're charging people \$75?

Annie Curtis:

So we have not come up to the scale at this time, and we ask the Committee would consider that.

Chairwoman Buckley:

It would go up to \$200, not \$100, and what about the fees for the renewals of folks who are already licensed? I would think that there are so many more manicurists, hairstylists, and cosmetologists that the growth must offset some of the concerns about the fees not being increased.

Annie Curtis:

There is an administrative cost that hasn't been kindly addressed with that growth.

Chairwoman Buckley:

Why don't you submit to the Committee information on the Board's finances and justification on why you need the fees increased?

Annie Curtis:

We will do that.

Chairwoman Buckley:

Thanks for your presentation. We'll now shift to Las Vegas.

Nathaniel LaShore, President, Nevada State Barbers' Health and Sanitation Board:

We're here to support the bill. It's important for us to be able to come up with a description of a barber pole that would give the barbers and the cosmetologists the leverage we need to regulate the industry. We want to clarify problems that brought us here today.

Chairwoman Buckley:

There weren't any questions on the barber pole portions of the bill, but we appreciate your testimony.

Antinette Maestas, Nevada State Barbers Association:

We are in support of the barber pole issue in the bill.

Eloy Maestas, Secretary/Treasurer, Nevada State Barbers' Health and Sanitation Board:

I'm in support of S.B. 335.

Chairwoman Buckley:

[[Exhibit J](#) was submitted by Vicky Sakach.] We'll close the public hearing on S.B. 335. We'll open the hearing on S.B. 381.

Senate Bill 381: Enacts provisions relating to commercial coaches. (BDR 43-1325)

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

We have been working with Mr. McMullen and the folks from the Nevada Modular Building Institute on a method to help them get more efficient inspections of commercial coaches when they're on job sites. We came up with the idea to issue a permit, which means when we inspect installation and safety, their installers would not have to carry checks with them; that way, they could pre-apply for the permit. There were a few changes we needed to make for consistency with the rest of the NRS 489. The Division is in agreement this would be a more efficient way to have inspections done through a permit system similar to the way building departments work all around the state.

Sam McMullen, Legislative Advocate, representing the Modular Building Institute:

We have passed out a proposed amendment ([Exhibit K](#)). A commercial coach sounds like a bus or something like that, but it actually is a fixed unit much in the mode of sales offices on housing sites or offices on construction sites. They are used for modular schools, but they're regulated under a different scheme. The reason they're different from real improvements is they are considered to be personal property. They can be attached there for quite awhile, but they aren't considered permanent. The Modular Building Institute are the people who provide these on site. We have worked with the Division to make sure the efficiency of all this and their ability to fully regulate was managed to an appropriate conclusion.

We are in the business of providing these things quickly and doing it under a time frame, so it puts pressure on all of us to do it correctly. We developed an opportunity for a permitting system. Currently there is an inspection system and an inspection payment. We would not jeopardize the revenue of the Division in any way, so the way to do this is to create a different system. Section 1 of the bill creates a permitting system, which would allow us to file in advance for a number of permits and make sure the system was accommodating that. When necessary, those permits could be pulled down and the Division could be appropriately notified to make sure they're inspected for safety and for the tie-down. Those are their primary responsibilities.

Chairwoman Buckley:

Doesn't the Division already do this under NRS 489?

Sam McMullen:

They clearly do, and this was to take that responsibility and not necessarily change it, but to do it on a permitting in advance system. Because of legal opinions, the inspection has been done for each company in multiple locations in the valley. That means the next day you could be doing the same drive with inspectors to certify or inspect other people's modular buildings. We were trying to work with them to make that more efficient so they could do it for all of the commercial coaches on site.

Chairwoman Buckley:

How will that change the fees?

Sam McMullen:

We will pay the same fees. There is an indication that there is a fiscal note on this, which might require an additional fee. We are amenable to paying that and

making sure the Division has the revenue it needs. This is a situation where business practicalities require some expeditious treatment.

Renee Diamond:

We think this will actually make us more efficient in the field for inspections. The fee for pre-purchasing permits might be around \$25 and would be set in regulation, a nominal amount. It permits us to better manage the time of the two inspectors in southern Nevada and the one inspector in northern Nevada. The amount we're looking at is about \$25 per permit.

Sam McMullen:

In Section 1 of the proposed amendments ([Exhibit K](#)), is an indication from the Division that if we're going to do it for commercial coaches, which are not manufactured homes or mobile homes, maybe a system could similarly be utilized for manufactured housing, so this is discretionary, on line one. The purpose of Section 1 was to add in the opportunity for them to expand and utilize it for manufactured homes and mobile homes permitting an inspection as well.

Section 2 ([Exhibit K](#)) clarifies that regulations adopted at the state level that relate to inspections of the coaches themselves and their actual installation are the responsibility of the Division. There is some confusion in the statute that the county building apartments can take that over. This is to clarify that the Division has some primary authority and will do it unless the local government gets the approval of the Division to do it, so nothing slips through the cracks. That does not take away the local government's opportunity to continue to do it for zoning.

Sections 3 and 4 ([Exhibit K](#)) are basically the same. We have a common concern in making sure the definition of "engage in business" includes actually submitting bids to perform those activities.

Section 5 ([Exhibit K](#)) makes sure there is advanced time for adopting regulations and then moving forward to implement this bill for all other purposes on July 1, 2005.

Chairwoman Buckley:

Thank you very much for your testimony. We'll close the public hearing on S.B. 381, and we'll open the hearing on S.B. 434.

Senate Bill 434 (1st Reprint): Revises provisions governing regulation of contractors. (BDR 52-1103)

John Vergiels, Legislative Advocate, representing Blue Haven Pools and Desert Springs Pools and Spas, Las Vegas, Nevada:

My clients and I met with the Contractors Board, and we think this bill is a good step in the right direction to where we want to be. The controversy seemed to be around the bond, and that still may be there. We're for this bill and we support the Contractors Board and their cautiousness in making sure the public is protected so that our pools are covered by a bonding requirement.

Peter Krueger, Legislative Advocate, representing The Association of Pool and Spa Professionals:

We're supporting the bill. You have in mock-up from the first reprint and an amendment to the bill ([Exhibit L](#)). The bill was introduced in the Senate and several amendments were adopted there, but in our Association's judgment, they did not go far enough in addressing the question of performance in payment bonds. All contractors are required to have licensed bonds. All contractors pay for those. They also pay into the recovery fund that resulted from bad practices back in the late 1990s, early 2000s.

This industry, which builds in southern Nevada alone in the excess of 6,000 pools or spas on an annual basis, employs directly over 1,200 employees and another 9,000 in landscaping, plumbing, and associated allied industries. The industry has done a lot to raise its standards and eliminate complaints, which isn't to say you won't receive them. When you build a pool or a spa that involves the many subcontracting functions, it's a complicated system involving pumps, filters, significant computerization in the system, concrete work, and landscaping. You can't always do this and never have a complaint. Our members work hard with the customer who is building a pool around \$40,000 to \$50,000 each, so it's a significant investment.

We are doing more and enhancing the protection of consumers. I want to walk you through the bill. Sections 1 through 12 are the existing language of the bill in ([Exhibit L](#)). This was language in Section 2, 3, 4, 5, and 12 that were added on the other side. That strengthened who could have a license in Section 2 and Section 3. In Section 4, it identified what contract and work performance mean. The rest of the language highlighted in red ([Exhibit L](#)) is that language struck in the Senate, and the blue is the new language.

On page 9 of [Exhibit L](#), there are three new references to the existing language that was added in the Senate. We felt that for clarity and reference the words "and in NRS 624.276" be added.

[Peter Krueger, continued.] In Section 14 ([Exhibit L](#)), on page 10, is where the meat of our amendment is. We're proposing eliminating Sections 1 and 2 and subsection 3. Eliminating that and starting with language that duplicates some language that was proposed by Mr. Springer, who submitted his language to the Contractors Board, we took his work and concept document and put it into bill form. We're allowing a contractor to either continue with a performance and payment bond, which is current statute, or be able to get a new bond. There are problems with getting bonds today. We're suggesting a change there to allow either/or, and then we have changed the limits. On page 10 ([Exhibit L](#)), it says the amount of the consumer protection bond or a deposit shall not be less than \$50,000 or more than \$300,000. Our concern is there are pool builders outside of southern Nevada and a few in southern Nevada that might build 1 or 2 pools a year. I've seen other language that requires that to be \$150,000 to \$500,000, which is out of the reach of a number of small pool contractors and would eliminate them from the job.

On page 11 ([Exhibit L](#)), we're expanding on the idea of having a consumer protection bond. On page 11, in subsection 4, we say the bond will be issued for the favor of the state. The Contractors Board would have complete control on this bonding process and it would work exactly as the licensure bond they already have. The representative of the Contractors Board has an amendment ([Exhibit M](#)), which would lay this consumer protection bond on top of what's already here. Our language is the same kind of language that has been expanded on bonds before on page 12.

Chairwoman Buckley:

I'm going to ask the Contractors Board to testify. Margi, why don't you tell us exactly what bonds are required of pool contractors.

Margi Grein, Executive Officer, Nevada State Contractors Board:

Currently, what's required as of July 1, 2001, is every contractor who was issued a license after that date, or any contractor who has been disciplined by the Board, has to put a payment performance bond on every pool they build. In addition to that, they have a surety bond, which all contractors are required to carry at the time of licensure.

Chairwoman Buckley:

How much is a surety bond?

Margi Grein:

The surety bond ranges from \$1,000 to \$500,000.

Chairwoman Buckley:

That's just based upon their occupation, not on a project-by-project basis, but they're just required to submit that surety bond? [Ms. Grein answered affirmatively.] What about that recovery fund? Do they have to pay into that to?

Joe Vassallo, President and Owner, Paragon Pools, Las Vegas, Nevada:

Yes, they do, and that's based upon their license limit. Most pool contractors have a license limit of \$250,000 or less. There are several who have a higher limit.

Chairwoman Buckley:

Do the pools have a separate recovery fund? [Ms. Grein answered in the negative.] So they're all part of the overall recovery fund?

Margi Grein:

Correct. They represent approximately 24 percent of the total paid out of the recovery fund has been paid on pool claims.

Chairwoman Buckley:

What has been paid out from the recovery fund on account of pools in the past few years? Can you give us a sense of the dollar amount?

Margi Grein:

Through June 2004, we had approximately \$589,000 that was paid on pool contracts. From that point forward, I haven't calculated this year yet.

Chairwoman Buckley:

So, about a quarter of those come from pools? [Ms. Grein answered in the affirmative.] Would you say folks with complaints about pool companies are getting dollar for dollar on their claim reimbursement, or are they getting cents on the dollars, and how might our increase of that cap help in this area?

Margi Grein:

That \$589,000 was paid just for its pools.

George Lyford, Director of Special Investigations, Nevada State Contractors Board:

The claims that come out of the recovery fund to date with the pool contractors have fallen within the \$30,000 limit. They are being awarded the amount of their claims. It has not been pennies on the dollar.

Chairwoman Buckley:

So we have the recovery fund, the surety bond, and the performance contracts for each pool that's bid?

Margi Grein:

Yes, but the performance and payment bonds are not for all contractors.

Chairwoman Buckley:

They're for all new after July 1, 2001, and anyone who has had any disciplinary action against them? [Ms. Grein answered in the affirmative.] Some of the newer pool contractors feel they're at a competitive disadvantage with the older pool contractors, and a performance bond for every pool—we enacted this because there were so many problems with pools. We had many people with holes in their backyards and the industry was in a state of shambles. Looking at this a few years later, it's expensive to get a bond with every pool for all the good pool contractors. Might there be a way to either increase the recovery fund or the surety bonds or require performance bonds for those companies who have had a problem? If we can compensate anyone who's been shafted by a pool contractor, and we require the bonds for those who are on shaky ground to make sure they've reestablished themselves, do we then help all of the businesses who are doing a good job not to have to increase the cost of a pool by 4 percent because they have to get a bond on every single project they build?

Margi Grein:

With the amendment ([Exhibit M](#)), we are comfortable the public will be protected. When the pool issues came up in the 1997 Legislative Session, we didn't have the recovery fund then. In 2001, the second sets of laws were enacted and we hadn't paid out the recovery fund yet. We didn't recognize how much of a help it would be. It has been a tremendous help. We did discuss increasing the recovery fund amount for pool contractors. The Board didn't feel that was an appropriate way to go. The recovery fund is solvent currently, and we're keeping a closer eye on the pool contractors; however, some of the provisions the industry has suggested don't provide that up-front protection. With surety bond, the consumer is the last person to get ahold of that. The amendment ([Exhibit M](#)) addresses those concerns.

Chairwoman Buckley:

What does your amendment ([Exhibit M](#)) do? It makes everyone have to get a bond including those who are licensed before July 1, 2001?

Margi Grein:

Correct, it requires a consumer protection bond, but then we have a five-year provision, where after five years, like the surety bond, they can be relieved from that requirement. That would give us an opportunity to look at those individuals who have been operating according to the law and after five years relieve them of that requirement.

Chairwoman Buckley:

Isn't there something else we can do? It seems that we're increasing the cost of every pool on 90 percent of the businesses who aren't ever going to have a problem. That's the wrong way to go, and we should look at the recovery fund or maybe bond the first five pools you ever build in the state. We have two goals, protect consumers and not unfairly increase the cost of business, and we could do a better job of both of those.

Steve Krueger:

The industry was told by the Contractors Board they were not interested in creating a consumer protection fund, as opposed to a bond, where pool builders would agree to put in an amount as high as \$5,000 to create a fund up to \$1 million, and that would take three or four years to achieve. It would be under the jurisdiction of the Contractors Board. If they would prefer not to handle that, it would be handled under a neutral third party, like any other bond management fund or private company that would do this for a fee. If we hadn't been told the Board wouldn't entertain such an idea, our members are ready to contribute an amount every time they renew their license or get a license, pay in for a period of time, and we proposed up to a \$1 million. If the fund fell below \$500,000, they would contribute again. This fund would be there perpetually.

Assemblywoman Gansert:

Is \$589,000 for a year, or since existence?

Margi Grein:

That was from existence. We started paying out at the end of 2001.

Assemblywoman Gansert:

That was the end of 2001 to June 2004? [Ms. Grein answered in the affirmative.] Someone mentioned the recovery fund has been able to provide dollar for dollar for any problem that's existed?

Margi Grein:

Until recently, and that's why we increased the maximum amount that we could pay on any one contractor and also the amount an individual could claim.

Assemblywoman Gansert:

So it wasn't necessarily how much money we had in the fund, it's that we were hitting the cap on providing those funds to injured parties? [Ms. Grein answered in the affirmative.]

Chairwoman Buckley:

We increased the cap this session, the Governor signed that, but in the pool area there hadn't been an issue of anyone getting cut off by the cap? [Ms. Grein answered in the affirmative.] But that potential could have happened had we not increased it.

Assemblywoman Gansert:

What are the reserves in the recovery fund right now?

Margi Grein:

It's approximately \$3 million.

Assemblywoman Gansert:

And approximately about 25 percent of that fund typically goes to pool problems?

Margi Grein:

Yes, in one year the pool industry generates approximately \$325 million in southern Nevada, so creating a separately administered refund that would maybe cap a \$1 million in a few years I don't think would—

Chairwoman Buckley:

I think we already have a successful recovery fund that's well administered, and I wouldn't want to create another one.

Assemblywoman Gansert:

It seems like we've been covering the claims, but do we use those bonds that have been put up?

Chairwoman Buckley:

How many times have the performance bonds been executed upon?

Margi Grein:

They're required to provide them at the time they pool the building permit. We wouldn't be involved in that.

Joe Vassallo, President and Owner, Paragon Pools, Las Vegas, Nevada:

I've been in the industry for 16 years and opened up my own company four years ago, so I'm subject to getting those payment performance bonds. Of the bonds that have been obtained, because they are difficult to get, most of my constituents have been unable to get them. At my company, we have not had any claims against the bond.

Chairwoman Buckley:

Do we have any statistics on whether they are being utilized or not? Margi, do you have anything else on that cumulative information?

Margi Grein:

No, I just pulled up some information on the availability of performance bonds.

Michael Springer, Timberline Pools, Carson City, Nevada:

I started this by filing suit with the current statute on behalf of newly licensed pool contractors who are placed at a disadvantage in having to bond each residential pool, versus the older contractors who caused all the problems and created the legislation and are exempt. I've studied the legislative history since 1997, and we're looking for a means to seek compromise with the Board and satisfy the Legislature's need to protect consumers from pool contractors. I'm unaware of any litigation involving a personal residence payment performance bond since 2001. It's not to say they don't exist, but for the most part they're unavailable in the industry. They are limited in availability because you only get so many surety credits, and that cap might be \$100,000 or \$200,000. They'll write you bonds as long as you don't maximize and exceed that cap. A \$200,000 bond credit to a new company is equal to approximately four pools. A small pool company can't exist building only four pools. The current statute doesn't have an end to the bond because there's no cap.

The Contractors Board and I have attempted to create a corporate market, surety market assurance to the consuming public by creation of a separate parallel consumer protection bond because part of the legislative history is, the licensed bond goes to the suppliers. They're the ones who grab it first. I represent many suppliers in northern Nevada, and it's part of my practice to go collect on a license bond. The consumers aren't there and they are way too late. We set up a perception of a separate parallel consumer protection bond that's only available to consumers, by definition, residential single-family consumer, under contract with an A-10 licensee, make that blanket bond available to those consumers. We met with the Board a month ago, and they didn't want to set up a parallel recovery fund. They were concerned with how to further fund the existing recovery fund with pool contractors because now

we've created a bigger fund, which is likewise available to general contractor complaints or other contractors, not necessarily just pool contractors.

[Michael Springer, continued.] We think this will work. We had the Board's blessing that it's easy to administer, just like a licensed bond; you either have it or you don't. If you don't have this consumer bond we require you to post, your license is no longer valid. We can put the administration on a corporate surety who will check financial statements, issue those surety credits, and the cost is minimal compared to posting the bond for each individual residential pool project, which is financially impossible. We have our own proposed amendment, and if the Committee feels we should look at the recovery fund and figure out how to make it work, that's fine. We know it needs fixing, and that's why we're here.

Chairwoman Buckley:

We could instruct the parties and give them guidance, or we could create a subcommittee. If we give these folks some guidance and have them come back, it might be the best way to go.

Assemblyman Conklin:

I'm definitely concerned with this bond that nobody can access, and if no one is using it, why do we have it? I'm for consumer protections, but I think it's time we take a look at this and find something. The cost of a pool is substantially impacted by a surety bond that no one ever uses and is difficult to obtain. The performance bond is difficult to obtain; it's expensive. If we already have the recovery fund, a separate is not necessary.

Lin Wippel, President, Desert Springs Pools, Las Vegas, Nevada:

I'm one of the older pool builders in the state. I submitted letters ([Exhibit N](#)) stating that Bob Vanhorn and Steve Treese are in favor of the bill as stated. We are in favor of the bill because we don't want to be back here in four more years at the wrath of the Legislature and the Contractors Board because we gave up something that is working. Performance bonds are available. You also have letters ([Exhibit N](#)) from my insurance carrier and Blue Haven Pools's insurance carrier that they are available, and they are about 2 percent.

The reason a lot of these gentlemen can't qualify for a bond is they don't have the net worth required to be a contractor. I'm also an excavation contractor and I know the capital requirements for a contractor. If they don't meet those requirements, why should you allow them to go out and sell 20 to 30 pools in a given month—and they have the opportunity to do that—and not scrutinize them. We'll be back in the same boat next year, and I don't want to be here and risk everything I've invested between excavation, landscape, and masonry

businesses that I own because of unscrupulous pool builders. There are new builders out there right now circumventing the system. I'm scared to death that I will lose everything I've worked for over the last 25 years if you allow these people who are underfunded and underqualified to get into the industry and ruin it again.

Chairwoman Buckley:

We have lots of business interests that come before this Committee and people are unscrupulous in every one. The question is what is the percentage in every industry? We don't require a housing contractor to get a performance bond for every house they build. I'm sensitive to your concern. I was on your Committee, and I remember how bad it was. I don't want to see us go back there at all. I'm wondering if we can't come up with some other measure. Maybe it's a net worth requirement. Maybe you pay into a fund a certain amount. I'm wondering if there is something we can do to protect the consumer and wouldn't be so labor-intensive for every pool contractor.

Lin Wippel:

Many of these pool contractors have a five-year provision. Some of them are coming through that cycle right now, and I challenge Mr. Vassallo to say that going through this cycle hasn't made him a better business person and he'll be a better competitor because of that. With regard to other contractors like housing contractors, they own the land and the bank owns the land. There is always a financial threat to the consumer, but in this interest, when you have a company that can go out in a very short period of time and accumulate \$2 million worth of contracts and get started on all of these projects, and he has no capital requirements, these bonds say you don't have enough capital or net worth to do that.

Assemblyman Hettrick:

I understand the concern and I agree that the bank or the builder has the land. There are different assets and risks, and that does modify the issue, but is it possible to go out and get a \$250,000 bond and build up to five pools under that bond without siting a specific pool, and then you have to go get another one? Can we group them to make this less intensive than giving a single bond for every single pool?

Lin Wippel:

How does a Contractors Board follow up on all of that? With a payment performance bond, it's very simple because you go out and you're required by law to present that when you get your building permit. Unfortunately, right now a lot of these contractors are having the homeowners get their own permits and

working it as an owner/builder, which completely circumvents everything. Where there's a will, they'll find a way to cheat and steal, unfortunately.

Michael Springer:

I brought a case claiming the current statute is unconstitutional due to the fact that it's picked October 1, 2001. It's unfairly picking on the new guys when it's the old guys who caused the problem. I'm hearing from the largest companies in Las Vegas saying they like it just the way it is, and they never had to post those bonds because they were exempt from the statute to begin with.

In northern Nevada, you're lucky to get 20 pools per year, and in Elko you're lucky to get 2 per year. How do we address those contractors who are trying to make a living under that A-10 license, and how do we couple that with contractors in Las Vegas who can do hundreds of pools a year? We're dealing with a very complex problem and we have to look for a blanket remedy. We've proposed leaving this blanket consumer bond to the discretion of the Board as to the parameters of where to set that bond that has to be posted with the Board for the benefit of the consumers, taking into account the longevity of the licensee and their track record; the market they're in; how many pools we can anticipate them to build in a year; and their financial statement.

We should make everyone post a bond so they're all equal. The guys in the market will be adjusted otherwise within parameters. The corporate bonding posted with the Contractors Board is easy for the Board to regulate. It's either there or it's not, just like a licensed bond. I was looking for an easy way for the Board to administer and still be a fair way where it's affordable for those who have the financial capability to post the bond required by the Board and assures consumers.

Assemblyman Hettrick:

The bond you're proposing would be a consumer bond that only a consumer could attack for payment. The Board would hold that bond and it would be based upon the assessment that you just described. I would presume some company building 200 pools a year would not have to bond for the entire amount of all 200 pools. They probably have a track record if they've gotten that big. You would still take into account the little guy who might build the two for \$50,000 each in Elko and it would be a \$100,000 bond, which would be the end of it or maybe even something less than that.

Michael Springer:

Maybe \$50,000 for him so they could adjust. If you post a corporate surety, you're personally guaranteeing that surety company. You're putting your personal assets on the line. The problem in the 2001 Legislative Session is

people were collecting \$10,000 up front, digging 100 holes, and then leaving town.

Assemblyman Hettrick:

I'm comfortable with that part of it, but how are we going to deal with a homeowner who circumvents at the suggestion of the renegade pool builder and buys his own permit? Are we going to require that a permit not be issued without some reference to this bond?

Margi Grein:

We have addressed that, and we're tightening up the owner/builder requirements that they have to use licensed pool contractors. We currently have a program where we're looking at those permits pooled by owner/builders and seeing the contractors they're using. Then we can enforce discipline accordingly. There were only about 135 pool contractors total, and it's not that difficult to track them. The problem originated from frontloading the contracts, or taking the money without the work being done. In 2001, the payment performance bond was the only thing we could come up with that could stop it, and it has. Complaints have gone down from 334 on pool contractors to 112, so it's worked. We want to proceed with caution because we don't want to get back into another situation like that.

Assemblyman Arberry:

When I worked in the building department in the City of Las Vegas, the biggest nightmare we had was the pool builders. They would dig a hole, take the money, and vanish. I don't blame the seasoned pool contractors and pool builders for being afraid, because, after years of working with the Contractors Board, everyone is getting together trying to make something clean for the consumer and for the pool builders; now we're coming here trying to change it? The bottom line is still the consumer, and if something is working, you don't need to fix it.

Chairwoman Buckley:

Margi, do you think you could convene a group of these folks and take into account that we don't want to go backwards, and we don't want anyone getting hurt. We've learned a lot since 2001, when we passed this legislation. Maybe there's a way to meld these goals to be more business friendly.

Margi Grein:

Yes, I'd be happy to do that. We have had several meetings with them prior to today, and I'd be happy to do so again.

Chairwoman Buckley:

We would like to do something responsibly, and we'll see what you come back with. If you can't come up with something, we'll come up with our own, and we don't mind doing that. Maybe the consumer protection bond is the way to go.

Joe Vassallo:

I also sit on the Executive Board for the APSP (Association of Pool and Spa Professionals) and we have gone into committee several times. While I think your suggestion about the recovery fund is the best one, I don't know that we're going to get any further than we are now. I'm in agreement with this consumer protection bond because it does provide protection for the consumer over and above what they need. We're willing to go to limits of \$300,000, as in my amendment. That number is not the only source for that fund; you've got the surety bond, which is typically \$50,000 to \$100,000, and you also have the recovery fund itself; \$300,000 would be a maximum limit for that recovery fund. It would mean an amount per year of maybe \$12,000 per contractor if it was \$300,000. I think we could agree to that and stipulate to that right now.

Lin Wippel:

Your blanket consumer protection bond of \$300,000 at \$50,000 per pool is six pools.

Chairwoman Buckley:

Thanks for that. We'll hear back from you on Monday and set it for work session. We'll close the hearing on S.B. 434. We'll turn to our Work Session Document ([Exhibit O](#)). We go to 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)

Chairwoman Buckley:

I would like to limit the fees in this bill. This was the freeze on your credit report if you're a victim of identity theft. Section 5, paragraph 2, says "a reporting agency may not charge a consumer the fee to place a security freeze if they are a victim of identity theft," but it doesn't say "to release it," it just says "to place it," so I'm afraid that a victim would have to begin paying fees. What if they have to release it? Then they have to put it back on again as they're trying to clean their name. They're already out so much time and convenience, so I'd hate for them to pay. I contacted Senator Beers and Mr. Jackson, and they

didn't have a problem clarifying that. Mr. Jackson's concern is if you have a consumer who goes crazy and wants to put it on and take it off repetitively, which could really add up. I said what if we put an amount in there of at least four free in order to do their check. He said that was fine, and they weren't concerned with that.

[Chairwoman Buckley, continued.] I also wanted to add that putting the freeze on could not be construed negatively on your credit score. They assure me that's not the case, but that was one credit agency, and I want to make sure since it's used to calculate insurance and the like, that someone isn't doubly penalized and they didn't have a concern with that either. If everyone is okay, I'd like to add those two amendments.

ASSEMBLYMAN PARKS MOVED TO AMEND AND DO PASS
SENATE BILL 80.

ASSEMBLYWOMAN McCLAIN SECONDED THE MOTION.

THE MOTION CARRIED. (Mr. Anderson, Ms. Giunchigliani, and Mr. Ocegüera were not present for the vote.)

Chairwoman Buckley:
Let's consider S.B. 152.

Senate Bill 152 (1st Reprint): Revises provisions relating to physical therapists. (BDR 54-471)

Diane Thornton, Committee Policy Analyst:

The bill was sponsored by Senator Mathews and was heard on April 27. Behind Tab A ([Exhibit O](#)) is your proposed amendment from the Board. This proposed amendment adds physical therapist assistant to Section 2 of the bill. Assemblyman Anderson voiced concerns regarding the temporary licenses for physical therapist's assistants; however, at the last Committee meeting he noted he would support the bill with the proposed amendment as is.

ASSEMBLYMAN HETTRICK MOVED TO AMEND AND DO PASS
SENATE BILL 152.

ASSEMBLYMAN SEALE SECONDED THE MOTION.

THE MOTION CARRIED. (Mr. Anderson, Ms. Giunchigliani, and Mr. Ocegüera were not present for the vote.)

Chairwoman Buckley:

Let's move to S.B. 225.

Senate Bill 225 (1st Reprint): Makes various changes relating to vocational rehabilitation counselors. (BDR 53-975)

Diane Thornton, Committee Policy Analyst:

This bill is sponsored by Senator Carlton and was heard on May 4. Behind Tab B ([Exhibit O](#)) is an amendment proposed by Jeanette Belz of Property Insurers Association of America. This amendment specifies that if the employer of a vocational rehab counselor and the employer who administers the injured worker's case are under common control and management, the vocational rehab counselors are prohibited from providing services to the injured worker. The Nevada Trial Lawyers Association was not in favor of this amendment and Senator Carlton was not. Assemblyman Hettrick voiced concern that the bill might adversely affect companies that do not have complaints filed against them.

There was also an amendment from Ira Specter of the International Association of Rehabilitation Professionals, who proposed reverting the language to the original language on page 2, lines 21 through 23. This original language requires the insurer to prepare a written assessment from injured workers temporarily and totally disabled. If you do accept that amendment, it would contradict the provisions that were passed out in A.B. 364 on April 6.

Assemblyman Hettrick:

I can't support the bill without an amendment. We're going to put the company Cascade out of business without having any complaint to our knowledge whatsoever that they've done anything inappropriate. I don't think that's what we should be doing. This puts one company out of business, because they're the only one we know of that's under wholly owned subsidiary status. Without having knowledge that they've done anything inappropriate, I don't see how we can do that.

Chairwoman Buckley:

I don't understand how the bill would put someone out of business, so let's hold it and maybe if Jeanette wants to email me she can tell me how so I'll know how to vote. Thank you, everyone; we're adjourned [at 4:00 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: May 9, 2005

Time of Meeting: 2:00 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
163	B	Edward Fishman, D.O., Private Citizen, Las Vegas, Nevada	Proposed amendment to S.B. 163.
163	C	Edward Fishman, D.O., Private Citizen, Las Vegas, Nevada	Testimony in support of S.B. 163
163	D	Pat Elzy, Director of Public Affairs, Planned Parenthood Mar Monte, Reno, Nevada	Testimony in support of S.B. 163
163	E	Elizabeth A. Hutson, MD, Board Certified Specialist-GYN, Reno, Nevada	Letter in support of S.B. 163
163	F	Lisa Lynn Chapman, Private Citizen, Las Vegas, Nevada	Letter in support of S.B. 163
135	G	Gina Spaulding, Executive Director, Nevada State Board of Architecture, Interior Design, and Residential Design	Testimony in support of S.B. 135.
276	H	Keith Marcher, Senior Deputy Attorney General, Office of the Attorney General, Nevada Department of Justice	Testimony in support of S.B. 276.
276	I	Susan Fisher, Legislative Advocate, representing State Board of Chiropractic Physicians	Proposed amendment to S.B. 276.
335	J	Vicky Sakach, Vice President, Barbers' Health and Sanitation Board, Reno, Nevada	Packet regarding S.B. 335.
381	K	Sam McMullen, Legislative Advocate, representing the Modular Building Institute	Proposed amendments to S.B. 381.
434	L	Peter Krueger, Legislative Advocate, representing The Association of Pool and Spa Professionals	Amendment to first reprint of S.B. 434 Mock-up.

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434	M	Margi Grein, Executive Officer, Nevada State Contractors Board	Proposed amendment to S.B. 434.
434	N	Lin Wippel, President, Desert Springs Pools, Las Vegas, Nevada	Letters regarding S.B. 434.
	O	Diane Thornton, Committee Policy Analyst	Work session document.